Coercing Cash for Commercials from Commodity Cultivators

Blueberry producers aren't alone in using the federal government to wrest marketing dollars from each other. Producers and importers of a variety of other commodities, from avocados to watermelons, are subject to similar treatment. And Christmas tree growers and their customers nearly got socked with a tax of 15 cents per tree this holiday season under the same program — a fate averted only because of a public outcry.

Where does the U.S. Department of Agriculture (USDA) get the authority to impose such taxes on commodity producers? The Commodity Promotion, Research, and Information Act of 1996 — passed, by the way, at a time when Republicans controlled both houses of Congress and Newt Gingrich was Speaker of the House — authorizes the department to create marketing programs in cahoots with commodity interest groups. (Congress, in turn, claimed to derive its authority to pass such a law on the basis of a typically strained interpretation of the Constitution's commerce clause.) Once a group proposes a program to the USDA, the department holds a referendum among producers and importers of that commodity. If a majority of those voting favors the program, it is initiated, and all producers and importers become subject to it. Anyone who decides to buck the feds will find himself hit with fines of $1,000 to $10,000 per violation.

It is, in other words, a perfect example of pure democracy in action. In 2000, for instance, 67 percent of blueberry producers and importers who chose to vote favored beginning a government-run promotional campaign. As a result, all producers and importers of 2,000 or more pounds of blueberries annually — even those who voted against the referendum or didn't vote at all — must pay a tax of $12 per ton of berries grown or imported, with the money going to the U.S. Highbush Blueberry Council for its promotional activities. A 2011 continuance referendum garnered considerably more support, with 88 percent of voters opting to continue the program; but that still leaves 12 percent of voters, plus all nonvoters, forced to participate.

The USDA's Agricultural Marketing Service justifies forcing commodity producers to pony up for its promotions on the basis that they

> [help] the produce and specialty crop industries expand domestic and foreign markets for their commodities. Through these self-help programs, commodity groups are able to establish their own board of industry representatives who conduct promotion, market research, production research and new product development for the benefit of their industries.

However, as CNSNews.com's Eric Scheiner observes, it is a peculiar definition of "self-help" that requires the government to force people to pay to market their own products:

> Couldn't these industries pool their resources together and do research and marketing on their own?

It stands to reason that if taxpayers on the internet and talk radio could generate enough negative publicity on a 15-cent tax on Christmas tree sales to make the Obama administration postpone the program, then these industries could probably utilize the internet to get their own publicity done.

Of course, those in favor of these programs would undoubtedly point out that in the absence of a tax for advertising, some producers would choose not to contribute toward the ads' cost but would benefit from them nonetheless — the so-called "free rider" problem. That is unfortunate for those who have opted to pay, but it hardly justifies forcibly taking property from those who do not wish to participate.

It might, however, call for a rethinking of the generic promotions model in favor of branding, a la Sunkist, the brand name given to oranges sold by a California citrus growers' cooperative. But that would require cooperation and persuasion, which would probably take more time and effort than simply petitioning the government to force everyone to pay up and, in the process, to take more control over an industry — something it is always more than happy to do.