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Opinion

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OUR VIEW

'Pink slime' case a lesson for food campaigners

In a small town, you can always tell when court is in session: The pinstripe suits and pairs of shiny shoes outnumber the seed company hats and work boots.

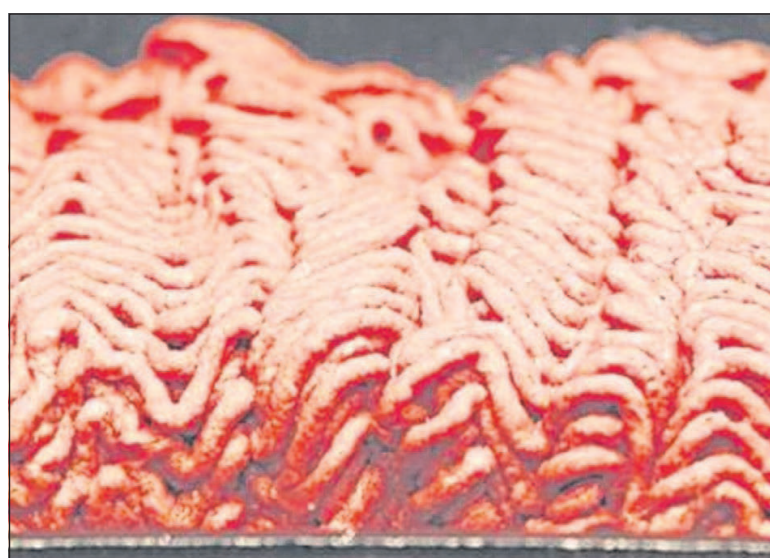
That was the case last month in Elk Point, S.D., population 1,940, which played host to one of the biggest media trials in U.S. history — the case of the “pink slime.”

Pink slime became part of the public lexicon five years ago courtesy of ABC News, which embraced it as a name for lean finely textured beef. Known by the initials LFTB, it is made from beef cuttings with the fat taken out and is mixed in hamburger to reduce the fat content.

The company that makes lean finely textured beef, Beef Products Inc., sued ABC and its reporter, Jim Avila, for \$1.9 billion alleging that their series of reports shed a false and defamatory light on the company's product and forced it to lose 80 percent of its business, close three of its four plants and lay off 700 employees.

The stakes were huge. Under South Dakota law, damages can be tripled in such cases. That meant ABC was potentially on the hook for as much as \$5.7 billion.

ABC, which is owned by the Walt Disney Co., found itself in the uncomfortable position of defending itself not in a New York City or Los Angeles courtroom,



Associated Press File

Lean finely textured beef produced by Beef Products Inc.

but in the Union County, S.D., Courthouse. The basement was pressed into service as a makeshift courtroom because the usual venue was too small to seat all of the lawyers, jurors and observers.

Some legal experts had predicted that BPI and its owners would probably get rolled by the high-powered lawyers ABC brought to town for the trial. They said the First Amendment of the Constitution protects news-gathering organizations such as ABC. Moreover, they said in cases such as this, BPI would have to prove a legal concept called “actual malice,” meaning that ABC and Avila knew what they were reporting was false or that

they had a reckless disregard for whether it was true.

As reported in the Sioux Falls, S.D., Argus Leader, BPI's lawyer, Dan Webb, told the court that ABC, Avila and others used the term “pink slime” 350 times in 131 TV and online reports and on social media. They called it a “cheap filler,” insinuating that it was somehow unhealthy. They pounded away at the message for days.

When BPI offered ABC more information to correct the reports, it was rebuffed, according to Webb.

Though it met the standards of the USDA, lean finely textured beef apparently did not meet the

standards of ABC.

During the trial, BPI's lawyers raised the question: Was ABC merely reporting a news story, or was it doing something else?

“I find it fits the definition of a ‘public communication campaign’ quite well,” Kimberly Neuendorf, a communications professor at Cleveland State University and an expert in “content analysis,” said during the trial in a story reported by the Sioux City Journal.

The drumbeat was picked up by ABC's fellow travelers in the media and on social media. “Pink slime” was soon the top search term on the Google search engine, the professor said.

As a result, BPI lost business, closed plants and laid off employees. Against the ropes financially, the company filed suit.

The trial was supposed to last four weeks. On the 18th day, as BPI's lawyers were about to rest their case, the trial came to an abrupt halt. Judge Cheryl Gering announced to the crowded courtroom, “The case is over.”

BPI and its owners, Eldon and Regina Roth, had reached a settlement with ABC. An ABC spokeswoman described the settlement as “amicable” but did not say how much money ABC will give BPI or any of the other terms related to that amicability.

At the same time it appeared

ready to write a check to BPI, ABC continued to say it stood by its story.

There's a lesson to be learned from this case. It's straight out of a Journalism 101 course. Journalists have rights under the Constitution, statutes and case law to report issues of general public interest as accurately and as fairly as they can. But when reporters — or anyone else — set out on a “campaign” to destroy a product or a company while ignoring the other side of the story, they have a problem.

These days campaigns against various foods, crops and other products are commonplace on social media and the internet. These campaigns are neither fair nor accurate and are only meant to perpetuate a certain drumbeat and promote a book or viewpoint. Facts or opposing viewpoints are not allowed.

ABC has learned the difference between journalism and “public communication campaigns” the hard way. Hopefully, other self-appointed “campaigners” will take that lesson to heart.

The pinstripe suits and shiny shoes have now left tiny Elk Point. We can only assume some of their wallets were thinner as a result of their visit to town, and that they had learned a valuable lesson about journalism.

Readers' views

Numbers make story more personal

I am an engineer and mathematically inclined — I more or less grew up on the Judd Smith farm on the bank of the Willamette River eight miles south of Corvallis on the road to Monroe.

And my God, I do love your newspaper! You are so fine.

I am writing about the article, “Duck eggs fill market niche,” I found it interesting. I love the personal coverage the Capital Press gives such efforts. You are definitely not an “industrial management” kind of newspaper.

The duck egg story has some holes in it. I was interested enough to turn to the internet to see what I could find. The internet says that where a chicken lays — in real-world terms — three eggs in four days, a duck will lay one egg in that same four-day span.

I know these are the purist of ballpark numbers, but I'm a ballpark kinda guy.

So 365 days in the year divided by “an egg every four days” gives you 91 egg production days from a single duck per year. (1 duck equals 91 eggs/year).

Well good, Anthony Bordessa has 2,800 ducks so that multiplies out to 254,000 duck eggs per year. He prices them by the dozen, so 254,000 equates to 21,233 dozen. And he sells a dozen eggs for \$8, so Anthony's gross from eggs is \$169,866.

Male ducks, and ducks past their prime, he would handle as a slaughter and sale profit center. The markets to which he sells eggs would happily resell the meat, offsetting such negative accounting numbers as the “cost of effecting product sales.”

As a separate agricultural operation, he would raise and harvest his own feed requirements.

Now let's go back to the numbers — say that in four days a chicken will lay three eggs and a duck one egg. Chickens therefore

out-lay ducks by 75 percent. But the Capital Press reports through the USDA that large buyers are paying \$1.10 a dozen for chicken eggs.

Thus a dozen duck eggs at \$8 are commanding a little over seven times the chicken egg price.

Now, even though these are wildly “ballpark numbers,” that's interesting.

With the additional numbers that I've worked out, the story became more interesting and “personal” to me.

And, my God, I do so love your newspaper.

When I see the Capital Press in mailbox, I smile.

My goodness, if I were younger and lived back up in Oregon I'd want to write for you.

Judd Smith
Berkeley, Calif.

Renewable Fuels Standard should be protected

Please stand with me and ask our Oregon representatives in Washington, D.C., to protect the partnership between fuel and agricultural by preserving the Renewable Fuels Standard (RFS) as is, without changes.

With so many policies up for debate in Washington, D.C., it's easy to miss important ones that impact the agricultural industry. One of the efforts now underway is designed to undermine the RFS. These

modifications could have significant effects on the ethanol industry, U.S. agriculture, and our ability to remain economically competitive as a nation.

Too often, time and financial commitments silo our thinking to the problems of our personal farms and commodities. Farming is no longer the isolated experience of a family working their own parcel of land. Global markets are changing, and American families are increasingly insisting on foods that are locally sourced and responsibly managed. It is critical to our success as an agricultural community to have the ability, as caretakers of the land, to be flexible, to maximize yields, to repurpose waste, and to provide a sustainable model for success.

Ethanol production represents one of the key outlets farms have to diversify their markets and maintain a stable income. It's not just about growing fuel or feed. With ethanol and biodiesel, the byproduct after fuel production is a valuable feedstock for cattle. This provides farms greater flexibility, more opportunities to cut costs and a diversified portfolio of products to offer.

For the good of the agricultural community, I urge Oregon leaders like Congressman Greg Walden to please join us in protecting the partnership between our industry and Oregon biofuel leaders like Pacific Ethanol. We must continue to bring long term fuel in-

vestments in America and uphold the Renewable Fuel Standard.

Jim Harris
Retired Wheat Grower
Pendleton, Ore.

Clean energy a viable alternative

Regarding the article, “Hard Choices Loom As Farms Exit Conservation Program” published June 30. Thank you for your comprehensive, balanced and insightful article on the looming impacts to Oregon farmers as CRP leases expire later this year. The “math problem” that you described makes it hard to think about the impacts on wheat farmers in the region.

The stakes are much higher now, however, than they were when those lands were originally put into the federal Conservation Reserve Program. Returning those lands to tillage means losing topsoil, as well as the beneficial impacts on water retention and water quality in this high desert of Oregon.

I'd like to see someone run the numbers on alternative crops for the affected lands, especially the most economically sound crop for the 21st century: clean energy. As U.S. public opinion and common sense pressures the largest carbon polluters in the country — coal-burning power plants — to retire and replace their harmful units with renewable energy, it seems logical that the farmers, the utilities and the earth can all have a win-win-win situation.

Collectively, let's figure out how to help our local farmers turn their CRP lands into wind or solar farms. The technology exists, it's cheaper than ever, and the Northwest has already shown leadership to the rest of the country with our commitment to both sustainable economies and sustainable energy. Let's do the “simple math” on the opportunity that is right in our backyard.

Mimi Haley Edwards
Damascus and
Fossil, Ore.

U.S. ag needs common sense regulatory reform

By ROBERT GIBLIN
For the Capital Press

Guest
comment
Robert Giblin



In mid-May, a Senate committee advanced its version of the Regulatory Accountability Act, a bill that will benefit U.S. agriculture by making federal agencies more accountable and transparent in rule-making.

Under the RAA, federal agencies must provide the public with more information regarding the most costly regulations before initiating rule-making; undertake a cost/benefit analysis; select the most cost-effective approach; consider reasonable alternatives to proposed rules; and use the best scientific, technical and economic information.

RAA would prohibit agencies from using social media or engaging in propaganda to lobby the public, as the Environmental Protection Agency did when introducing its Waters of the U.S. rule.

If enacted, this bipartisan legislation would be the most significant regulatory reform to the Administrative Procedure Act since it was first passed in 1946. The APA drives federal rule-making but was enacted prior to the creation of federal agencies and laws that have profound effects on agriculture, including the Environmental Protection Agency, Clean Water Act, Clean Air Act, Endangered Species Act, Occupational Health and Safety Act, and the Food Safety Modernization Act.

The needs, magnitude and impacts of federal regulations are strong reasons for reform of the APA, as are other social factors, including the roles of activism, court litigation and social media in influencing regulations.

Some critics have said that the legislation will be too cumbersome and, ultimately, would prevent agencies from issuing rules. On the contrary, the RAA will apply only to major new rules that have more than a \$100 million yearly impact. It also requires hearings on rules with more than a \$1 billion annual impact, but limits the scope of hearings to genuinely disputed facts.

To look at the RAA in context of past regulations, its standards would have applied

to about 2.2 percent of the more than 47,500 rules put in place since 2001. Another analysis conducted by the U.S. Chamber of Commerce showed that of the 32,882 agency regulations issued between 2008 and 2016, less than one-half of 1 percent would have been subject to any RAA provisions, and only one-tenth of 1 percent would automatically be subject to RAA because they would impose more than \$1 billion in costs.

Ironically, with current political pressure to eliminate or roll back regulations, RAA doesn't discriminate or differentiate between regulation and deregulation — it applies to both. It potentially could reduce the likelihood of regulatory swings that could be created by policy preferences of ever-changing political majorities.

Even with changing political majorities, the need for transparency, sensibility and consideration of the economic costs have been recognized and reflected in executive orders about regulatory planning, regulation and review issued by Presidents Reagan, both Bushes, Clinton and Obama. RAA codifies many of the best practices for analysis in rule-making enunciated by presidents from both major parties.

Farmers and ranchers believe regulations are needed to protect public health, food safety, worker safety, environmental quality and market fairness. They also believe the regulatory system needs to be fair, transparent and faithful to the will of Congress, cost-effective and respectful of freedoms. The voices of those affected by rules should be heard and respected in the rule-making process. Reform is long overdue.

Robert Giblin writes, speaks and consults about agricultural and food industry issues, policies and trends. This column is courtesy of the American Farm Bureau Federation.