

Use of Marketing Contracts

farmer cooperatives in California usually require contracts with members to effectively integrate marketing operations

Willard F. Mueller and J. M. Tinley

Some 410 farmer cooperative marketing associations in California—with about 103,000 members—are engaged in the processing, packaging, storing, and marketing of farm products that have a net annual value of approximately \$700 million.

Most of the cooperatives handle a single product—eggs, rice, almonds, walnuts—or a group of closely related products—fresh deciduous fruits, citrus fruits, dairy products. The millions of dollars needed by the associations for land, buildings, equipment, and operating expenses have been contributed by the members.

About 90% of the cooperatives use marketing contracts—also known as marketing agreements, membership agreements—which set forth in detail the duties and obligations of individual members to their association and of the association to its members. The core of the contracts is related to delivery of products—specifying when and the quantity—that the members must deliver to their association.

In California, marketing contracts—with a duration up to 15 years—between cooperative associations and their members are permitted by the Agricultural Code of the State of California. However, virtually all the associations operate on what, in effect, is a one-year contract. Most associations use so-called continuous contracts which run indefinitely but which give members the option of withdrawing before the end of each fiscal year. A few use straight one-year contracts which are renewable annually. Others have contracts running from two to fifteen years which also have annual withdrawal privileges. About one-fifth of all the associations use contracts running from two to seven years, but about half of these permit annual withdrawal after members have used the services of the association for an initial period of two years.

The fact that most associations—even those with large investments in processing and marketing facilities—can operate successfully with such short-term contracts indicates that they depend upon other than legal ties for continued patronage by members. By far the most important nonlegal tie is the good performance record of well-established asso-

ciations. A second reason is that many farmers believe that without their cooperative association marketing conditions would be less satisfactory. However, this does not mean that marketing contracts are unnecessary. For without a contract it would be possible for a few members—by selling outside of their association to competitors offering temporarily higher prices—to jeopardize the interests of conforming members as a result of increasing operating costs, associated with a decreased scale of operation.

Contract Provisions

Nine out of ten associations using contracts specifically require members to deliver all of their product—except that required on the farm—to the association. The chief exceptions to this rule are California's wine cooperatives which specify the tonnage of grapes to be delivered by each member regardless of the total volume of grapes produced. Prune drying cooperatives are another exception because—at times—they limit delivery to the amount of dryer space members contract for rather than for the entire crop.

Beyond the delivery obligations of members, most contracts also give an association the right to establish product quality standards, methods, and times of harvesting and delivery. This is particularly true of many fruit and vegetable associations. Nearly all local citrus cooperative packing associations and at least two vegetable cooperatives require that the crop be harvested by crews employed by associations.

The marketing contracts of some cooperatives give the Board of Directors the right to vote on behalf of all members in connection with state marketing agreements or orders.

These and other provisions have as a common objective the integration of the marketing activities of each member with those of all other members of an association. To this extent individual farmer-members no longer operate as completely independent units. Instead, they give up some control over certain marketing or production decisions—or both—to ensure more effective coordination or integration of their activities through their association. Often it is only through such

coordination that cooperatives become efficient.

Marketing contracts are legal documents and without legal remedy—in the case of noncompliance—they would be mere written affiliation pledges which members could break or renew at will.

The State of California provides three legal remedies to cooperative associations for breach or threatened breach of contract by any member—liquidated damages, injunction, specific performance.

Associations may provide for liquidated damages in their marketing contracts and fix specific sums to be paid by members for breach of contract. Neither injunction nor specific performance needs to be definitely specified in marketing contracts, but many associations do mention those two legal remedies in their contracts.

An injunction requires a decree from a competent court of jurisdiction but is a negative remedy as it merely estops a member from violation or threatened violation of a contract. Under certain circumstances, injunction action may also be taken against a third party. A court decree of specific performance is a positive action in that it requires an association member to perform contract obligations and may be coupled with a court injunction.

Continued on page 15

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MANDARIN

Continued from page 13

tree from each of 20 other nucellar Satsuma seedlings. Results indicated that at least three degrees of flatness are probably characteristic of the seedling lines involved.

Soluble Solids

The percentages of soluble solids were substantially higher in young-lines 1 and 2 than in the old line, in each of the eight years of measurement. The average for the old line for all years was 12.1%; and for the two young lines, 13.4% and 13.2%. The difference between the old line and either of the young lines is highly significant. Percentages of acid were rather similar among the three lines within any one year. As a result, the solids-to-acid ratios reflect the behavior of the solids and are higher in most years in the two young lines. The only notable exceptions were in 1949 and 1954, which were years of very light crops.

Such differences for soluble solids are usually not found between old and young lines of the same strain of citrus. To determine whether these young lines maintain higher solids throughout the season, samples were measured at four dates in the season of 1953 and again in 1954. Solids were higher in the young lines in December of both years, and remained so throughout the seasons. There was no tendency for the solids content of old-line fruit to become equal to that of the young lines as the fruit became more mature.

Further evidence of higher solids in the nucellar Satsuma lines is available from an orchard planting made in 1949 on trifoliolate orange rootstock. This planting includes trees from the old parent line, from young-line 1, and from an additional line—young-line 4. Fruit samples were obtained in 1954 and 1955.

In both seasons the relative levels of soluble solids behaved as before, with the old line lower than the young lines.

Young-lines 1 and 2 show certain characteristics typical of nucellar lines derived from old varieties—larger tree size, greater yields—and, in addition, they seem to differ genetically from one another in tree habit, fruit shape, and probably in leaf size. Therefore, young-line 1 has been designated as genetic strain A and young-line 2 as genetic strain B. Strain A shows the better over-all horticultural promise. A third clearly distinct type—strain C—has also been identified. It was produced by only one seedling. It has fruit that ripens about a month later than that of strains A and B, with thicker rind and a more solid center. The causes of earlier coloring and higher soluble solids, which occur in strains A and B, are not certain. It is possible, but unproven, that elimination of unidentified virus infection is related to these two differences.

Tests for tristeza and for psorosis produced negative results indicating that neither disease is a complicating factor in strain A or in strain B. The numerous differences found among the seedling lines might suggest that they are hybrids, or progeny from self-pollination, rather than nucellar lines. However, this is almost certainly not the case. Self-pollination does not seem to occur in the Satsuma, and hybrids in citrus almost always show marked changes in appearance of the fruit. Except for shape, no such changes have appeared in these lines.

James W. Cameron is Associate Geneticist in Horticulture, University of California, Riverside.

Robert K. Soost is Assistant Geneticist in Horticulture, University of California, Riverside.

Howard B. Frost is Associate Plant Breeder, Emeritus, in Horticulture, University of California, Riverside.

MARKETING

Continued from page 2

All but three of the 117 marketing contracts inspected during the course of study provide for the assessment of liquidated damages against members for non-performance, whereas only 45 contracts definitely mentioned injunction and specific performance as additional remedies. The basis of assessment, however, varies. In the majority of contracts, the damages are for a specific sum per unit—for example, 25¢ a field box for citrus fruit, \$5 a ton for wine grapes, \$10 a ton for fresh deciduous fruits, and 5¢ a dozen for eggs.

The contracts of many other associations provide liquidated damages at some per cent—usually 20%—of the current market value of the product.

A less common method used by a few associations is to specify that liquidated damages per unit shall be equal to the associations' per unit fixed operating costs during the current year. In such a case, if a member failed to market his product through his association, he would, nevertheless, contribute his share of fixed costs.

Although nearly all marketing cooperatives in California have marketing contracts which specify the association's right to one or all of the legal remedies for nonperformance, very few associations have found it necessary to impose such remedies. During one five-year period, only one out of ten associations collected liquidated damages from members and—in only a handful of the associations—were they collected from more than five members. In some cases of collected liquidated damages there appeared to have been a prior agreement that the members could sell part of their crop output—usually through channels not readily available to the association—provided they paid to the association the stated liquidated damages.

Only five of the associations supplying information for the study indicated that during the five-year period they resorted to injunction and specific performance remedies for breach of contract. In four of those associations such action was taken only once; in the fifth association, only twice, and none indicated use of injunction alone. However, these cases probably understate the actual situation concerning the breach or threatened breach of contract. In the event of misunderstandings between management and members over product grading, association policies and actions, or a member's dissatisfaction with prices or the services rendered, the Board of Directors of most associations would attempt to compose such misunderstandings by direct contact or negotiation.

Concluded on next page

Yield and Fruit Characters in Old and Young-line Satsuma Plots.¹

Line	1947	1948	1949	1950	1951	1952	1953	1954	1955	Average for all years
Average yield in pounds per tree										
Old	57	65	69	104	82	78	86	78	101	80
Young-1	135	184	60	147	130	170	127	86	198	137**
Young-2	114	138	74	133	84	113	85	77	163	109*
Average per cent of well-colored fruit at time of harvest										
Old	76	29	78	68	56	79	...	...	32	60
Young-1	100	89	82	96	85	99	...	...	100	93**
Young-2	99	79	84	74	54	89	...	...	100	83*
Average per cent of soluble solids										
Old	12.5	11.4	12.6	11.9	11.8	11.8	11.8	12.8	...	12.1
Young-1	13.6	12.3	14.0	13.4	12.9	13.8	13.0	14.5	...	13.4**
Young-2	14.1	12.6	14.0	12.6	12.4	13.3	12.8	14.1	...	13.2**
Average solids/acid ratio										
Old	9.5	10.3	8.1	9.4	10.9	8.7	9.8	8.8	...	9.4
Young-1	10.6	11.3	8.3	10.2	11.7	9.9	10.5	9.0	...	10.2
Young-2	11.9	11.6	9.0	10.2	11.4	9.7	11.0	8.7	...	10.4

¹ Number of trees: old line, 3; young lines, 4 each. Asterisks show significance of differences of young lines from the old line in the same year: * means young-line difference is beyond the 5% point of probability; ** means beyond the 1% point. No statistical tests were made on the solids/acid ratios.