Fighting for the U.S. Cattle Producer!
R-CALF USA

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July 14, 2008

The Honorable Jim Hood
Attorney General, State of Mississippi
Attention: Jacob Ray
P.O. Box 220
Jackson, MS 39225

Re: Facts Specific to the Mississippi Cattle Industry and Relevant to the JBS SA Merger Investigation

Dear General Hood:

On behalf of the thousands of U.S. cattle farmers and ranchers represented by the Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R-CALF USA), thank you for your interest in the proposed acquisitions of National Beef Packing Co. (National), Smithfield Beef Group (Smithfield), and Five Rivers Ranch Cattle Feeding, LLC (Five Rivers), by JBS SA, a Brazilian meatpacking firm. R-CALF USA has compiled, with documentation, important facts about the Mississippi cattle industry that may be helpful to you as you consider challenging the proposed JBS SA merger – an action we would strongly support.

Below, please find relevant facts regarding the Mississippi cattle industry presented in a question-and-answer format that we believe may be helpful to you.

Importantly, in order to best answer each of the following questions using U.S. Department of Agriculture (USDA) data, it must be assumed that the latest data available is representative of Mississippi's annual data.

Q 1: Are most of the cattle produced in Mississippi also sold in Mississippi, or are they primarily transported to feedlots outside the state for subsequent sales to meatpackers?

A 2: The following answer is based on 2007 USDA National Agricultural Statistics Service (NASS) data:

There are 21,000 cattle operations in the state of Mississippi. *See* Exhibit 1.[1] These operations have 980,000 head of cattle (both beef and dairy) and 540,000 of these cattle are

[1] Farms, Land in Farms, and Livestock Operations, 2007 Summary, U.S. Department of Agriculture Agricultural Statistics Service (NASS), Sp Sy 4 (08) a, February 2008, at 15, available at http://usda.mannlib.cornell.edu/usda/current/FarmLandIn/FarmLandIn-02-01-2008_revision.pdf.

mother cows that birthed calves during the year. *See* Exhibit 2.[2] Most of the mother cows that birthed calves were beef cattle, though 22,000 were dairy cattle. *See* Exhibit 2A.[3] Mississippi retained 109,000 of these calves as replacements to replace its aging mother cow herd. *See* Exhibit 3.[4] Mississippi's calf crop was 445,000 head, and 11,000 cattle from out-of-state were shipped into Mississippi for feeding, breeding or slaughter. *See* Exhibit 4.[5] Mississippi marketed 397,000 cattle and calves during the year for slaughter and for shipment to other states for feeding or breeding purposes (this number excludes interfarm sales of cattle within Mississippi). *See id*. And, annual cash receipts from the 397,000 cattle and calves marketed in Mississippi (either sold for slaughter in Mississippi or sold to out-of-state buyers) were approximately $195 million. *See* Exhibit 5.[6]

Thus, the answer to Question 1 is that Mississippi raised 445,000 new calves in 2007 and it marketed 397,000 cattle and calves to in-state slaughter plants or to out-of state buyers during the year, earning approximately $195 million. I do not have data regarding how many cattle owned by Mississippi cattle producers are fed in out-of-state feedlots under some form of retained ownership agreement.

Q 2 Are the cattle sold in Mississippi sold at auction or through direct negotiations? Which entities purchase cattle directly in Mississippi? Do the packers maintain buyers in the state?

A 2: The following is based on 2006 USDA Grain Inspection, Packers and Stockyards Administration (GIPSA) data (latest available data) unless otherwise stated:

Mississippi marketed 485,000 cattle and calves through firms that sell on commission, including all auctions, terminal markets, video auctions, and country commission firms (this number includes interfarm sales). *See* Exhibit 6.[7] Livestock dealers and firms that buy on commission (dealers purchase livestock for resale on their own accounts) purchased 926,000 cattle and calves during the year (this number also includes interfarm sales). *See* Exhibit 7.[8]

[2] Cattle, U.S. Department of Agriculture, National Agricultural Statistics Service (NASS), Feb. 1, 2008, at 2, available at http://usda.mannlib.cornell.edu/usda/current/Catt/Catt-02-01-2008.pdf.
[3] Cattle, U.S. Department of Agriculture, National Agricultural Statistics Service (NASS), Feb. 1, 2008, at 3, available at http://usda.mannlib.cornell.edu/usda/current/Catt/Catt-02-01-2008.pdf.
[4] *Id*., at 4.
[5] Meat Animals Production, Disposition, and Income: 2007 Summary, U.S. Department of Agriculture, National Agricultural Statistics Service (NASS), at 6; *see also id*., at 27 ("**Marketings:** Includes animals for slaughter market and younger animals shipped to other States for feeding and breeding purposes. Excludes interfarm sales within the same State and farm slaughter.").available at http://usda.mannlib.cornell.edu/usda/current/MeatAnimPr/MeatAnimPr-04-25-2008.pdf.
[6] *Id.,* at 8.
[7] Packers and Stockyards Statistical Report: 2006 Reporting Year, U.S. Department of Agriculture, Grain Inspection, Packers and Stockyards Administration (GIPSA), May 2008, at 60, available at http://archive.gipsa.usda.gov/pubs/2006_stat_report.pdf (Note that GIPSA data regarding the number of cattle marketed in Mississippi are higher than NASS data. This is because NASS data do not include interfarm sales within the same state or animals imported from other states for slaughter in Mississippi.).
[8] *Id.*, at 62 (Note, again, that GIPSA data show considerably more cattle purchased by dealers in 2006 than NASS reported as marketed during 2007. This is because NASS data exclude interfarm sales within the same state and sales of animals imported from other states for slaughter in Mississippi.).

The following entities are registered with GIPSA to operate in the state of Mississippi:

Entities	No. of Entities in Mississippi
Bonded Dealers and Market Agencies:	79
Posted Stockyards	35
Bonded Packers	2
Packer Buyers:	22

See Exhibit 8.[9]

GIPSA reports that no cattle were purchased for slaughter in the state of Mississippi by firms that are required to make such reports. *See* Exhibit 9.[10]

Though NASS does not report state-specific data regarding the number of head of federally inspected cattle at slaughter, it does provide such data by region. In the region that includes Mississippi, Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, and Tennessee, NASS provides the following data for 2007:

Cattle Class	Number of Cattle Federally Inspected at Slaughter
Steers	13.3 thousand
Heifers	4.3 thousand
All Cows	714.8 thousand
Bulls	105.1 thousand
Total Cattle	**837.3 thousand**

See Exhibit 10.[11]

NASS does report Mississippi-specific data regarding commercial cattle slaughter (both federally inspected and non-federally inspected). The number of cattle slaughtered in federally inspected and in non-federally inspected slaughter plants in Mississippi in 2007 was only 1,200 head. *See* Exhibit 11.[12] NASS data do not show that any cattle were slaughtered in any federally inspected plant in 2007. *See* Exhibit 12.[13] The data show that there were 6 federally inspected plants and 17 non-federally inspected plants in Mississippi in 2007, suggesting that the 1,200 head of commercially slaughtered cattle in Mississippi were slaughtered in the non-federally inspected plants. *See* Exhibit 13.[14] Based on Mississippi's calf crop of 445,000 head as stated

[9] *Id.*, at 68.
[10] *Id.*, at 22.
[11] Livestock Slaughter 2007 Summary, U.S. Department of Agriculture, National Agricultural Statistics Service, March 2008, at 15 (Data for Region 4); 17, fn. 2, available at http://usda.mannlib.cornell.edu/usda/current/LiveSlauSu/LiveSlauSu-03-07-2008_revision.pdf.
[12] *Id.*, at 29.
[13] *Id.*, at 52 (Note that GIPSA data for the number of cattle purchased for slaughter are lower than data reported by NASS for commercial slaughter. One reason may be that firms that purchase less than $500,000 of livestock on an annual basis are not required to file an annual report with GIPSA.).
[14] *Id.*, at 58.

above, the number of cattle slaughtered in Mississippi represents the equivalent of only .27 percent of Mississippi's annual calf crop.

NASS does not report any feedlots with a one-time capacity of less than 1,000 head operating in the state of Mississippi. *See* Exhibit 14.[15] Nor does NASS report any feedlots with one-time capacities of more than 1,000 head. Thus, it can be presumed that 100 percent of Mississippi's cattle that are produced for the purpose of slaughter are transported to other states to be fed for slaughter.

A significant barrier to the long-term success of Mississippi's cattle industry is the disappearing profitability in the cattle feeding sector. Given that cattle produced in Mississippi must be marketed to feedlots in other states, Mississippi cattle prices are directly impacted by the declining profitability in regions that feed cattle. Auburn University economist C. Robert Taylor has adjusted for inflation Iowa State University data that show the profitability of cattle feeding was reduced by more than half during the period 1994-2007, when compared to the earlier period 1981-1993. *See* Exhibit 15.[16] This situation would be expected to worsen under the JBS SA proposed merger because the merger would result in reduced competition in the slaughter-ready cattle market and increased market power in the hands of the remaining packers.

Q 3: What information is available regarding long-term contracts between the packers and Mississippi producers?

A 3: Because Mississippi does not appear to feed cattle to slaughter weight, but instead, markets lighter-weight feeder cattle to out-of-state feedlots, the USDA does not maintain Mississippi-specific data regarding the number of cattle sold on the cash market versus the number sold under forward contracts, formula contracts, or marketing agreements to meatpackers. Importantly, the price paid in Mississippi for Mississippi feeder cattle is based on the expected future price for slaughter-ready steers and heifers in the Plains Region where most of the feedlots are concentrated. If the expected future price for slaughter-ready steers and heifers is reduced due to a lessening of competition or increased exercise of market power, then prices paid for feeder cattle in Mississippi will likewise be reduced, and there would be an additional reduction resulting from transportation costs, which have increased significantly.

USDA developed the chart copied below that depicts the number of slaughter-ready cattle sold in Texas, Oklahoma, and New Mexico under cash arrangements (cash and negotiated grid) versus the number sold under contract (formula and forward contracts). This chart shows a precipitous drop in the volume of cash cattle procurements (15.2 percent) since 2005, and a corresponding and significant increase in the volume of non-cash procurements, otherwise known as captive supplies as they enable meatpackers to avoid the cash market where the base cattle price for all procurement transactions is established. The chart shows that beginning in 2006, the meatpackers controlled more cattle through captive supply arrangements than they purchased in the cash market, and the volume they control has increased each year since that time.

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[15] Cattle on Feed, U.S. Department of Agriculture, National Agricultural Statistics Service, Mt An 2-1 (2-08), February 22, 2008, at 20, available at http://usda.mannlib.cornell.edu/usda/nass/CattOnFe//2000s/2008/CattOnFe-02-22-2008.pdf.

[16] C. Robert Taylor, College of Agriculture, Auburn University, 208 Comer Hall, Auburn, Alabama, 36849.

TX-OK-NM NUMBERS (Cattle that were fed in these three states)

****Head Counts below reflect slaughter totals for each purchase type from January 1 through June 1 of each year******

	2005	2006	2007	2008	Net Change
Cash	1,097,605 (51.7%)	986,744 (45.9%)	823,810 (38.5%)	804,736 (34.0%)	-17.7%
Formula	811,620 (38.2%)	854,802 (39.8%)	983,029 (45.9%)	1,198,462 (50.7%)	+12.5%
Forward Contract	71,665 (3.4%)	108,816 (5.1%)	53,279 (2.5%)	143,886 (6.1%)	+2.7%
Negotiated Grid	142,091 (6.7%)	197,518 (9.2%)	280,070 (13.1%)	216,875 (9.2%)	+2.5%
TOTAL	**2,122,981**	**2,147,880**	**2,140,188**	**2,363,959**	

Source: USDA Livestock and Grain Market News/Mandatory Price Reporting/St. Joseph, MO

Similarly, the increasing volume of captive supplies is also evident in the Kansas market:

KANSAS NUMBERS (Cattle that were fed in the state of Kansas)

****Head Counts below reflect slaughter totals for each purchase type from January 1 through June 1 of each year******

	2005	2006	2007	2008	Net Change
Cash	993,477 (52.0%)	940,039 (47.0%)	900,028 (46.0%)	816,444 (42.4%)	-9.6%
Formula	825,892 (43.3%)	889,722 (44.5%)	929,730 (47.5%)	930,016 (48.3%)	+5.0%
Forward Contract	53,539 (2.8%)	140,248 (7.0%)	101,623 (5.2%)	159,626 (8.3%)	+5.5%
Negotiated Grid	35,672 (1.9%)	28,949 (1.5%)	24,217 (1.3%)	19,817 (1.0%)	-0.9%
TOTAL	**1,908,579**	**1,998,958**	**1,955,598**	**1,925,903**	

Note: Prepared by USDA Livestock and Grain Market News/Mandatory Price Reporting/St. Joseph, MO

Head counts based on beef type steers and heifers only. No dairy type cattle or cows/bulls are included.

Q 4: What information is available to determine the percentage of Mississippi cattle that are sold to the various out-of-state feedlots and packers? And what impact would the proposed merger have on competition within the state of Mississippi?

A 4: USDA does not appear to maintain data regarding where cattle birthed and sold in Mississippi eventually end up when they reach 15 to 18 months of age and are slaughtered (steers and heifers) or where breeding animals that are culled are eventually slaughtered (cows and bulls), nor does USDA appear to have data regarding where Mississippi producers who retain ownership of their livestock eventually slaughter their cattle. However, the impact from the already limited competition for Mississippi cattle, which impact will become worse as a result of the JBS SA merger, is evidenced by the answer to Question 5 below.

Q 5: Have increased shipping costs caused the Mississippi cattle market to deviate substantially from the Plains Region?

A 5: Yes, but the deviation revealed below also is likely a function of the reduced competition and increased exercise of buying power that already has occurred in the entire U.S. cattle industry due to the exceedingly concentrated U.S. meatpacking industry. The cost of transportation to bring Mississippi cattle to slaughter, due to Mississippi's distance from the remaining U.S. meatpackers, merely causes a magnification of the systemic problem caused by reduced competition. For example, based on 2007 data, the average price paid for Mississippi cattle (steers and heifers and cows and bulls) is considerably less than in states that are closer to the major slaughtering plants, and the average price of Mississippi calves (feeder cattle) is also less than in states that are closer to the concentrated feedlots, which in turn are closer to the major slaughtering plants:

State	Average Price for Cattle (per 100 pounds)	Average Price for Calves (per 100 pounds)
MS	**$70.60**	**$109.00**
AR	85.50	115.00
OK	99.40	121.00
KS	93.90	126.00

See Exhibit 16.[17] The price difference paid for a 500 pound calf in Mississippi versus Kansas using these average calf prices is $85 per head (500 lbs. X $17/100 lbs.). The price differences shown by these data cannot be explained by transportation costs alone. Instead these data suggest that, like what happened in the hog industry, the profitability of the production sector of the cattle industry is becoming concentrated around the dominant meatpackers. As this concentration level increases, as would occur under the JBS SA merger, Mississippi cattle prices likely will become even less competitive, thus further harming Mississippi's overall economy.

The attached Exhibit 17 illustrates the effect of declining competition on cattle prices from 1987 to 2007.[18] The maps depicted therein correspond to the level of concentration in livestock purchases by meatpackers, as measured by the Herfindahl-Hirschman Index (HHI) and the four-firm concentration ratio (CR4). The HHI increased from 759 in 1987, to 1,170 in 1997, and then to 1,269 in 2006 (latest available data). *See* Exhibit 18.[19] The CR4 increased during the same period from 47 percent to 61 percent to 66 percent. These maps show that the national cattle market is disappearing and suggest that the blue states are increasing in number because there are fewer significant buyers and thus, below average prices.

Q 6: Are there cattle auction yards in Mississippi where two or three of the merging parties are bidding against each other for feeder cattle, thus acting as price-makers?

A 6: Five Rivers Ranch Cattle Feeding, LLC (Five Rivers), an entity involved in the JBS SA merger, likely purchases and custom feeds cattle from Mississippi and many other states, but I do not have data that support this contention. Likewise, I do not have personal knowledge regarding the number of U.S. Premium Beef feedlot unitholders, which have contractual access to another entity involved in the JBS merger – National Beef Packing Co. (National) – that may regularly compete with Five Rivers for feeder cattle in Mississippi, but it could be significant. I believe the auction yards, video auctions and other commission firms in Mississippi would need

[17] Meat Animals Production, Disposition, and Income: 2007 Summary, U.S. Department of Agriculture, National Agricultural Statistics Service, at 9, available at http://usda.mannlib.cornell.edu/usda/current/MeatAnimPr/MeatAnimPr-04-25-2008.pdf.
[18] Data source for the maps include Exhibit 17, and corresponding data from USDA NASS summaries for 1987 and 1997, available at http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1101.
[19] Packers and Stockyards Statistical Report: 2006 Reporting Year, U.S. Department of Agriculture, Grain Inspection, Packers and Stockyards Administration (GIPSA), May 2008, at 51, available at http://archive.gipsa.usda.gov/pubs/2006_stat_report.pdf.

to be surveyed to accurately determine the reduction in competition that will occur in the Mississippi feeder cattle market if the JBS SA merger is approved.

Alternatively, if you were to join in the U.S. Department of Justice's investigation of the JBS SA merger, you could require the merging entities to provide information regarding where buyers for Five Rivers and buyers with U.S. Premium Beef slots with National actually procure their feeder cattle.

Based on the structure of the U.S. cattle market, it is a certainty that the JBS SA merger will impact the Mississippi cattle industry, and I believe this impact will be both negative and significant. This is because the merger will reduce competition for slaughter-ready cattle. When prices for slaughter-ready cattle are reduced, feedlots will necessarily reduce the price they pay for Mississippi feeder cattle. Because there are so few significant packers located close to Mississippi, lower cattle prices will be compounded for Mississippi cattle producers due to the transportation cost of shipping Mississippi cattle to the feedlots in closer proximity to the dominant packers.

Please let me know if there is any additional information I can provide. R-CALF USA greatly appreciates your interest in this matter and we hope that your office will take the lead by stepping forward to protect Mississippi's cattle industry against the JBS SA merger.

Sincerely,

Bill Bullard
CEO, R-CALF USA

Attachments: Exhibits 1-18