R-CALF USA Fact Sheet:

Why Competition Reforms Are Needed in the 2007 Farm Bill

Q: Why is there an immediate need for competition reforms in the U.S. cattle industry?
A: The U.S. packing industry, now with only four firms controlling over 80 percent of the market, is controlling market access and artificially lowering prices paid to U.S. cattle producers.

Q: Who gets harmed if competition reforms are not passed?
A. The estimated 800,000 independent cattle producers who raise beef cattle and depend on a competitive market for their income will continue to be harmed, with many leaving the business, because of restricted market access and artificially low cattle prices if reforms are not passed.

Q: How are packers lowering cattle prices?
A: When the major U.S. packers consolidated their industry, they began also to control market access. Packers achieved this control by accumulating off-market cattle (known as captive supply cattle) to meet available plant capacity, thus restricting plant access for independent producers who sell in the open market. However, the price of slaughter-ready cattle is tied to the open market – a market depressed by severe access restrictions.

Q: How have packers accumulated the off-market or captive supply cattle that give them control over the market?
A: First, the major packers own and feed their own cattle, thus reducing the number of cattle they purchase in the open market to fill plant capacity. They also use their own cattle to control prices. When demand drives the open market higher, packers slaughter their own cattle, thus limiting access to available plant capacity and satisfying demand, causing open market prices to fall.

Second, packers use market access restrictions as leverage to encourage producers to enter forward contracts without setting a price until *after* the cattle are removed from the market. While this gives producers access to the market, it also allows packers to fill much of their available plant capacity without first having to bid or negotiate a price for cattle. This reduces the demand for cattle in the open market, resulting in lower open market prices. Packers then use the lower, open market price as the basis for pricing their un-priced, forward contracted cattle, driving all cattle prices down.

Q: If these anti-competitive practices are really going on, every farmer and rancher that sells cattle should be complaining, but not all of them are. Why is this?
A: Most of the 800,000 beef cattle producers do not sell directly to the packers, the point at which these anticompetitive practices occur. Instead, most cattle producers sell to others who feed the cattle to market weight for several months before selling to packers. Because most producers do not have a direct marketing relationship with the packers, they would not be expected to complain.

Q: If only a small percentage of the cattle farmers and ranchers are directly impacted by these anti-competitive practices, what's the big deal?
A: The price of all cattle sold by the approximate 800,000 U.S. cattle farmers and ranchers, regardless of the age of the cattle, is tied to the open market where slaughter-ready cattle are sold to packers. This open market is established by the declining number of independent feeders that sell to packers on the open market. Therefore, when packers lower the open market price for slaughter-ready cattle, they indirectly lower the price for all classes of cattle sold by all cattle producers. For

example, cow/calf producers are indirectly impacted as the reduced prices for slaughter-ready cattle are partially transferred back to feeder cattle and to cow/calf producers. In addition, the risk of not being able to timely access the market drives independent feeders out of the business and increases the problem. This is why all cattlemen have an enormous stake in restoring competition to the market for slaughter-ready cattle.

Q: What is at stake here for the entire U.S. cattle industry?
A: The stakes are worth billions. For example, when packers use these anti-competitive practices to reduce slaughter-ready cattle prices by only 3.5 cents per pound (about $42 per head), the result is a direct, annual transfer of over $1 billion in profits from the approximate 800,000 U.S. beef cattle producers and into the hands of the four largest U.S. packers. This takes money out of U.S. cattle production areas, which tend to be economically depressed, and transfers the profits to international financial centers.

Q: Do you have evidence that shows the packers are actually using anti-competitive practices to directly lower slaughter-ready cattle prices?
A: Yes. A stark example occurred in February 2006 when all four major meatpackers – Tyson, Cargill, Swift & Co., and the National Beef Packing Co. – withdrew from the open market in the Southern Plains for an unprecedented period of about two weeks. The packers made minimal, to no, purchases in the open market, relying on their packer-owned and un-priced forward-contracted cattle to keep their plants running rather than participating in the open market. As a result of the packers shunning the open market, average prices for fed cattle fell 4.7 cents per pound (a loss of over $56 per head) during the month of February as compared to January.

Q: Evidence is one thing, but do you have any proof that the anti-competitive practices of the packers are financially harming U.S. cattle farmers and ranchers?
A: Yes. There are two U.S. court cases in which the facts proved that packers manipulated cattle prices to the detriment of U.S. cattle producers:

In *Pickett v Tyson*, producers complained that packers used anti-competitive forward contracts to manipulate cattle prices. The jury found that producers lost $1.28 billion as a result of the packers' practice and awarded this amount to producers. This jury award was later overturned on technical grounds, but *not* the jury's finding that the packers had indeed manipulated cattle prices.

In *Schumacher et al. v Tyson et al.*, cattle producers complained that the major packers used inaccurately reported boxed beef prices to manipulate the price of cattle they purchased from producers. The court agreed and awarded damages to the producers in the amount of $9.25 million.

Q: What reforms are needed to restore competition in the U.S. cattle market while still preserving options for farmers and ranchers to efficiently and profitably market their cattle?
A: We need to update the 80-year-old Packers and Stockyards Act that protects cattle farmers and ranchers from unfair and deceptive practices of the packers in order to reflect today's market conditions and practices. S. 622 and H.R. 2135 do this. We also need to prohibit the practice of forward contracting without a price. S. 1017 and H.R. 2213 do this. And, we need to limit the practice of packer ownership of cattle long before the cattle are ready for slaughter. S. 305 does this. Finally we need to protect the open market from further erosion. S. 786 does this. This package of reforms would restore robust competition to the U.S. cattle market, thus preserving opportunity, entrepreneurship and prosperity for U.S. cattle farmers and ranchers.