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July 16, 2007

James E. Link
GIPSA Administrator
U.S. Department of Agriculture
Stop 3601 1400 Independence Ave., SW
Washington, DC 20250-3601

Dear Administrator Link:

Thank you for your timely response to our request for an investigation into pricing practices by the meat industry submitted on May 23, 2007. While the R-CALF USA complaint referenced data in the recent livestock marketing study conducted by the Research Triangle Institute (“RTI Study”) in laying out its concerns regarding meat packer pricing methods for dressed weight and grid basis cattle, the complaint did not seek a detailed debate on the methods underlying the RTI Study. Setting the merits of such a debate aside, the complaint sought something much more important to U.S. cattle producers: the investigation of pricing practices by the meatpacking industry that appear to violate the Packers and Stockyards Act.

R-CALF USA is deeply concerned that Grain Inspection Packers and Stockyards Administration (GIPSA) felt the appropriate response to our request for an investigation was a defense of the econometric models underlying the RTI study rather than a meaningful investigation of the pricing practices complained of.

R-CALF USA’s complaint specifically states that “[t]he anomalous price differential for dressed weight and grid basis cattle compared to cattle sold on a live weight basis appears counter-intuitive and contradicts a conclusion that packers use purchasing methods that provide an incentive for quality and yield.” The GIPSA response states that “normal known market fundamentals explain the coefficients in the single equation you question.” The “normal known market fundamental” in question is that in a properly functioning market increased risk reaps increased reward and reduced risk reaps a reduced reward.

However, the RTI study – and the GIPSA response letter – confirm that in the case of the price differential for dressed weight and grid basis cattle compared to cattle sold on a live weight basis, that market fundamental is working exactly the opposite of the way it should. The RTI study found that the average price for all cattle sold on the grid was significantly lower than the average price for cattle sold on the hoof, after correcting for quality differences. This result contradicts the market logic that would dictate greater rewards for producers who undertake greater risks. Instead, it shows that those producers

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who bear more risk by participating in grid arrangements are not only not compensated for taking on those risks – they are actually penalized in the form of lower average returns even when controlling for quality.

Therefore, R-CALF USA continues to believe that data on pricing for dressed weight and grid basis cattle revealed in the RTI study may constitute price manipulation under Section 202(e) of the Packers and Stockyards Act, an unfair, unjustly discriminatory, or deceptive practice or device under Section 202(a) of the Act, and subject producers participating in such purchasing arrangements to an undue or unreasonable prejudice or disadvantage under Section 202(b) of the Act. While the GIPSA response contains a defense of the RTI study's methods which is apparently intended to address the claim of price manipulation under 202(e), there is no economic analysis of how the pricing practices complained of comport with and Sections 202(a) and (b).

Moreover, the GIPSA response contains little to no legal analysis of the claims contained in the R-CALF USA request for an investigation. The response's explanation of the econometric equations underlying the RTI study is irrelevant to a legal analysis of violations of Section 202(a) or (b), because proving those violations does not require econometric proof of price manipulation. Furthermore, while an explanation of the economic analysis in the RTI study from the perspective of the authors of that study is informative, it does not substitute for a serious, independent investigation of the actual pricing practices revealed by that study. It is these pricing practices which R-CALF USA seeks to have investigated – such an investigation should consist of GIPSA's own economic and legal analysis of actual market practices. While this investigation could also include a review of independent studies of those practices, an investigation should not begin and end with an explanation of the economic methods used in the RTI study. This is particularly so where that explanation does nothing to explain away the troubling trends revealed in that study.

Regardless of the RTI study's other merits or faults, it clearly reveals that the average effect of participating in a sale transaction involving grid pricing or carcass weight cattle was a lower return for producers than if they sold their cattle on a live weight cattle. As explained in the original R-CALF USA complaint and above, this result is the opposite of what one would expect if the market were functioning properly.

R-CALF USA appreciates the initiatives that GIPSA has taken to improve enforcement of the Packers and Stockyards Act under your leadership. However, we believe that the full promise of the Act will not be fulfilled until GIPSA shows a serious commitment to undertaking vigorous enforcement of the Act against systematic market distorting practices that disadvantage U.S. cattle producers. We believe that the RTI study reveals one such set of practices, and GIPSA's initial response to that concern provides no basis for a different conclusion. While the RTI study provides one perspective on the issue, the perspective of outside contractors cannot be the final word on whether GIPSA's statutory mandates require further action.

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We therefore respectfully reiterate our request for a meaningful, independent investigation of the actual pricing practices employed by the meat packing industry for cattle purchased on a carcass weight basis or grid basis to determine if those practices violate the Packers and Stockyards Act. We believe that the investigation merits a thorough analysis from legal counsel and qualified, independent economists within GIPSA.

We look forward to working with you on this important issue.

Sincerely,

A handwritten signature in cursive script that reads "R. M. Thornsberry D.V.M." The signature is written in black ink and is positioned above the printed name and title.

R. M. Thornsberry, D.V.M.

President, R-CALF USA Board of Directors