

*Fighting for the U.S. Cattle Producer!*



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*USA*

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March 28, 2016

The Honorable Charles E. Grassley  
Chairman  
U.S. Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Patrick J. Leahy  
Ranking Member  
U.S. Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Mike Lee  
Chairman  
Senate Judiciary Committee Subcommittee on  
Antitrust, Competition Policy, and Consumer  
Rights  
330 Hart Senate Office Building  
Washington, DC 20510

The Honorable Amy Klobuchar  
Ranking Member  
Senate Judiciary Committee Subcommittee on  
Antitrust, Competition Policy, and Consumer  
Rights  
825 Hart Senate Office Building  
Washington, DC 20510

**Re: Fourth Follow-up Letter to the Senate Judiciary Committee Regarding  
Request for an Investigation Into the 2015 Cattle Price Collapse**

Dear Committee Chairman Grassley, Subcommittee Chairman Lee, Committee Ranking Member Leahy, and Subcommittee Ranking Member Klobuchar:

Central to our request for an investigation into the cause or causes of the 2015 collapse of U.S. cattle prices is our assertion that the primary price-discovery market, the cash market, and the cattle futures market, which is based on the underlying cash market and serves a secondary, forward-looking price discovery role, are both subject to manipulation by dominant beef packers. Importantly, evidence of the manipulation of those markets is not confined to 2015 and R-CALF USA has repeatedly attempted to encourage the U.S. Department of Justice (Justice Department) and/or the U.S. Department of Agriculture (USDA) Packers and Stockyards Administration (PSA) to protect the integrity of both those markets. Below R-CALF USA will describe some of those attempts that, at least until now, have largely been ignored.

**Previous Efforts to Protect the Price-Discovering Cash Market from Manipulation.**

In support of the request for an investigation, we contend that dominant beef packers are continually shifting large volumes of cattle out of the price-discovering cash market and into alternative marketing arrangements, particularly into un-priced formula contracts. Consequently, the price-discovering cash market has become ultra-thin and is highly susceptible to manipulation. We believe dominant beef packers are exploiting the ultra-thin cash market that they themselves created and, through their coordinated actions, are driving the cash market

downward. In our initial letter to you dated January 5, 2016, we describe how all the major packers shunned the cash market in one fed cattle marketing region in September 2015, an action that effectively reduced both the demand and price for fed cattle.

R-CALF USA attempted to apprise the Justice Department of the disastrous consequences that would result if dominant beef packers were allowed to continually thin the price-discovering cash market into obscurity. As evidenced by Attachment 1, a letter dated Feb. 13, 2012, which memorialized a meeting with the Justice Department held Feb. 1, 2012, it was my impression that the Justice Department was disinterested in the antitrust implications arising from our discussion regarding the disappearing cash market. Importantly, the volume of fed cattle that remained in the price-discovering cash market during the last full calendar year prior to the 2012 Justice Department meeting (measured nationally and shown in the chart below) was less than 33 percent (2011), which represented a decline of a full 10 percentage points from just three years earlier (2008).

<b>LMR Purchase Type Breakdown by Region</b>											
<b>NATIONAL</b>											
	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
<b>Cash</b>	52.1%	49.4%	47.3%	42.6%	38.8%	37.4%	32.6%	26.0%	23.1%	23.1%	21.3%
<b>Formula</b>	33.2%	34.3%	37.4%	39.1%	43.7%	43.1%	47.4%	54.8%	59.8%	56.8%	57.0%
<b>Forward Contract</b>	4.8%	7.2%	6.8%	11.2%	9.5%	11.9%	13.2%	12.0%	10.8%	15.8%	17.5%
<b>Negotiated Grid</b>	9.9%	9.0%	8.5%	7.1%	8.0%	7.6%	6.7%	7.2%	6.3%	4.3%	4.2%
<b>Source: USDA AMS Livestock, Poultry &amp; Grain Market News</b>											

In Attachment 2, a letter of April 25, 2012, the Justice Department responded to my above-described letter and assured me that it would continue monitoring conditions in the cash market.

After the Justice Department made this commitment, the cash market shrank another 11.3 percent nationally (from 2011 to 2015 in the chart above), while the volume in one fed cattle marketing region shrank from 17 percent to less than 3 percent during the same period, as is shown in the chart below.

<b>TEXAS -OKLAHOMA-NEW MEXICO</b>											
	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
<b>Cash</b>	47.2%	42.5%	36.7%	31.5%	26.4%	21.5%	17.0%	10.2%	6.1%	3.0%	2.6%
<b>Formula</b>	42.2%	42.2%	48.4%	53.3%	60.4%	66.9%	72.7%	76.0%	83.0%	84.6%	85.9%
<b>Forward Contract</b>	3.1%	5.0%	4.4%	5.8%	5.4%	4.9%	4.4%	5.4%	4.0%	7.4%	9.3%
<b>Negotiated Grid</b>	7.5%	10.3%	10.5%	9.3%	7.8%	6.7%	5.9%	8.4%	6.9%	5.1%	2.1%
<b>Source: USDA AMS Livestock, Poultry &amp; Grain Market News</b>											

To R-CALF USA's knowledge, the Justice Department has not taken any action to preserve the viability, integrity, or competitiveness of the cattle industry's most important market

– the cattle market applicable at the end of the live cattle life-cycle. Instead, it appears to us that the Justice Department continues to allow dominant beef packers to exploit the fed cattle market with impunity.

It is R-CALF USA's hope that an investigation by the Senate Judiciary Committee would include a careful and probing analysis of the beef packers' ongoing efforts to further thin and further exploit the price-discovering cash market. It is also our hope that the investigation would result in a formal recommendation to the Justice Department to immediately initiate enforcement action to preserve and protect that market.

### **Previous Efforts to Protect the Cattle Futures Market from Manipulation.**

Another aspect of our request for an investigation involves the conduct of the dominant beef packers in the cattle futures market. As indicated in our initial request dated Jan. 5, 2016, the cattle futures market was experiencing unprecedented volatility in 2015 at the same time that cattle prices were collapsing at unprecedented rates. The dysfunctionality expressed by the cattle futures market in 2015 was not isolated. In fact, R-CALF USA had been providing the Justice Department and/or the PSA with evidence of alleged futures market manipulation by the dominant beef packers since at least 2009.

Attachment 3, a letter dated February 10, 2011, describes the complaint R-CALF USA filed regarding the inexplicable break in the cattle futures market that occurred in October 2009, which was the time when the Commodity Futures Trading Commission (CFTC) identified a violation of speculative position limits that involved futures commission merchant Newedge USA, LLC, and the nation's third-largest beef packer, JBS USA, LLC. We stated in the letter that we suspected that a dominant packer had likely shorted the cattle future market to cause it to fall the limit. Our suspicion was formulated *before* we learned of the CFTC's involvement.

As evidenced by Attachment 4, a letter dated Nov. 8, 2011 (also included is Attachment 5, an accompanying addendum and correction dated Nov. 16, 2011), R-CALF USA again filed a complaint with the Justice Department and the PSA regarding yet another anomalous cash cattle market and cattle futures market anomaly that occurred during the weeks ending Oct. 28 and Nov. 4, 2011. We stated in our complaint that, "This recent anomaly, like that of the October 2009 anomaly, strongly suggests that one or more packers have unlawfully manipulated the market to the detriment of untold numbers of U.S. cattle producers who sold fed cattle at that time."

Similar to the Justice Department's inaction regarding our concerns that dominant packers were destroying our industry's essential price-discovering cash market, no meaningful action has been taken regarding our concerns that dominant packers are likewise engaging in practices that distort the futures market.

The interests of cattle producers to preserve a competitive market for their live cattle, and the interests of consumers to have the costs of producing and selling retail beef, hence the price of retail

Committee Chairman Grassley, Subcommittee Chairman Lee, Committee Ranking Member  
Leahy and Subcommittee Ranking Member Klobuchar

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beef, determined by competitive market forces, are not being fulfilled. We trust the U.S. Senate Judiciary Committee will welcome the opportunity to chart a new course for our industry by demanding enforcement of U.S. antitrust laws and laws prohibiting anticompetitive conduct in the U.S. cash cattle and cattle futures markets.

R-CALF USA appreciates your ongoing consideration of our request for an investigation into the 2015 cattle price collapse. Please let me know if there is any additional information we can provide.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Bullard", written in a cursive style.

Bill Bullard, CEO

Attachments: Attachments 1-5