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June 25, 2021

Debbie Stabenow, Chairwoman
U.S. Senate Committee on Agriculture,
Nutrition, and Forestry
328A Russell Senate Office Building
Washington, DC, 20510

Re: R-CALF USA's Written Testimony For the Hearing Record Regarding "Examining Markets, Transparency, and Prices from Cattle Producers to Consumers," June 23, 2021

Dear Chairwoman Stabenow:

As the largest U.S. cattle trade association exclusively representing U.S. cattle farmers and ranchers,[1] R-CALF USA (Ranchers Cattlemen Action Legal Fund United Stockgrowers of America) greatly appreciates your June 23, 2021 examination of the U.S. cattle and beef industries in your hearing, "Examining Markets, Transparency, and Prices from Cattle Producers to Consumers."

The U.S. cattle industry is in an acute crisis. The crisis is marked by upward trending consumer beef prices and downward trending producer cattle prices. Producer cattle prices collapsed over six years ago, in 2015. After the collapse, beef prices and cattle prices began moving in opposite directions, with beef prices trending sharply upward and cattle prices stair-stepping sharply downward. This is unprecedented.

These inexplicable price trends demonstrate this cattle crisis began long before the market shocks related to the packing plant fire in 2019, the COVID-19 pandemic in 2020, and the 2021 cyberattack. These ensuing market shocks merely highlight the ongoing chronic crisis, making it acute.

The chronically dysfunctional marketplace manifest since 2015 is but a symptom of a deep-rooted problem. That problem began decades ago and consists of two core structural changes to the cattle and beef industries that significantly disrupted the competitiveness of cattle and beef markets.

The most obvious structural change was the concentration of the beef packing sector, which was facilitated by a profound shift in public policy – a shift of deemphasizing competitive market forces in favor of achieving efficiencies through largeness of scale.

The less obvious structural change was the globalization of cattle and beef supply chains, which too was facilitated by a profound public-policy shift. This shift occurred immediately after the concentration of the beef packing sector and constituted a deemphasis of the interests of individuals and their smaller businesses in favor of catering to the newly concentrated beef packing sector – a sector that coveted lower-cost inputs from lower production-cost countries.

[1] R-CALF USA has approximately 5,500 voluntary dues paying members in 46 states.

Together these two profound policy shifts shrunk the U.S. cattle industry in terms of numbers of participants, cattle, feedlots, and marketing outlets. This ongoing contraction now threatens the future viability of the cattle farming and ranching industry we know today. The contraction is dismantling the industry's competitive market infrastructure and is undermining the critical mass of participants needed to sustain a competitive industry, even upon the reintroduction of competitive market forces.

The globalization of input supply chains amplifies the negative impacts of beef packer concentration by stunting the domestic cattle supply chain's opportunity to expand. It does this by substituting both the cattle and beef supply chains' output with lower-cost, undifferentiated imports of both cattle and beef. Consequently, the single largest segment of American agriculture – the live cattle industry – continually underproduces for the domestic market and remains largely void of opportunities for new entrants. Moreover, the market no longer functions in accordance to supply and demand fundamentals that historically applied to the unique supply-sensitive, perishable, and cyclical characteristics of the cattle industry.

The now highly concentrated beef packing sector, along with its relatively new alliances made with key participants within the entire live cattle supply chain, do not want Congress or the Administration to reverse course. The entire industry is now shaped, operating, and progressing according to their economic best interests.

In defense of the status quo, these packers and their allies offer rationalizations for market anomalies that defy historical industry trends, the unique characteristics of the cattle industry, and the industry's responses to changes in supply and demand. However, unless the receiver of such rationalizations is intimately familiar with the cattle industry, they would pass for plausible explanations.

In our antitrust lawsuit against the largest beef packers, *In re Cattle Antitrust Litigation*, the plaintiffs allege that the Big 4 conspired to depress cattle prices from January 2015 onward. But there are yet other contributing factors that were discussed during your hearing.

For example, the packers and their allies lament on the cattle industry's inability to respond quickly to changes in demand signals. This reflects the extremely long biological cycle of cattle. However, forgetting this, packers also assert that the 2015 cattle price collapse was caused by an increased availability of slaughter weight cattle following the historically low inventories of 2014. But if the 30% decline in fed cattle prices across 2015 was caused by increased cattle supply, we would expect to see both *high slaughter volumes* and *low prices*, not *continuing low slaughter volumes* and *drastically low prices*.

In early 2015, a chorus of government and private industry analysts alike predicted strong cattle prices through 2018, due precisely to the industry's inability to increase production sooner than within three years. But unexpectedly, cattle prices collapsed for nearly two years running, until settling at the lowest price level experienced by the industry in five years.

A factor undisclosed at your hearing that contributed in part to the depression of cattle prices despite continuing low cattle supplies and slaughter volumes was that the packers/allies markedly increased beef inventories by relying not on domestic supply chains, but rather on their lower-cost and undifferentiated global supply chains.

The packers/allies then rationalize the ensuing disparity between beef prices and cattle prices by asserting there are simply too many cattle and not enough capacity to harvest them. This assertion likewise defies fact and logic for the following reasons: i) the U.S. today, and for decades past, continues to have too few cattle with which to produce sufficient volumes of beef to meet domestic beef consumption; ii) the U.S. beef cow herd remains millions of head smaller than it was when globalized input supply chains were memorialized in the 1994 NAFTA; iii) the big 4 have refused to expand capacity despite record margins available to them, exacerbating their decisions to close plants in recent years; and, iv) during the COVID pandemic, when the packers/allies denied domestic cattle producers access to the market for weeks on end, they continued importing between 120,000 and 213,000 head of cattle each month, including tens of thousands of Canadian cattle for slaughter.

The advent of new cattle procurement tools, such as formula and other forward-type contracts, while seemingly beneficial to an outside observer, have further undermined the competitive market forces that once held the cattle and beef price relationship together. They undermine this relationship principally by supplanting competition with packer control, which empowers packers to function as market gatekeepers. Again, the packers/allies rationalize their unrestricted use of such tools and play their "unintended consequence" card with claims that such contracts ensure that all cattle are not subject to an average price (a one-price-for-all), thus permitting higher quality cattle to receive premiums.

But their broad-stroke rationalization ignores the U.S. Department of Agriculture's finding that the relatively fewer number of fed cattle sold in livestock auction markets received the highest prices compared to all other procurement arrangements,[2] and those auction market cattle were associated with the highest quality.[3]

Today's cattle and beef supply chains are not the products of competition. Instead, they are the products of decades of engineering, control, and management by a beef packer oligopoly that began years ago to push market power control farther and farther upstream into the live cattle supply chain. The oligopolists' efforts today to maintain the status quo is testament to that fact.

The solution to today's crisis must be to reinsert competitive market forces into every transaction point along the supply chain where competition has been purged. This must include empowering the domestic supply chain to distinguish itself from global supply chains, thus replacing the packers/allies unlimited control over when to access foreign supplies with competitive demand signals originating from consumers making a choice to prioritize American born and raised beef.

We propose two triage measures to initiate this important goal. First, Congress should restore competition in the industry's most important price discovery market as Senator Grassley's and Senator Tester's S.949 will quickly and effectively do. Second, Congress should empower consumers to signal their demand for U.S. born and raised cattle by passing legislation to require all beef in U.S. commerce to be labeled as to where it was born, raised, and harvested.

It is important to note that R-CALF USA agrees that complete price transparency must be required in all cattle transactions, but it must also be understood that price transparency alone is no match for the market's domination by oligopolistic firms and their attendant use of global input supply chains.

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[2] *See*, e.g., Table 2-17, GIPSA Livestock and Meat Marketing Study, at 2-26.
[3] *Id*., at ES-7.

Producers already know they are being underpaid, and that beef consumers are not receiving a fair price. Merely being told that in more detail will not change the situation.

Congress must intervene on behalf of the remaining hundreds of thousands of independent U.S. cattle producers, many of which are on the verge of joining the hundreds of thousands that have already exited our industry over the past few decades.

Chairwoman Stabenow, we would greatly appreciate a meeting with you for the purpose of helping to identify the most important measures Congress can undertake to begin rebuilding today's dismantled domestic live cattle and beef supply chains to help create a stronger and more secure America.

Sincerely,

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