Memorandum

Part 3 of 3

Date: November 12, 2021

To: Drafters of compromised Cattle Market Price Discovery and Transparency Bill

From: Bill Bullard, R-CALF USA

Re: Suggestions for Improving Transparency Provisions in Compromise Bill

In Part 1 we raised grave concerns regarding the regional approach of the compromise bill. In Part 2 we nonetheless offered four substantive improvements for the compromise bill's price discovery provisions. Here, in Part 3, we offer five substantive suggestions for improving the transparency provisions – the development of a contract library and reporting requirements for future deliveries – within the compromise bill.

Contract: The current definition of contract applies only to the purchase of fed cattle for slaughter. However, anecdotal information indicates that large volumes of cattle destined for slaughter are purchased by packers as feeder cattle and custom fed in feedlots under some form of contract that may fall outside the current definition. If the purpose of the compromise bill is to better inform the industry as to the number of cattle committed to the packer relative to available shackle space in the future (*i.e.*, 6 months or 12 months out), then the definition of "Contract" should be expanded to include all committed cattle relative to shackle space. Some of these contracts may be referred to as cost-plus contracts, or some variation or hybridization thereof.

Further, anecdotal information also indicates that in addition to the contract for fed cattle or feeder cattle, some packers may also be paying some feedlots a form of renumeration tied not to the cattle, but rather, to the volume of cattle. An end-of-year bonus (or some other period) based on the number or total pounds of cattle delivered is included among this anecdotal information. If these types of "contracts" do in fact exist, then they would create an artificial, competitive advantage for certain feedlots. Congress should endeavor to include all cattle and all attendant renumerations associated with all cattle committed to packers through contracts.

Definition of Cattel Committed: The compromise bill would relax the current definition of cattle committed (7 U.S.C. 1635d(1)) by striking '7-day' and inserting '14-day'. To the extent this bill is supposed to be a compromise, the period within which cattle must be delivered (under definitions of negotiated cash and negotiated grid) or, as here, when they are considered committed could be used to mitigate at least some of the adverse effects of establishing relatively low negotiated volumes in some regions. Reducing the delivery period for cash and grid purchases to 7 days and keeping the definition of cattle committed at 7 days would help minimize the market power currently exercised by the concentrated packers by forcing them to compete more aggressively in the marketplace to stay current.

Definition of Packer: The compromise bill provides Congress the opportunity to address and capture information about significant developments in the cattle market, such as the vertical integration model recently implemented by Walmart. Anecdotal information indicates Walmart,

a retailer, is now owning or controlling a significant percentage of fed cattle from weaning to retail, meaning it is reportedly maintaining control, if not ownership, through the packing plant. If Congress is going to allow this type of competition-reducing vertical integration of the cattle market, then it should at least revise the definition of "packer" to capture this novel retailer-ownership/control over the live cattle and beef supply chains.

Information in Contract Library: The contract library provisions should expressly request submission of all contracts known or likely in use for the procurement of cattle slaughtered by packers and retailers that retain ownership and control of both cattle and the beef derived from cattle. For example, the compromise bill should request cost/plus-type contracts, stop/loss-type contracts, cattle feeding contracts, hybrid-type contracts, and any contracts with feedlots that are in addition to payments for the weight and quality of cattle, e.g., contracts for renumeration based on volume or weight of cattle delivered by a feedlot to a packer.

Content of Monthly Reports: The benefit of monthly reports is that cattle feeders can better estimate the numbers of cattle expected for delivery to the packers in the future as well as the time period when such deliveries of cattle are expected. This information would be very important for feedlot operators when making both placement and marketing decisions. However, the utility of this information is dependent on the inclusiveness of *all* future expected cattle deliveries. Therefore, the compromise bill should ensure that all cattle expected for future delivery to the packers be included. This would necessitate the inclusion of packer-owned and packer fed/controlled cattle, as well as packer-financed cattle. For clarification, the requirement for disclosure of all future deliveries must also include all cattle expected for delivery under the various contracts discussed in the section immediately above.