

US Cattle Industry Long Range Plan: 2023 Updates *(Updated 4-21-2023)*

- ✓ The American Beef Labeling Act (S.52), which restores mandatory country of origin labeling (MCOOL) for beef, was reintroduced in the Senate early this year. R-CALF USA formed a coalition of national organizations representing farm, ranch, rural, consumer, environmental, manufacturer and worker interests to expedite the enactment of the American Beef Labeling Act.
- ✓ The U.S. Department of Agriculture (USDA) wrote rules clarifying when the voluntary “Product of USA” label can be used for beef. The rule was approved by the Office of Management and Budget. R-CALF USA will submit comments before it is finalized.
- ✓ Though the U.S. Supreme Court denied hearing the first of two lawsuits R-CALF USA filed against the unconstitutional beef checkoff program, it forced USDA to take control over beef checkoff messaging and empowered producers to opt out of funding their state beef council if they disagree with its speech. The second lawsuit alleges USDA violated the law when, to satisfy our first lawsuit, it assumed control over the state beef councils’ messaging without conducting a required rulemaking.
- ✓ Five new economic studies all published in 2022 indicate the alternative marketing arrangements (AMAs) that predominate the cattle market, combined with packer concentration, are contributing to depressed cattle prices and higher beef prices. These studies are The Analytic Failures of The U.S. Beef Supply Chain: Issues and Challenges by Peter C. Carstensen; Multi-Plant Coordination by the Center for Agricultural and Rural Development, Iowa State University; Buyer Power in the Beef Packing Industry: An Update on Research in Progress by Garrido, Miller, Kim, and Weinburg; and Harvested Cattle, Slaughtered Markets?; and Risk Shifting via Partial Vertical Integration: Beef Packers’ Acquisition of Slaughter Cattle by C. Robert Taylor.
- ✓ Discovery is expected to continue across 2023 for R-CALF USA’s historic class-action antitrust lawsuit filed in 2019 that alleges the Big 4 packers violated the Sherman Antitrust Act, the Clayton Act, the Packers and Stockyards Act (P&S Act), and the Commodity Exchange Act. The next major step is R-CALF USA, NFU and the other named feeder plaintiffs will ask the U.S. District Court to certify that their claims should proceed on behalf of all feeders who sold fat cattle to Tyson, National Beef, Cargill, or JBS from January 1, 2015, to present, and everyone who traded live cattle futures or options during that period. If the Court grants R-CALF USA’s motion all those feeders and cattle futures traders would be included in Plaintiffs’ proposed class, without the need to file separate suits or engage separate legal counsel.
- ✓ In the wake of R-CALF USA’s leadership role in fighting for better enforcement of antitrust laws and the P&S Act, 16 state attorneys general wrote a comprehensive letter to the Secretary of Agriculture calling for stronger enforcement of the P&S Act. In addition, 28 bipartisan members of Congress wrote a joint letter to the U.S. Attorney General urging him to take action to protect the nation’s cattle farmers and ranchers from going broke due to inexplicably low cattle prices and to protect American consumers from paying over-inflated beef prices at their grocery stores.
- ✓ The Meat and Poultry Special Investigator Act (S.346) was passed by the Senate agriculture committee last session and will likely be included in the 2023 Farm Bill. It establishes the Office of the Special Investigator for Competition Matters that will investigate and prosecute violations of the P&S Act. Congress included a \$5,000,000 increase for P&S Act oversight and enforcement.
- ✓ The Livestock Mandatory Reporting Act, which requires large packers to report purchases and sales to USDA, was extended to September 2023.

- ✓ A new Cattle Contracts Library Pilot Program requires the Big 4 packers to report all the information that's in the contracts between packers and cattle producers for the purchase of fed cattle.
- ✓ To address the fact that federal regulators failed for decades to stop unbridled mergers and acquisitions within the beef packing industry that allowed just four large packers to now control 85% of the fed cattle market and approximately 80% of the boxed beef market, both the U.S. Department of Justice (DOJ) and the Federal Trade Commission (FTC) embarked on a process to update federal merger guidelines to better protect both producers and consumers in the marketplace. R-CALF USA worked with a coalition of agriculture groups and submitted joint recommendations for strengthening the federal merger guidelines.
- ✓ R-CALF USA launched www.usabeef.org, a free website, that connects consumers with nearby farmers and ranchers who can sell them beef that is exclusively born, raised, and harvested in the United States.
- ✓ The U.S. Supreme Court declined to hear R-CALF USA's petition to appeal a lower court's dismissal of our lawsuit to prohibit mandatory radio frequency identification (RFID) eartags on adult cattle moving interstate. Meanwhile, the USDA issued a proposed rule on RFID and R-CALF USA submitted comments before the proposed rule is finalized.
- ✓ The petition requesting a referendum on the termination of the beef checkoff program reached its deadline in 2021. The petition gained over 29,000 signatures of U.S. cattle owners but fell short of the 88,200 signatures necessary to call for a referendum. R-CALF USA is working with a broad coalition of national organizations to pass the Opportunities for Fairness in Farming Act (OFF Act) (S.557 and H.R.1249).
- ✓ In accordance with the President's Executive Order on Competition, the USDA issued the proposed rule, *Inclusive Competition and Market Integrity Under the Packers and Stockyards Act*, that specifies packer conduct that violates the P&S Act's prohibitions against unfair, deceptive, and unjustly discriminatory practices. Under the Order, the USDA is expected to also clarify that producers subject to unfair practices and undue preferences do not have to prove industry-wide harm to be protected under the P&S Act. R-CALF USA expects the USDA to issue that proposed rule in 2023.
- ✓ The DOJ and the USDA launched farmerfairness.gov, a website to allow farmers and ranchers to report anticompetitive practices. The complainants' confidentiality will be protected to the fullest extent allowed under the law.
- ✓ R-CALF USA supports the following additional legislation reintroduced in Congress: the Protecting America's Meatpacking Workers Act (S.270 and H.R. 798); a bill to require the establishment of a working group to evaluate the food safety threat posed by beef imported from Brazil, and for other purposes (S.480); the Processing Revival and Intrastate Meat Exemption (PRIME) Act (S.907); and the New Markets for State-Inspected Meat and Poultry Act (S.846 and H.R.1646).
- ✓ R-CALF USA is also encouraging the reintroduction of the following additional legislation in Congress: a bill to foster efficient markets and increase competition and transparency among packers that purchase livestock from producers, also known as the 50-14 Spot Market Protection Bill; the Voluntary Checkoff Program Participation Act; a resolution to direct the FTC to investigate and report on anticompetitive practices and violations of antitrust law in the beef packing industry; the Strengthening Local Processing Act; the Feed America by Incentivizing Rural (FAIR) Meat Packing Act; the Food and Agribusiness Merger Moratorium and Antitrust Review Act; and the Defense Domestic Producers Act.