R-CALF USA FACT SHEET:

Four Competition Reform Priorities
June 4, 2007

We can preserve opportunities, entrepreneurship and prosperity in the U.S. cattle industry with the reforms pursued by R-CALF USA. What's at stake? If the nation's largest packers successfully lower the price of fed cattle by only 3.5 cents per pound, the result is the transfer of over $1 billion in profits from the hands of hundreds of thousands of widely dispersed U.S. cattle producers and into the hands of the four largest multinational packers. View the calculation at the end of this Fact Sheet.

Immediate Implementation of Mandatory Country-of-Origin Labeling (S. 404 and H.R. 357): Producers and consumers need mandatory country-of-origin labeling (COOL) for the following reasons:

- U.S. cattle producers cannot effectively compete in a marketplace that does not distinguish their U.S.-produced beef from imported beef or beef produced from imported cattle.
  - Only with COOL can consumers distinguish beef produced exclusively from U.S. cattle.
- Only with COOL can consumers choose between beef produced under U.S. production standards and beef produced under differing, foreign standards.
  - Production standards associated with the feeding and rearing of food animals are not the same from one country to another. The U.S. maintains the highest standards.
  - The Chinese-based melamine and catfish problems prove that production standards applicable to imported food do impact food safety.

Competition and Fair Agricultural Markets Act of 2007 (S. 622 and H.R. 2135): This Act updates and strengthens the Packers and Stockyards Act (P&S Act) and ensures its enforcement. The P&S Act was passed in 1921 to protect widely dispersed, U.S. cattle producers from any unfair and deceptive practices of the highly concentrated packing industry. This new Act is needed for the following reasons:

- In 2006 the USDA's Office of Inspector General (OIG) found that USDA has not properly enforced the P&S Act for nearly a decade.
  - To ensure proper enforcement, this new Act establishes an Office of Special Counsel to investigate and prosecute P&S Act violations.
- The P&S Act's purpose to protect producers from practices that enable packers to control or manipulate cattle prices was thwarted by a recent court decision (*Picket v. Tyson*) requiring producers to also prove that the unfair practice of the packer caused an injury to competition.
  - This new Act clarifies that producers do not need to also prove an injury to competition in order to seek protection from the unfair practices of packers.
- The USDA never defined the term "unreasonable preference or advantage" contained in the 80-year old P&S Act, allowing packers to give special deals to select feeders regardless of quality.
  - This new Act requires the USDA to define this important term.

Captive Supply Reform Act (S. 1017 and H.R. 2213): This Act requires forward contracts for fed cattle to include a firm base price and be offered in an open and public manner. This new Act is needed for the following reasons:

- The unintended consequence of forward contracts that do not contain a firm base price, such as certain formula-priced contracts, is that packers can simultaneously control the base price of both contracted and non-contracted cattle. They can control the price of contracted cattle by avoiding

the cash market (resulting in diminished competition and lower prices) during the week the base price is to be established – the week previous to the actual delivery of the cattle. And, they can control the overall cash market by increasing the slaughter of non-priced formula cattle during weeks when the cash market is attempting to rally.

  - This new Act requires forward contracts to contain a firm base price, thus preventing highly concentrated packers from using non-priced, captive supply cattle to gain an unfair pricing advantage over independent producers. Producers and packers would remain free to enter into a variety of forward contracts provided a firm base price is established.

- The actual prices paid by packers under forward contracts are not always reported nor are they generally available in a timely manner to producers, resulting in packers having timelier and more comprehensive market-price information than producers. This unequal access to market-price information benefits packers and disadvantages producers, and provides packers the opportunity to enter into preferential contracts with select cattle feeders.
  - This new Act requires forward contracts be offered in an open, public manner, thus resolving the problem of unequal access to market-price information for contract cattle.

Limitation on Packer Ownership of Cattle (S. 305): Prohibits direct ownership of cattle by dominant packers, and certain purchase arrangements where the packer assumes management authority over the cattle and the producer no longer materially participates in the management of the cattle, for more than 7 days prior to slaughter. This new Act is needed for the following reasons:

- The price paid for all classes of commercial cattle sold by the estimated 900,000 U.S. cattle producers is ultimately tied to the price the nation's four largest packers pay for the approximate 83 percent of the slaughter-ready cattle they control. Thus, the profitability of the nation's 900,000 U.S. cattle producers is dependent on robust competition occurring at this final point of the live cattle supply chain – the point where live cattle are sold for slaughter. The practice of owning and feeding cattle by the largest packers long before slaughter is, therefore, anti-competitive – it reduces the volume of cattle sold to slaughter, thus thinning the slaughter market, which increases price manipulation risks and lessens competition for all classes of cattle.
  - This new Act prohibits direct ownership of cattle by only the largest packers that slaughter more than 125,000 cattle per year. Producer-owned cooperatives are exempt as are packers that only own one packing plant. Thus, the Act would restore robust competition to the market by eliminating ownership of cattle by the larger packers, while protecting small packers and producer-owned packing establishments and enhancing competition in the market overall. This Act would not affect contractual arrangements such as alliances and joint ventures in which the producer retains title and materially participates in the production of livestock.
- In its January 18, 2002 captive supply report, the USDA estimated that the four largest packers owned and fed approximately 2 million head during calendar year 1999. Based on the four largest packers' 1999 total slaughter of 23.9 million head, packer fed cattle accounted for 8 percent of that year's slaughter. To put this in perspective, the four largest packers owned and fed more cattle in 1999 than the U.S. imported from Mexico and Canada combined. (The U.S. imported a total of 1.9 million head of live cattle from Mexico and Canada in 1999.)

Calculation of Profit Transfer: *The U.S. slaughtered 27.7 million head of steers and heifers in 2006. Approximately 83 percent, or 23 million head, of which were slaughtered by the four largest packers. Based on a 1250 lb fed weight, a price decrease of $.035 equates to a $43.75 per head loss. Multiplying this per head loss by the 23 million head controlled by the four largest packers reveals the transfer of over $1 billion dollars from widely dispersed producers to the four highly concentrated packers. Competition reforms are needed to level the disparate playing field between producers and packers.*