Fighting for the U.S. Cattle Producer!
R-CALF USA

R-CALF United Stockgrowers of America
P.O. Box 30715
Billings, MT 59107
Fax: 406-252-3176
Phone: 406-252-2516
Website: www.r-calfusa.com
E-mail: r-calfusa@r-calfusa.com

May 20, 2008

The Honorable Thomas Barnett
Assistant Attorney General
U.S. Department of Justice
Office of Operations
Premerger Notification Unit, Room 3335
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Re: R-CALF USA's Fourth Submission of Information to the U.S. Department of Justice regarding the Proposed JBS-Brazil Merger

Dear Mr. Barnett:

The Ranchers Cattlemen Action Legal Fund United Stockgrowers of America ("R-CALF USA") submitted written information to the U.S. Department of Justice ("DOJ") on April 9, 2008, April 24, 2008, and May 8, 2008, regarding the proposal by JBS Acquisitions (hereafter "JBS-Brazil") to purchase National Beef Packing Company ("National"), Smithfield Beef Group ("Smithfield"), and Five Rivers Ranch Cattle Feeding, LLC ("Five Rivers"), collectively "JBS-Brazil Merger."

In its April 9, 2008, submission to the DOJ, R-CALF USA asserted that the JBS-Brazil Merger would facilitate ongoing market power abuses to the detriment of U.S. cattle producers.[1] Recently, R-CALF USA obtained additional evidence in support of its contention that market power abuses are ongoing, and would likely worsen upon the consummation of the JBS-Brazil Merger.

On April 23, 2008, JBS/Swift originated a one-year contract (hereinafter "JBS contract") purported to be the conditions for the sale of slaughter-ready cattle to JBS/Swift. The JBS contract is to be executed by U.S. feedlots. According to the terms of the JBS contract, feedlots must grant JBS/Swift the right to withhold payment for "grade and yield" cattle for three days after the "final grade" and feedlot owners and managers must additionally waive any rights they have "under the trust provisions of Section 206 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 106, Pub. L. 94-410)." [2]

[1] *See* R-CALF USA Letter to The Honorable Thomas Barnett, April 9, 2008, at 15.
[2] JBS/Swift, Swift & Company, 2008 contract, April 23, 2008, attached hereto as Exhibit 1.

It is R-CALF USA's opinion that this JBS contract constitutes a contract of adhesion as it extracts from producers a waiver of statutory rights in return for nothing more than access to the market. The fact that JBS/Swift can cavalierly impose such a requirement on U.S. cattle feedlots itself demonstrates the tremendous market power presently enjoyed by JBS/Swift – market power manifest by virtue of JBS/Swift's dominant control over available slaughter capacity.

The JBS-Brazil Merger would exacerbate this express exercise of abusive market power over U.S. cattle producers because it would further elevate JBS/Swift's dominance over available slaughter capacity, as R-CALF USA has more fully explained in its previous three submissions to the DOJ.

R-CALF USA appreciates the opportunity to provide this additional information regarding the JBS-Brazil Merger. R-CALF USA is confident that the information contained here and in its previous three submissions provides clear and convincing evidence that the JBS-Brazil Merger must be blocked because it would lessen competition and facilitate the exercise of market power in the U.S cattle market.

If the DOJ has any questions or concerns regarding the information provided, please contact me and I would be happy to provide additional explanation.

Sincerely,

Bill Bullard
CEO
R-CALF USA

Attachments: Exhibit 1