Fighting for the U.S. Cattle Producer!

R-CALF USA

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January 5, 2016

The Honorable Charles E. Grassley
Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patrick J. Leahy
Ranking Member
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Mike Lee
Chairman
Senate Judiciary Committee Subcommittee on Antitrust, Competition Policy, and Consumer Rights
330 Hart Senate Office Building
Washington, DC 20510

The Honorable Amy Klobuchar
Ranking Member
Senate Judiciary Committee Subcommittee on Antitrust, Competition Policy, and Consumer Rights
825 Hart Senate Office Building
Washington, DC 20510

Dear Committee Chairman Grassley, Subcommittee Chairman Lee, Committee Ranking Member Leahy, and Subcommittee Ranking Member Klobuchar:

Attached please find R-CALF USA's formal request to the U.S. Senate Committee on the Judiciary (Committee) and to its Subcommittee on Antitrust, Competition Policy, and Consumer Rights (Subcommittee) for an investigation into potential antitrust and anticompetitive conduct in the U.S. cattle and beef markets.

In 2008 the Subcommittee examined the antitrust implications arising from the proposed purchase of two U.S.-based beef packers by Brazilian-owned beef packer JBS. The Subcommittee determined the proposal would reduce competition in the domestic cattle market and successfully urged the U.S. Department of Justice to initiate an antitrust enforcement action that blocked a portion of the merger.

The competitiveness of the domestic cattle and beef markets was at least partially protected as a result of the Subcommittee's decisive action. R-CALF USA was a witness during the 2008 antitrust investigation. Present circumstances once again warrant another antitrust and anticompetitive investigation by the Committee or Subcommittee involving the largest segment of U.S. agriculture – the U.S. live cattle industry – as well as the consumers' beef market.

Market fundamentals in 2014 and the first half of 2015 sustained historically high cattle and beef prices. Those fundamentals included extremely tight cattle supplies and growing beef demand. Government and private economists alike predicted higher prices well beyond 2015, and there were no observable disruptions to the favorable market-sustaining fundamentals at any time during 2015. Yet, cattle prices collapsed.

During the third and fourth quarters of 2015, cattle prices collapsed farther and faster than during any time in history and the unprecedented volatility in the cattle futures market rendered it useless for price discovery purposes.

Independent cattle feeders suffered losses never before experienced in our industry's history. With losses exceeding $500 per head, it is likely the very foundation of the U.S. cattle industry's feeding sector – its independent cattle feeders – was irreparably damaged.

Industry analysts cannot explain the wholesale collapse of the cash market or the intense volatility and collapse in the cattle futures market. Describing the collapse and volatility with vague terms such as market meltdown or psychological upheaval, analysts appear unwilling to state the obvious: that something caused a severe anomaly in U.S. cattle markets that caused significant harm to U.S. cattle producers and U.S. consumers.

As cattle prices plummeted, meatpackers were making what one analyst called gangbuster profits and consumer beef prices remained at or near record highs. Not surprisingly, meatpacker-aligned commentators pointed fingers at cattle feeders, accusing them of causing the price collapse by feeding their cattle too long. But this is nonsense as only a small percentage of cattle are not directly controlled by meatpackers and some of the remaining independent cattle feeders reported that meatpackers were purposely delaying cattle delivery dates.

As detailed in the attached request, R-CALF USA believes the 2015 cattle market succumbed to antitrust and anticompetitive conduct by dominant meatpackers and perhaps by certain traders in the cattle futures market. We respectfully request an investigation to determine, among other things, the cause for the dramatic, unprecedented collapse of U.S. cattle prices in 2015; whether there are structural problems in the U.S. cattle market that contributed to the market collapse in 2015; and, whether dominant meatpackers or other major market participants engaged in unlawful conduct that adversely influenced the cattle futures market and the cash cattle market in 2015.

Thank you for your consideration of our request. Please let me know how we may be of further assistance in this important matter. I can be reached at 406-670-8157.

Sincerely,

Bill Bullard

Bill Bullard, CEO

Attachment

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

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# Request by R-CALF USA

# For a U.S. Senate Judiciary Committee Investigation

# Into

# Potential Antitrust and Anticompetitive Conduct in U.S. Cattle and Beef Markets

January 5, 2016

With 2014 cash receipts exceeding $81 billion, the U.S. live cattle industry is by far the single largest segment of U.S. agriculture.[1] Consequently, the economic wellbeing, hence the competitiveness, of the U.S. live cattle industry is critically important to the prosperity of Rural America. But, the economic wellbeing of the U.S. live cattle industry turned abruptly south in the latter half of 2015.

With decades of reputable forecasting experience behind it and armed with all available market fundamentals data, the U.S. Department of Agriculture (USDA) Economic Research Service (ERS) projected in February 2015 that the average annual 5-market steer price of $154.41 per hundredweight (cwt) realized in 2014 would steadily increase over the ensuing three years to $159.50 per cwt in 2015, $163.70 per cwt in 2016, and $165.03 per cwt in 2017.[2] Beginning in 2018, the ERS predicted that 5-market steer prices would begin a gradual decline, with year-to-year price reductions averaging a modest $2.51 per cwt during the anticipated five-year decline.[3]

Industry analysts widely agreed with the ERS' predictions. In January 2015, Kansas State University agricultural economist Glynn Tonsor reportedly announced that cattle prices in 2015 would likely be just as promising as they were in 2014 and that such stronger prices are expected

[1] *See* U.S. Farm Sector Cash Receipts From Sales of Agricultural Commodities, U.S. Department of Agriculture (USDAS) Economic Research Service (ERS) 2010-2015F (2015), *available at* http://www.ers.usda.gov/data-products/farm-income-and-wealth-statistics/annual-cash-receipts-by-commodity.aspx. Corn, the second largest agricultural segment, generated about $26 billion less in cash receipts in 2014 than did cattle and calves.
[2] USDA Agricultural Projections to 2024, Interagency Agricultural Projections Committee, U.S. Department of Agriculture (USDA), Economic Research Service (ERS), Long-term Projections Report, OCE-2015-1 (February 2015) at 81, available at http://www.ers.usda.gov/media/1776036/oce151.pdf.
[3] *See id*.

to remain for a couple of years.[4] In February, CattleFax reportedly announced that fed cattle prices would remain strong in 2015, ranging from near $140 per cwt at the lows to near $170 per cwt at the highs.[5]

Even the more pessimistic analyses of 2015 market fundamentals portended only gradual changes to the market, suggesting that cattle prices would not collapse in 2015, "barring any outside market shocks like drought or a U.S. economic recession."[6]

The ERS prediction was nearly spot-on during the first half of 2015, with the 5-market steer price averaging $159.50 per cwt from January through June 2015.[7] But then something went awry. The 2015 third-quarter price was $14.77 per cwt below the first half of the year's average.[8] The average price during the month of November fell to $128.20 per cwt, a full $31.30 per cwt decline from the average price realized during the first half of the year.[9] Prices during the first two weeks in December continued their march into the abyss, falling to $118.15 per cwt during the week ending Sunday, Dec. 13, 2015.[10] This marked an unbelievable $41.35 per cwt price decline since the first half of 2015.

To put this price decline into perspective, a $41.35 per cwt price decline equates to a loss of $516.88 per head for each animal sold, based on a typical 1,250 pound steer. This alarming price decline is confirmed by Kansas State University (KSU), which projected losses of $547.24 per head on steers sold in November.[11]

This level of loss represents an unprecedented extraction of equity from the U.S. live cattle industry. While KSU data show chronic and persistent losses to U.S. cattle feeders during the past 15 years, the losses in 2015 are irrefutably extraordinary.[12] In November, 1.53 million head of fed cattle were sold to meatpackers.[13] A rough estimate of losses suffered by U.S. cattle

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[4] Glynn Tonsor Optimistic for Strong Cattle Prices in 2015, Farms.com (January 20, 2015), available at http://www.farms.com/news/glynn-tonsor-optimistic-for-strong-cattle-prices-in-2015-86870.aspx.

[5] CattleFax Predicts Strong Prices to Remain in 2015, Drovers Cattle Network (February 6, 2015), available at http://www.cattlenetwork.com/advice-and-tips/cowcalf-producer/cattlefax-predicts-strong-prices-remain-2015.

[6] Livestock Monitor, A Newsletter for Extension Staff, Livestock Marketing Information Center, State Extension Services in Cooperation with USDA (Jan. 12, 2015), available at http://economics.ag.utk.edu/market/monitor/2015/monitor011215.pdf.

[7] *See* Choice Beef Values and Spreads and the All-fresh Retail Value, USDA, ERS, (December 15, 2015), available at http://www.ers.usda.gov/data-products/meat-price-spreads.aspx.

[8] *See id*.

[9] *See id*.

[10] 5-Area Weekly Weighted Average Direct Slaughter Cattle, USDA Market News Service, LM_CT150 (Dec. 14, 2015), available at http://www.ams.usda.gov/mnreports/lm_ct150.txt.

[11] Historical and Projected Kansas Feedlot Net Returns, Glynn T. Tonsor, Kansas State University (December 2015), at 1, available at http://www.agmanager.info/livestock/marketing/outlook/newsletters/FinishingReturns/FeedlotReturns_Dec_15.pdf.

[12] *Id*. at 3. Figure 1 shows the average annual loss to Kansas cattle feeders during the past 15 years was -$31.44 per head per year.

[13] Cattle on Feed, USDA National Agricultural Statistics Service (NASS) (December 18, 2015), at 2, available at http://usda.mannlib.cornell.edu/usda/current/CattOnFe/CattOnFe-12-18-2015.pdf. The USDA excludes cattle marketed in feedlots with a capacity of less than 1,000 head. The author of his paper estimates that such an exclusion results in the omission of approximately 13 percent of cattle actually marketed.

feeders during November alone (assuming KSU's projected loss of $547.24 per head) is $837 million. These unprecedented losses are quickly destroying the foundational structure of the U.S. live cattle industry, particularly its independent feeding sector.

The price trajectory for U.S. cattle prices that transpired in 2015 cannot be reconciled with the market fundamentals incorporated in the ERS' beginning-of-year outlook projections. In fact, the ERS has provided an early release of its long-term livestock price projections scheduled for publication in February 2016. The early-release document reveals that even the ERS' revision to its 2015 projections, which is based on the agency's most recent assessment of market fundamentals, cannot explain the catastrophic price collapse in 2015. It does not project average annual cattle prices to fall below $130 per cwt during the next five years.[14] However, December's $118 per cwt cattle prices were already well below the ERS' revised prediction.

The industry appeared dumbfounded by the seemingly unexplainable market collapse. Government sources confounded the market malaise by providing ambiguous and nondescript justifications for the market's failure. For example, state extension services anchored their rationale for falling prices with the statement that a "non-typical fed cattle market meltdown during September" had occurred.[15] Extension Livestock Marketing Specialist Darrell Peel, Oklahoma State University, was equally nondescript. He attributed the inexplicable market collapse to a "psychological upheaval," referring to it as an "emotional whirlwind."[16]

While cash cattle prices were plummeting, the cattle futures market was experiencing unprecedented volatility. Western Livestock Journal Publisher Pete Crow opined that the new electronic futures trading platform incepted by the Chicago Mercantile Exchange (CME) has resulted in a cattle futures market that is "far too volatile for most market participants."[17] He explained how the CME cattle futures market has emerged as the industry's sole source of price discovery because cash markets are now too thin to serve that purpose; but, he stated, cattle industry participants now believe the CME cattle futures market is a fundamental failure.[18]

There have been no significant changes to the prominent cattle-market fundamentals that earlier supported projections for continued strong cattle prices for 2015, and for two or more years thereafter. There was no drought or U.S. economic recession. In fact, many fundamentals have improved. For example, beef production during the first three quarters of 2015 remained well below production levels during the same period in 2014.[19] Choice U.S. retail beef demand and

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[14] Early-Release Tables from USDA Agricultural Projections to 2025, Livestock, USDA Office of the Chief Economist, available at http://www.usda.gov/oce/commodity/projections/index.htm.
[15] Livestock Monitor, A Newsletter for Extension Staff, Livestock Marketing Information Center, State Extension Services in Cooperation with USDA (Nov. 6, 2015), available at http://economics.ag.utk.edu/market/monitor/2015/monitor110615.pdf.
[16] U.S. Cattle Industry: Where to From Here?, Meatingplace, Darrell Peel (Dec. 24, 2015), available at http://www.meatingplace.com/Industry/News/Details/63271.
[17] The Big Adjustment, Western Livestock Journal, Opinion by Pete Crow, Publisher (Dec. 18, 2015), available at https://wlj.net/article-12365-the-big-adjustment.html.
[18] *Id*.
[19] *See* Livestock, Dairy, and Poultry Outlook, USDA, ERS, LDP-M-258 (Dec. 15, 2015), at 22, available at http://www.ers.usda.gov/media/1959920/ldp-m-258.pdf.

all-fresh retail beef demand in each of the first three quarters in 2015 were well above (*i.e.*, stronger) than their respective quarters in 2014.[20] And, the 2015 retail value of all-fresh beef reported by the ERS on December 15, 2015 for the months of September, October and November were all *higher* than the values reported during the respective months in 2014. It is more than just alarming that 2015 market fundamentals have improved relative to 2014 while fed cattle prices declined by approximately 22 percent since January of 2015.

The continuation of record-setting beef prices in 2015[21] while cattle prices plummet indicates that one or more participants along the multi-faceted beef supply chain are realizing a huge windfall. The benefactor cannot be the cattle producers who are experiencing hundreds of dollars in losses per animal sold. It also cannot be the consumer that is paying record-high beef prices.

Within just 12 months, the share of the consumer beef dollar allocated to U.S. cattle producers was reduced by nearly 13 percent, falling from 58.2 percent in November 2014 to 45.3 percent in November 2015.[22] This means that one or more participants within the beef supply chain, who are sandwiched between the cattle producer and the beef consumer, are now siphoning away approximately 13 percent of the value of retail beef that competitive market forces were previously allocating to U.S. cattle producers just 12 months ago. In other words, evidence shows that other participants within the beef supply chain are capturing a significant share of the consumers' beef dollar that a competitive market should be allocating, and previously did allocate, to the producer. This, R-CALF USA believes, is strong evidence of antitrust and anticompetitive conduct by the nation's four largest meatpackers, which are the supply chain participants that are purchasing the vast majority of live cattle directly from U.S. cattle producers (the four largest packers control approximately 85 percent of the fed cattle slaughter in the United States[23]) at prices well below what a competitive market would prescribe.

There is other antitrust and anticompetitive conduct by the dominant meatpackers and perhaps by certain CME cattle futures traders that should be carefully investigated because it is severely reducing market competition in the cattle industry. For example, the meatpackers' conduct of dividing, if not assigning, cattle procurement territories and contemporaneously depriving some territories of any buyers at all should be investigated. In the 2010 joint U.S. Department of Justice and USDA workshop on livestock competition held in Fort Collins, Colorado, Bruce Cobb, General Manager of Consolidated Beef Producers, a fed cattle marketing cooperative, testified that his company conducted an assessment of the packers' buying conduct in the

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[20] Quarterly Choice Beef Demand Index (1990=100) and Quarterly All Fresh Beef Demand Index (1990=100), Kansas State University, AgManager Info., available at http://www.agmanager.info/livestock/marketing/graphs/Tonsor/Quarterly_ChoiceBeefDemandIndex_Table_1990.htm and http://www.agmanager.info/livestock/marketing/graphs/Tonsor/Quarterly_AllFreshBeefDemandIndex_Table_1990.htm, respectively.

[21] *See, e.g.*, Choice Beef Values and Spreads and the All-fresh Retail Value, USDA, ERS, (December 15, 2015), available at http://www.ers.usda.gov/data-products/meat-price-spreads.aspx. All fresh beef values throughout all of 2015 (January –November) are higher than at any time in history.

[22] *Id.* The relevant data are contained in the "Farmers' share" column.

[23] *See* 2013 Packers and Stockyards Administration Annual Report, USDA Packers & Stockyards Administratin, (2014), *available at* http://www.gipsa.usda.gov/psp/publication/ar/2013_psp_annual_report.pdf.

Texas/Oklahoma/New Mexico fed cattle markets during the previous fifty-two weeks. During that period, he stated there were:

> 18 weeks in which there was only one market participant [meatpacker buyer],[and] four weeks in which there were none . . . . So we consistently can see region by region where we had a presence where the region is dominated by one buyer, clear and simple.[24]

The U.S. Senate Judiciary Committee should also investigate collusion in the cattle market and the possible role the USDA may play in facilitating such conduct. Prima facie evidence of collusion by the dominant meatpackers is their synchronized shunning of the price-discovery cash market. In a 2012 public report, the USDA initially warned U.S. cattle sellers of the impending market risk associated with a cash market that was being shunned by packers. The report stated:

> The fed cattle cash market lost [$]2.00 this past week to [$]115.00 with negotiated [cash] sales now routinely making up less than 20 percent of the weekly slaughter. Over 60 percent of the weekly movement is formula-priced off the scant cash trade that is more like a dictatorship than a democracy. Soon, cattle feeders may be forced to ship their cattle with only a ballpark idea of what their check will look like – similar to the sheep industry.[25]

As a presumptive example of how even the USDA appears complicit in hiding the potentially anticompetitive conduct of the dominant meatpackers, the above referenced report was scrubbed of the above quoted information by the USDA after the original report had been publicly issued and subsequently published by the agricultural trade press.[26]

The unabated collusionary conduct of synchronized market shunning coalesced in a very prominent way to drive cattle prices downward in 2015. For example, during the entire week of September 7-11, 2015, the USDA reported that for only the second time in the history of mandatory price reporting, there was no cash trade in the Texas/Oklahoma/New Mexico feeding region.[27]

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[24] Statement of Bruce Cobb, General Manager of Consolidated Beef Producers, *Public Workshops Exploring Competition Issues in Agriculture: Livestock Workshop Before the U.S. Department of Justice and U.S. Department of Agriculture*, 210-12 (2010), *available at* http://www.justice.gov/atr/public/workshops/ag2010/colorado-agworkshop-transcript.pdf.

[25] *See, e.g.*, Feeder Cattle Review: Calf Prices Fell Before Holiday Break, Drovers Cattle Network (July 13, 2012), http://www.cattlenetwork.com/cattle-news/markets/feeder-cattle/Feeder-cattle-review-Calf-prices-drop-8-15-lower-before-holida-162401246.html (an example of the original report before USDA scrubbing in the agricultural trade press) (last visited Feb. 20, 2013).

[26] National Feeder & Stocker Cattle Summary – Two weeks ending 07/13/2012, USDA-MO, Department of Agriculture Market News, *available at* http://search.ams.usda.gov/mndms/2012/07/SJ_ LS85020120713.TXT (Scrubbed USDA report with caption “correction to narrative”).

[27] E-mail communication from the Agricultural Marketing Service, Livestock, Poultry and Grain Marketing Division, USDA Agricultural Marketing Service (AMS), Sept. 14, 2015, available upon request to the author.

In an ironic twist, dominant meatpackers have shielded themselves from any culpability for causing cattle prices to plummet by successfully directing the USDA's and other industry analysts' attention towards the consequences of their actions, rather than on their actual actions.

In early 2015, USDA commentators predicted that fed cattle weights would continue to increase year-over-year and that the primary variable impacting steer weights is the severity of winter weather.[28] They further explain that the ever-increasing cattle weights will lessen the impacts of anticipated production shortfalls, which, in turn, will cause gradual erosion in cattle prices.[29] The commentators also blamed cattle feeders for engaging in the self-destructive practice of feeding cattle too long.[30] The ERS helped reinforce the belief that cattle producers were weakening their own market. It stated that the "recent downward pressure on fed cattle prices can be attributed to the current high volume of very heavy fed cattle leaving feedlots."[31] But this is a ruse.

The fact is that dominate meatpackers are manipulating the price of cattle by engaging in anticompetitive buying practices that force cattle feeders to overfeed their cattle. There are at least three cattle procurement practices that meatpackers deploy to increase cattle weights and drive down cattle prices. The first practice is quite obvious given that the dominant meatpackers now control the vast majority of fed cattle through direct ownership and formula contracts.[32] The meatpackers simply delay the delivery of cattle under their control. The second practice is that of passing-over market-ready cattle and offering a competitive bid on only "green" cattle (cattle that have not yet attained optimal slaughter weight).[33] This conduct enables the meatpacker to maintain economical slaughter numbers while causing a significant percentage of cattle on feed to become overfed.

The third weight- and market-manipulating practice is that of offering to buy market-ready cattle on the condition that the feeder not deliver the cattle to the meatpacker for two, three, or four or more weeks. The USDA Market News identified this harmful trend in early September 2015 when it conducted a delivery-date breakdown of negotiated cattle purchases. The USDA reporter found that the "15-30 day delivery head counts are at volumes that have not been seen since last April."[34] Meatpacker Tyson Fresh Meats, Inc., for example, purportedly increased its delivery

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[28] Livestock Monitor, A Newsletter for Extension Staff, Livestock Marketing Information Center, State Extension Services in Cooperation with USDA (Jan. 12, 2015), available at http://economics.ag.utk.edu/market/monitor/2015/monitor011215.pdf.
[29] *See id*.
[30] Livestock Monitor, A Newsletter for Extension Staff, Livestock Marketing Information Center, State Extension Services in Cooperation with USDA (Oct. 23, 2015), available at http://economics.ag.utk.edu/market/monitor/2015/monitor102315.pdf (stating feedlots were deciding to keep feeding market ready animals).
[31] Livestock, Dairy, and Poultry Outlook, USDA, ERS, LDP-M-258 (Dec. 15, 2015), at 2, available at http://www.ers.usda.gov/media/1959920/ldp-m-258.pdf.
[32] *See, e.g.*, Purchase Type Breakdown by Region, Texas-Oklahoma-New Mexico, USDA-AMS Livestock, Poultry & Grain Market News (January-September 2015), (showing that nearly 87 percent of fed cattle procured by meatpackers in the TX-OK-NM region was by formula contracts).
[33] Personal communication with Kansas cattle feeder previously forwarded to the U.S. Department of Justice as a complaint.
[34] E-mail communication from the Agricultural Marketing Service, Livestock, Poultry and Grain Marketing Division, USDA Agricultural Marketing Service (AMS), Sept. 14, 2015, available upon request to the author.

delays from two weeks in September to three weeks in November, thus exacerbating the weight-related justification for falling cattle prices in the midst of those falling prices.[35] Cattle fed beyond their optimal slaughter weight will gain about 3.5 pounds per day.[36] Thus, for each 10 days the packer extends its delivery date, approximately 35 more pounds are added to each carcass. In other words, when dominant packers extend delivery dates out for 30 days, they actually gain the poundage equivalent to one additional animal for every 12 animals they cause to be overfed.

As mentioned above, while cattle prices were plummeting at unprecedented rates during the latter half of 2015, the cattle futures market was likewise experiencing unprecedented volatility. On November 10, 2015, and in response to unexplained falling cattle prices and inexplicable futures market volatility, daily fed cattle market commentator *The Beef* lamented that "[p]ackers no longer compete against each other to buy fed cattle each week," that packers were having a profitable fall and made "gangbuster profits" in September, and that smaller cattle feeders were having a difficult time and suffered regularly from a sense of "powerlessness."[37] The next day, *The Beef* described the Chicago Mercantile Exchange (CME) cattle futures volatility as out of control.[38] Its inference was that there was no explanation for the chaos in the market: "Yet no beef from a 'mad cow' has made its way into the food chain nor has any other cataclysmic event occurred."[39] *The Beef* described the chaotic market situation through a statement attributed to a "+40-year cattle futures trading veteran and CME member Gary Lark:"[40]

> On the CME front all seems fine to those in the corporate suites. Cattle traded over 145K yesterday so this is money in the coffers. However, all is not well in the underlying industry. Feeders had a 900 point range and frequent traverses inter-day of 400 points in the live cattle are not rare. To those with a large corporate pool of money to fund the price swings it's not fun but not deadly. The futures market raison d'etre is to mitigate risk, especially for the smaller producers and processors. However, it has become an instrument of wealth destruction rather than a method to mitigate risk.
>
> There are those that will do back-flips to justify the market action, but to someone who has been through over 40 years of news shocks this movement on "nothing" is due to something disconnected with "normal" market forces. It's hard to field phone calls from hard working cattle people who see their equity and livelihood threatened by this kind of heart-wrenching price movement and have to explain and advise. How is one to use these markets to "hedge" risk when it seems that they are the source of risk? Years ago, I said that the CME's notion of "one size

[35] Personal communication between the author and a cattle feeder (Dec. 20, 2015).
[36] *Id*.
[37] Whatever Happened to a Fair Fight, Cassie Fish, The Beef, Consolidated Beef Producers (Nov. 10, 2015), available at http://www.thebeefread.com/2015/11/10/whatever-happened-to-a-fair-fight/.
[38] CME Cattle Futures Volatility Out of Control, Cassie Fish, The Beef, Consolidated Beef Producers (Nov. 11, 2015), available at http://www.thebeefread.com/2015/11/11/cme-cattle-futures-volatility-out-of-control/.
[39] *Id*.
[40] *Id*.

> fits all" approach to their markets is wrong-headed. Cattle, feeders and hogs are NOT bonds, crude or equity futures.
>
> The displacement of humans in the pit who had some understanding of the underlying cash markets by the computer algorithms of High Frequency Trading firms is driving these hostile conditions. Conversations were had years ago predicting this and the forced exit of smaller participants. The rest of the story goes, when there is nothing left, the HFT traders will move on to another market. Unlike a loyal population of pit traders who were vested in the vitality of the market they traded, these interests are only opportunity driven. These observations have been ignored just like those that warned years ago of the dangers posed to negotiated price discovery of captive supply.
>
> There is so much more to be said. Futures trading used to occur in broad daylight, visible and this mitigated the human fear factor. It's now conducted in a dark room. Every horror movie uses the dark as the trigger to human fear. The fear factor is off the charts because this is being conducted in the dark. There are loud noises coming from places we cannot see and quantify.

Through early December, *The Beef* and other industry analysts were still reporting on the chronically volatile futures market that included many life-of-contract lows and volatile intra-day swings.[41]

R-CALF USA believes the circumstances and conduct described above have caused disproportionate harm to independent U.S. cattle producers and feeders (as opposed to meatpacker-controlled/aligned cattle producers and feeders) so severe that it may well signal the collapse of our nation's independent cattle feeding sector. If such an outcome has occurred or will soon occur, the meatpackers will have succeeded in "chickenizing" the U.S. cattle industry in the same way it gained nearly complete control over the U.S. hog and poultry industries – industries in which open, competitive markets are now nonexistent.

For the foregoing reason, we implore the U.S. Senate Judiciary Committee to conduct a thorough, probing investigation to determine:

1. The cause for the dramatic, unprecedented collapse of U.S. cattle prices in 2015.
2. Whether there are structural problems in the U.S. cattle market that contributed to the market collapse in 2015.
3. Whether dominant meatpackers or other major market participants engaged in unlawful conduct that adversely influenced the cattle futures market and cash cattle market in 2015.
4. Whether there is a connection between the 2015 market collapse and the anticipated increase in imports from Brazil and Argentina in early 2016.

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[41] *See, e.g.*, Despair, Disbelief, Worry, Cassie Fish, The Beef, Consolidated Beef Producers (Dec. 4, 2015), available at http://www.thebeefread.com/2015/12/04/despair-disbelief-worry/.

5. The cause for the dramatic decline in the cattle producers' share of the consumers' beef dollar in 2015.
6. Whether the economic windfalls realized by downstream segments of the beef supply chain were achieved through market manipulation or control in 2015.
7. Whether the dominant meatpackers manipulated the cattle market by directly or indirectly dividing or assigning cattle procurement territories among themselves in 2015.
8. Whether the dominant meatpackers granted themselves undue preferences or advantages by strategically killing their own cattle or their contracted cattle.
9. Whether the dominant meatpackers are "gaming" price reporting rules to hide more favorable prices paid to some cattle feeders but not to all.
10. Whether the dominant meatpackers colluded in 2015 to achieve their synchronized shunning of the price-discovery cash market for the purpose of manipulating prices.
11. Whether the USDA was complicit in shielding any manipulative practices of the dominant meatpackers from the public.
12. Whether the dominant meatpackers engaged in conduct to force cattle feeders to overfeed cattle for the purpose of manipulating or controlling prices.
13. Whether the dominant meatpackers used either domestic or foreign protein substitutes to manipulate or control demand for U.S. cattle in 2015.

R-CALF USA greatly appreciates your consideration of this important request and we stand ready to assist you in an investigation into the 2015 collapse of U.S. cattle prices in any way we can. I can be reached at 406-670-8157.

Sincerely,

Bill Bullard

Bill Bullard, CEO