Marketing and Competition Legislative Reform in the U.S. Cattle Industry

The livestock industry is a historically up and down, ever-changing marketplace due to its dependence on consumer trends, domestic and international policies, and foreign market factors; however, today's marketplace lacks the transparency and true price discovery indicative of a healthy industry.

Fewer and fewer cattle are sold on a negotiated cash basis, which reduces the ability for true price discovery in the cattle marketplace. Negotiated cash cattle make up less than 20 percent of the market yet set the price for the other 80 percent of cattle sold through formula contracts and or cattle futures market.

The Livestock Mandatory Reporting (LMR) program expires September 30, 2021, following a one-year extension that was granted in December 2020. USCA would like to see changes made to this program to provide more accurate and transparent reports of daily prices and number of cattle purchased via the cash market. There are three bills currently introduced in Congress that would accomplish these goals:

- **S.543, the Cattle Market Transparency Act of 2021,** which seeks to seeks to accomplish two main goals: ensuring regionally sufficient negotiated cash trade, and equipping producers with more information to aid marketing decisions. The creation of a contract library is a key component of this bill.
  - *See also:* **Optimizing the Cattle Market Act of 2021**, introduced by Rep. Vicki Hartzler, which is similar to the Cattle Market Transparency Act.
- **S.949, or "50-14",** to require a minimum of 50 percent of each packer processing plant's weekly volume of beef slaughter to come as a result of purchases made on the open market or spot market, defined as those purchases which fall under Negotiated Purchase.
- **S.2036** and **H.R.4103**, the **Meat Packing Special Investigator Act**, that would amend the Packers and Stockyards Act to establish the Office of the Special Investigator for Competition Matters.

Figure 1. The below data table shows how just mandating even a 30% minimum would increase negotiated cash trade by approximately 9.4%.

Effect of 30% Rule On Total Cash Trade - Percent Cash Traded						
Year	2016	2017	2018	2019	2020 Jan-Apr	Average
Actual	30.6%	30.2%	28.5%	22.7%	35.9%	29.6%
30% Rule	38.4%	37.4%	38.5%	34.9%	45.6%	39.0%
Difference	+7.8%	+7.2%	+10%	+12.2%	+9.7%	+9.4%
Proportional Difference	25.6%	24.0%	35.1%	53.8%	27.0%	31.8%

August 31, 2021

Figure 2. These charts provide historical data on negotiated cash trade by year and region.

Cash Trade by Year			
Year	**Total**	**Cash**	**% Cash**
2008	18,255,925	9,346,162	51.20%
2009	18,448,069	8,739,819	47.38%
2010	18,805,425	8,430,027	44.83%
2011	18,124,712	7,310,604	40.34%
2012	17,347,863	5,677,418	32.73%
2013	15,910,347	4,548,016	28.59%
2014	15,654,699	4,437,802	28.35%
2015	14,845,170	3,858,233	25.99%
2016	15,908,975	5,095,125	32.03%
2017	16,957,553	5,366,832	31.65%
2018	19,181,816	5,742,677	29.94%
2019	18,854,702	4,529,751	24.02%

Percent Negotiated Cash by Region					
Year	**Colorado**	**Kansas**	**Nebraska**	**TX/OK/NM**	**Western Cornbelt**
2008	29.51%	43.41%	64.95%	34.90%	79.57%
2009	29.22%	41.49%	63.33%	27.62%	67.28%
2010	19.98%	43.42%	58.70%	22.54%	69.62%
2011	18.96%	40.42%	51.51%	18.48%	67.14%
2012	13.90%	30.73%	42.18%	11.35%	60.59%
2013	12.07%	23.46%	38.92%	6.41%	59.58%
2014	12.93%	16.76%	41.08%	3.03%	61.74%
2015	8.78%	13.58%	34.85%	2.83%	62.73%
2016	15.65%	26.02%	45.25%	7.25%	58.53%
2017	18.31%	24.01%	43.53%	10.35%	57.00%
2018	10.07%	20.17%	44.08%	6.55%	62.89%
2019	2.53%	16.68%	33.89%	5.14%	55.75%

Regulatory Reform in the U.S. Cattle Industry

Increasing consolidation and foreign ownership in the meatpacking sector has eroded the foundation of the U.S. cattle market. The Executive Branch holds the necessary power and tools to restore solid ground beneath the boots of U.S. cattle producers. USCA offers the following recommendations for the Biden-Harris Administration:

- Nearly a year ago, on May 22, 2020, the U.S. Department of Justice (DOJ) Antitrust Division sent civil investigative demands (CIDs) to the nation's four biggest meatpackers. Since that time, no public results have been made available and we are unsure if the investigation is still ongoing or has concluded. USCA encourages the Antitrust Division to fully complete its civil investigation and make public its findings as soon as possible.

- Currently, there exists a loophole which allows imported beef product, most often lean ground trim from South America, to be transported to our borders; undergo a "significant transformation", which can be as insignificant as trimming, rewrapping, or blending a small percentage of domestic product; and then claim the "Product of the U.S.A." label on the final product. With the existence of this loophole, it is virtually impossible to provide assurance to consumers that the product they are purchasing is truly U.S. beef.

  To eliminate the likelihood of confusion and to better inform consumers, USCA contends that labels indicating "Made in USA," "Product of USA" or similar content should be limited to beef from cattle born, raised, and harvested in the United States.

- USCA partners with independent local, state, and federal meat processors to ensure that American beef is an option on every American plate. We value the independent processors' role in our supply chain and believe that our enhanced collaboration can bring policy changes that are both mutually beneficial and economically sustainable.

USCA supports increased competition in this sector by increasing the opportunities for independent processors to succeed. Aside from strategic capital investment, the following recommendations would greatly strengthen the bottom lines of independent processors:

- Plants classified by the USDA FSIS as small or very small should be provided a USDA licensed grader by the USDA Agricultural Marketing Service (AMS) free of charge; or be allowed to utilize electronic instrument grade augmentation systems within their plant.
- Congress should immediately halt the payout of federal subsidies to any of the Big Four meat packing plants, distributors, and retailers and instead prioritize subsidy distribution to Very Small/Small independent meat packing facilities.
- Congress should direct USDA to set aside a percentage of their bids for meat purchase to Very Small/Small independent meat packing facilities.
- USDA and DOJ need to have stronger, clearer, and enforceable predatory pricing guidelines to protect these new properties and investments.

The Bottom Line

USCA was founded on the principle that a grassroots effort by independent cattle producers can work positively and effectively with Congress and the Administration to reform U.S. agriculture policy and ensure a fair, competitive marketplace. USCA looks forward to working with the Biden-Harris Administration to correct anti-competitive practices within the U.S. meatpacking industry and inequitable access to markets for U.S. cattle producers.