NCBA National Cattlemen's Beef Association

Testimony of

Mr. Don Schiefelbein

On behalf of the

National Cattlemen's Beef Association

Submitted to the

United States House of Representatives Committee on Agriculture

Prepared for the hearing titled

An Examination of Price Discrepancies, Transparency, and Alleged Unfair Practices in Cattle Markets

Held on

Wednesday, April 27, 2022

Introduction

Chairman Scott, Ranking Member Thompson, and Members of the Committee, on behalf of America's cattle producing families, thank you for inviting me to provide a producer perspective to today's proceedings.

My name is Don Schiefelbein, and I am a cattle producer from Kimball, Minnesota. Along with my father, seven brothers, and five nephews, I own and operate Schiefelbein Farms, a diversified farming and ranching operation. I have also worked to advance beef quality through my previous staff roles at the American Gelbvieh Association and the North American Limousin Association. In addition, I am a past president of both the Minnesota State Cattlemen's Association and American Angus Association.

I am appearing today on behalf of the National Cattlemen's Beef Association, where I currently serve as president. NCBA is the oldest and largest national trade association representing the U.S. cattle and beef industry. In addition to our over 26,000 direct members, NCBA represents forty-four state affiliate organizations whose members number some 178,000 cattle farmers and ranchers.

The testimony I am submitting today is based on policies submitted, debated, voted on, and adopted by cattle producers through NCBA's century-old grassroots policymaking process. Each of our members has a voice in the discussion, and everyone has a vote. Our membership includes seedstock producers, cow-calf operators, stockers, backgrounders, and cattle feeders from all fifty states. The vast majority of these small businesses—each of which are crucial to their respective rural communities and local economies—are, like my own, family owned and operated. This diversity of business models, production practices, and unique regional challenges inherently results in a wide range of thought and opinions. Our role at NCBA is to facilitate a dialogue between those viewpoints and provide a platform for consensus-building. Since 1898, we have taken that responsibility seriously and are proud to continue that time-honored tradition today.

Background

It has been said many times before, including in this very room before the members of this Committee, that the U.S. cattle industry is home to some of the most complex commodity markets on earth. The intricacies of this system have been on full display in recent years, but the fundamental market dynamics at play have been present through bull and bear periods for decades. The 2019 Holcomb fire, the COVID-19 pandemic, cybersecurity breaches, and supply chain disruptions have troubled cattle producers nationwide. As they work to problem-solve and innovate new ways to capture value and cut costs, Congress is debating a number of legislative proposals which would substantially impact their day-to-day dealings.

Let me be clear, the only people who know exactly how cattle producers should navigate these uncertain times are the individuals who work around the clock, day in and day out, to raise the safest and highest quality beef in the world—in other words: cattle producers themselves. They have used their voice through their involvement in organizations like NCBA and the American Farm Bureau Federation to tell Congress exactly what they need and, perhaps more importantly, what they do not need to be successful. As you consider various ideas in the coming days, I implore you to listen to what they have said and not be distracted by fringe elements or those who claim to speak on their behalf. The overwhelming majority of cattle producers are trying to tell you how to help them and how to avoid adding to their difficulties.

The purpose of this morning's hearing is to examine the relationship between cattle ranchers and meatpackers. This issue has been the subject many hearings during the 117th Congress, including in both the House and Senate Judiciary Committees which also have legitimate jurisdiction over such matters. While NCBA shares the concerns of many Members of Congress regarding consolidation in the packing sector, we would have preferred

to discuss a host of immensely more pressing needs with you today. Curbing runaway inflation, arresting soaring input costs, resolving on-going supply-chain vulnerabilities, addressing labor shortages, and increasing market transparency are the true immediate needs of cattle producers. Please do not allow today's proceedings to disguise that fact. I urge you to take action on these issues as expediently as possible.

The Relationship Between Cattle Producers and Meatpackers

From very beginnings of NCBA, producer leverage has always been top of mind. In fact, it was the subject of many of our association's first meetings. The situation in the marketplace today is strikingly similar to the landscape which existed over a century ago, during the tenure of our ninth president. Consolidation at the packing sector had captured the attention of cattle producers even then. John B. Kendrick, who wrote the original draft of the Packers and Stockyards Act and was later elected Governor of Wyoming and U.S. Senator, told a gathering of the American National Live Stock Association in 1919, "this squall between the packers and the producers of this country ought to have blown over forty years ago, but we still have it on our hands." In the hundred years since that time, cattle producers have experienced times of great profit and times of immense hardship—all with little change to the market power structure of the packing sector.

Cattle producers rely on the services provided by meatpackers of all sizes to convert livestock into a consumer product. Without access to beef processing, raising cattle would not be a profitable enterprise. This problem has been on full display since 2016, when our industry realized a shortage of adequate packing capacity for the first time in decades.[1] As a result, cattle producers have experienced reduced negotiating leverage in pricing negotiations with meatpackers. Cattle herd inventories fluctuate over the course of a fairly consistent ten-year cycle, and the value of cattle is further influenced seasonally within the calendar year. The relationship between cattle supplies and the availability of processing (or "hook space") is the primary factor in determining the price of fed cattle. The best solution to improving producer leverage is to increase hook space with more independent processors controlling more diversified hook space, and NCBA has long supported processing capacity expansion through investments in small to midsize, regional packing ventures.

NCBA supported *the Butcher Block Act* (H.R. 4140) when it was introduced earlier this Congress. The legislation would establish loan and grant programs for prospective entrants to the meat and poultry processing sector. These resources are intended to increase the diversity of processing options available to producers by helping small and very small meatpackers meet capital needs. We were also pleased by this Administration's actions to direct approximately $1 billion in federal resources to this effort via the authorities granted to the U.S. Department of Agriculture (USDA) in the *American Rescue Plan Act* (Pub.L. 117-2). USDA programs like the Meat and Poultry Processing Expansion Program, Food Supply Chain Guaranteed Loans, and Meat and Poultry Inspection Readiness Grants programs help to alleviate the overwhelming costs associated with construction or expansion of these small packers. Many of our members have expressed an interest in these programs, and we anticipate additional opportunities will be announced in the near future.

Disruptions at the packing sector have a ripple effect on cattle prices as evidenced most recently by the Holcomb fire and pandemic-related closures of high-throughput plants. Congress must do everything in its power to prevent further volatility due to packing capacity reductions. Innovative solutions are needed to address labor recruitment and retention, reduce arduous regulatory red tape, and increase resiliency within the food supply chain, and I ask Members of the Committee to seek those bipartisan answers out.

Exertion of Meatpacker Market Power

---

[1] Aherin, Dustin. *The Case for Capacity*. RaboBank: 2020.

The price disparities recorded between boxed beef and live cattle following the most recent black swan events were some of the most drastic in the over twenty-year history of Livestock Mandatory Reporting (LMR). In the case of the Holcomb fire, the price spread reached $67.17/cwt.—the highest ever recorded at the time.[2] Months later, temporary plant closures and line speed slowdowns resulting from the COVID-19 pandemic took roughly 40% of domestic beef processing capacity offline. The resulting shockwaves caused the fed cattle and boxed beef price spread to jump to a new high of $279/cwt.[3] Despite the fact that this market behavior was rooted in basic laws of supply and demand, the impacts to family farmers and ranchers was abrupt and brutal, and the magnitude of the disparity warranted further scrutiny.

In response, NCBA called upon both the Packers and Stockyards Division (PSD) at USDA and the U.S. Department of Justice to (DOJ) investigate the four largest meatpacking companies to ensure that anticompetitive practices did not artificially depress cattle prices to increase their profits. Both agencies promptly responded to our requests, and PSD released a report detailing the market reactions to both events in July 2020. That report, however, did not elaborate on any potential findings of corporate malfeasance on the part of the packers. As of this writing, we are still awaiting the results of the DOJ investigation. NCBA greatly appreciates the bipartisan and bicameral efforts of our friends on Capitol Hill to urge DOJ to provide an update on their findings. However, before attempting to fix a problem, we must know if things went awry, if so then whether or not it was illegal, and if it was unlawful how to prevent it from happening again. It is essential that DOJ conclude their investigation and report their findings to the public in order to ascertain this information, and we ask you to continue your engagement with the Attorney General to that end.

Meat Packing Special Investigator Act

NCBA policy strongly supports robust enforcement of the *Packers and Stockyards Act of 1921* (Pub.L. 67-51). This landmark law, which recently observed its hundredth anniversary, is designed to secure a fair and transparent environment for all participants in the cattle marketplace. Through various amendments over the past century, it has been adjusted and improved upon to accommodate the ever-changing dynamic of the livestock marketing complex. NCBA is confident that the current enforcement authorities provided by the Act are adequate to realize its objectives and maintain fairness, provided adequate resources are allocated to PSD. We don't need another enforcement agency; we need action from that entity which currently has the power to enforce.

Largely in response to the aforementioned price disparities, some Members of Congress have introduced legislation to establish an Office of the Special Investigator for Competition Matters within USDA. While well-intended, the *Meat Packing Special Investigator Act* (H.R. 4103), and its Senate companions S. 3870 and S. 2036, would divert critical resources from other mission areas at USDA and blur the jurisdictional lines between such an office and the PSD. At a time when oversight of the marketplace is so important, it is redundant and misguided to create an entirely new entity. Further, NCBA has grave concerns with the latest Senate proposal to establish a special investigator's office as a politically-appointed position completely separate from the PSD. If such an unnecessary office were to be established, its goal should be to exercise objective enforcement of relevant statutes, not frivolous investigation for political gain.

NCBA supports the Biden Administration's efforts to increase collaboration between PSD and DOJ, including the newly launched online portal which allows producers to submit tips to both agencies at once. However, we do not believe that granting USDA new prosecutorial and subpoena power would improve enforcement capabilities, and I urge you to oppose this legislation.

---

[2] *Boxed Beef & Fed Cattle Price Spread Investigation Report.* USDA-AMS: 2020.
[3] *Ibid.*

Cattle Price Discovery and Transparency Act

While not the specific subject of today's hearing, it is appropriate to address the *Cattle Price Discovery and Transparency Act* (S. 4030) and it's House companion H.R. 5992. This legislation is often billed as a means to give the cattle producer more leverage by forcing packers to compete in the negotiated market. In reality, it does nothing to change the underlying supply and demand dynamics and would empower the federal government to arbitrarily choose winners and losers in cattle pricing negotiations. If enacted, the bill would restrict cattle producers' economic freedom to market cattle in a manner best suited to their unique needs.

The bottom line here is that freedom to market matters. It is this very economic freedom which has allowed cattle producers, like myself, to respond directly to consumer demands. Consumers use their purchasing power to communicate back to us precisely what they want and do not want—and if we want them to continue buying beef it is critical that we maintain our ability to communicate directly in this manner. We are paid based upon how well we have responded to those demands. This direct consumer interface has literally transformed the beef market both in terms of traditional metrics, such as quality and yield grade, and newly emerged ways to differentiate products like branded programs, breed affiliations, and production techniques.

I can speak firsthand to the importance of this economic freedom based on my experience as both a seedstock producer and cattle feeder. For generations my family has sought to develop top-quality beef genetics which are both economical for the producers who buy our breeding stock and prone to yield those beef qualities desired by the public. Through trial-and-error, we have seen successes in striking that balance over the years. Consequently, it is not uncommon for the offspring of our bulls and females to fetch premiums when they are sold by our customers. We know this because, like many others in the beef genetics business, Schiefelbein Farms maintains a customer buyback program. In order to improve upon our role as seedstock producers, and provide our customers with consumer-level insights to improve their operations, we buy feeder calves back from those commercial cow-calf operators who have integrated our genetics into their herd. We then grow the cattle to market weight at our feedlot, and market them as fed cattle. By utilizing a value-based grid, we are able to collect performance data on each individual animal we market. This information is critical, both to us and our customers, as we try to remain responsive to the consumer's evolving demands.

While I am proud of my family's continued commitment to improvement, I want to be clear: it is cow-calf producers across this entire country, including our customers from Iowa to Montana, who have put in the hard work to achieve near-record beef demand both domestically and in our major export markets. They are the ones who deserve the credit for utilizing land and water resources more efficiently, improving livestock handling, and tending most closely to animal wellbeing—all of which makes the United States the most food secure nation in the world with the most choices available to consumers. Those cow-calf producers deserve to be rewarded in the market for these improvements, and I implore you not to impose measures which could jeopardize their ability to be so rewarded.

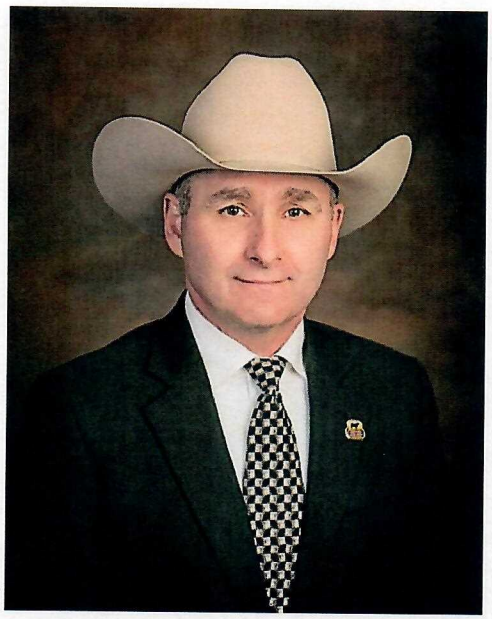
Please do not stifle our innovation and our hard work by taking economic freedom away from me and my fellow cattle producers. A marketing system mandated by the federal government, which would constrain our industry to a less transparent and less consumer-focused enterprise, is not the solution to our needs as cattle producers. I urge you to oppose the *Cattle Price Discovery and Transparency Act*.

Conclusion

Congress should focus its efforts on finding solutions to the real threats facing our industry, and it should consult with genuine stakeholders like NCBA to identify them. Broadly supported proposals have seen tremendous legislative success in this chamber recently. We supported, and continue to, the extension of LMR authority and

the establishment of a cattle contract library, both of which passed this Committee and the full House with ease. However, repeatedly belaboring the same divisive issues has detracted from that collaborative work to the benefit of no one.

It is time to move on and focus on areas where agreement can be reached. NCBA stands ready to aid in that effort, and I encourage you to reach out to our Center for Public Policy if you have ideas or questions.



Don Schiefelbein

Don Schiefelbein

2022 NCBA President

Don Schiefelbein, his father, seven brothers and three nephews own and operate Schiefelbein Farms, a large diversified farming operation in Kimball, Minnesota.

Before returning to the family farm, Schiefelbein served as the executive director of the American Gelbvieh Association. He previously worked for the North American Limousin Association after graduating from Texas A&M University.

Schiefelbein has a long history of industry service, most recently in the role as chairman of the Beef Industry Long Range Planning Committee. He has also held several positions on committees and the board of directors of the American Angus Association. In addition, Schiefelbein is a past president of the Minnesota Cattlemen's Association.

Schiefelbein and his wife of 32 years, Jennifer, have three daughters, Shelby, Abbey, and Bailee, all of whom are active in the industry.

Truth in Testimony Disclosure Form

In accordance with Rule XI, clause 2(g)(5)* of the *Rules of the House of Representatives*, witnesses are asked to disclose the following information. Please complete this form electronically by filling in the provided blanks.

Committee: Agriculture

Subcommittee:

Hearing Date: 04/27/2022

Hearing Subject :

Review of Beef Markets

Witness Name: Donald K. Schiefelbein

Position/Title: President

Witness Type: ○ Governmental ● Non-governmental

Are you representing yourself or an organization? ○ Self ● Organization

If you are representing an organization, please list what entity or entities you are representing:

National Cattlemen's Beef Association and our family farm Schiefelbein Farms LLC

FOR WITNESSES APPEARING IN A NON-GOVERNMENTAL CAPACITY

Please complete the following fields. If necessary, attach additional sheet(s) to provide more information.

Are you a fiduciary—including, but not limited to, a director, officer, advisor, or resident agent—of any organization or entity that has an interest in the subject matter of the hearing? If so, please list the name of the organization(s) or entities.

None

Please list any federal grants or contracts (including subgrants or subcontracts) related to the hearing's subject matter that you, the organization(s) you represent, or entities for which you serve as a fiduciary have received in the past thirty-six months from the date of the hearing. Include the source and amount of each grant or contract.

None

Please list any contracts, grants, or payments originating with a foreign government and related to the hearing's subject that you, the organization(s) you represent, or entities for which you serve as a fiduciary have received in the past thirty-six months from the date of the hearing. Include the amount and country of origin of each contract or payment.

None

Please complete the following fields. If necessary, attach additional sheet(s) to provide more information.

☑ I have attached a written statement of proposed testimony.

☑ I have attached my curriculum vitae or biography.

*Rule XI, clause 2(g)(5), of the U.S. House of Representatives provides:

(5)(A) Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof.

(B) In the case of a witness appearing in a non-governmental capacity, a written statement of proposed testimony shall include— (i) a curriculum vitae; (ii) a disclosure of any Federal grants or contracts, or contracts, grants, or payments originating with a foreign government, received during the past 36 months by the witness or by an entity represented by the witness and related to the subject matter of the hearing; and (iii) a disclosure of whether the witness is a fiduciary (including, but not limited to, a director, officer, advisor, or resident agent) of any organization or entity that has an interest in the subject matter of the hearing.

(C) The disclosure referred to in subdivision (B)(iii) shall include— (i) the amount and source of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) related to the subject matter of the hearing; and (ii) the amount and country of origin of any payment or contract related to the subject matter of the hearing originating with a foreign government.

(D) Such statements, with appropriate redactions to protect the privacy or security of the witness, shall be made publicly available in electronic form 24 hours before the witness appears to the extent practicable, but not later than one day after the witness appears.