

## **JOINT SUBMISSIONS OF PROKAM AND CFP TO THE SUPERVISORY PANEL 2019-2020 VEGETABLE SUPERVISORY REVIEW**

### **Consultation Topic #1: Commission Structure and Governance**

Prokam and CFP would like to begin by noting that we question the necessity of having a regulator of only a few specific vegetables when there are many other vegetables that are unregulated in British Columbia and no regulation of vegetables at all in other provinces, including Alberta and Saskatchewan.

Bob Dhillon, the principal of Prokam, is the son of first-generation immigrant parents who achieved success in farming unregulated vegetables through Sam Enterprises. Mr. Dhillon observed that Sam Enterprises was able to be successful in the unregulated vegetable sector through hard work and effective and innovative farming practices, and he gained valuable experience dealing with market participants in the unrelated sector.

When Prokam was established for the purpose of permitting Mr. Dhillon and his family to develop a regulated vegetable farming business, Mr. Dhillon believed that he could replicate the success of Sam Enterprises in the regulated marketing sector by studying the regulatory structure of the potato industry, developing the skills to grow an excellent potato and working hard to ensure consistent and timely production. Unfortunately, his experience as a grower of regulated product has been that the structure of the Commission favours an “old boys club” mentality that is resistant to change, expansion, and innovation in the industry. This is reflected in the Commission’s decisions, which consistently serve to protect entrenched and commercially dominant interests at the expense of new entrants and those in minority market positions.

Members of the board of CFP have experience serving on commodity boards in other regulated sectors, including on the BC Chicken Marketing Board (which has a majority of independent members including an independent chair), and they have observed strengths and weaknesses of structures of commodity boards in other regulated sectors.

The responses to the questions in this section reflect these experiences of the principals of Prokam and CFP. In short, the view shared by both Prokam and CFP is that the Commission’s directors are too numerous and not impartial enough. Prokam and CFP offer suggestions for how to deal with these issues in our answers to the questions posed by the Supervisory Panel. Reference is made in the footnotes to this letter to the evidence given by members and staff of the Commission in Prokam and Thomas Fresh’s appeal before BCFIRB held over the spring of 2018 and we have included with the submission a book of the referenced transcript extracts for ease of reference.

***1. An effective regulated marketing system requires trust and agreement to abide by the Commission rules. What does the Commission need to do to build that essential level of trust and to build a stronger common interest in supporting its policies and rules for the benefit of the industry as a whole?***

*The Sources of the trust problem*

In our view, the reasons for the lack of trust in the Commission are in part cultural. A sense that Commission members “speak for” their own slice of the industry has taken hold. The consequence of this tendency for Commissioners to see themselves and each other as “representatives” of their sector is that Commission members from other industry sectors, as well as the appointed chair, come to depend on those Commission members for knowledge about the sectors of the industry they represent,<sup>1</sup> which will tend to favour the interests of the person supplying the information. It is difficult to develop trust in decisions that are made from a place of information dependency.

This dynamic is more pronounced when a Commissioner who has served on the Commission for a very long time has a close connection to a single stakeholder in a position of dominance in the marketplace. BCfresh Inc., the only agency in the Lower Mainland, has the largest number of growers of any BC agency and holds the majority of storage crop market share in the province. Commission Vice Chair Mr. Guichon, who is also the long-time Chair and a significant shareholder of BCfresh, has been on the Commission for well over 20 years, 8 of those as Vice Chair.

The result is that there is a strong perception – and it appears to Prokam, in many cases, a reality – that BCfresh’s perspective is privileged above all others when making decisions about storage crops because it supplies the information and knowledge, and this undermines the objective application of SAFETI principles.<sup>2</sup> Perhaps the starkest example was Mr. Guichon’s admission during Prokam’s appeal to BCFIRB that his concerns as a competing grower motivated his involvement in the discussions leading up to, and the decision to issue, the cease and desist orders against Prokam (discussions and decisions from which he did not recuse himself).<sup>3</sup>

The extent to which even Commission staff are dependent on BCfresh for information and expertise is especially striking. This is in sharp contrast to other marketing boards, for example the Milk Marketing Board and the Chicken Marketing Board, both of which devote substantial resources to industry data collection.

This dependence became apparent at a number of points in the hearing of Prokam’s 2018 appeal to BCFIRB, especially when the general manager of the Commission, Mr. Solymosi, admitted that he did not know critical facts about the British Columbia potato market such as the volume

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<sup>1</sup> See, e.g., testimony of John Newell in Prokam’s appeal to BCFIRB, Day 1, at pp. 24, 151; testimony of Peter Guichon in Prokam’s appeal to BCFIRB, Day 2, pp. 148, 152-153..

<sup>2</sup> See, e.g., testimony of Andre Solymosi, in Prokam’s appeal to BCFIRB, Day 1, at p. 111, re: Commission’s decision-making process and use of SAFETI: “We’re not going to have, you know, SAFETI written down with lines underneath every – you know. Some decisions are so complex that you just can’t fit it in an acronym.”

<sup>3</sup> Testimony of Peter Guichon in Prokam’s appeal to BCFIRB, Day 3, pp. 65-66; Day 2, p. 145

of potatoes imported into British Columbia or the market pricing for those potatoes,<sup>4</sup> and that he relied on BCfresh President and CEO Mr. Driediger for pricing and other industry information.<sup>5</sup>

It is troubling that although we understand Commission Chair Ms. Etsell was present for this evidence, nothing appears to have changed at the Commission. The message being conveyed to the industry is that the Commission considers this situation to be acceptable.

The close connections between BCfresh and the Commission go further than Mr. Guichon's longstanding position as Vice Chair and staff dependence on BCfresh for industry information.

In addition to Mr. Guichon, Commission members Hugh Reynolds and Cory Gerrard are also BCfresh storage crop growers. Mr. Driediger is a former general manager of the Commission and hired Mr. Solymosi onto the Commission staff prior to leaving to work for BCfresh. There is a perception that, in addition to BCfresh's influence through Mr. Guichon as the long-time Vice Chair and through the other BCfresh grower Commission members, Mr. Driediger has a high level of access to Commission staff that further increases BCfresh's influence.

During the consultation meeting, Prokam's representatives also explained that their mistrust stems in part from the Commission's specific handling of the regulatory proceedings against Prokam that began in 2017. From their perspective, if the Commission had the best interest of growers at heart, it could not have taken the positions it has taken (including asserting that the Commission was not aware of Prokam's 2017-18 planting intentions in advance, or issuing extra-provincial pricing orders in a manner it knew or ought to have known exceeded its jurisdiction).

Mr. Dhillon expressed that he did not understand how the Commission, knowing how hard running a farming business is, could conduct itself in a manner so harmful to a grower. From his perspective, the only way to make sense of it is that the Commission is structurally biased and vulnerable to manipulation, and that it was operating on the basis of a personal animus against Prokam harboured by a person or persons with influence. It is telling that Prokam was deemed too uncontrollable of a grower to be able to stay with IVCA or be directed to any agency other than BCfresh, yet another grower who BCfresh had previously rejected as unmanageable was permitted in January 2018 to transfer to IVCA. When that grower became dissatisfied with IVCA's failure to move his product, he was then taken back by BCfresh.

During the consultation meeting, Prokam's representatives also raised concerns about the suppression of information that would not be favourable to BCfresh. The first example they gave related to the strategic planning process. They noted that they had met with Dawn Glyckier of DM2 Consulting Inc., and recalled that she had confirmed to them that other growers shared Prokam's concerns about how little product was being grown in BC and the amount that was being imported. They asked why the Commission had let Ms. Glyckier go before she had reported on her findings. They noted that this eroded trust, because it gave rise to a concern that the Commission was not interested in receiving a report from Ms. Glyckier once it learned what her findings would be.

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<sup>4</sup> See testimony of Andre Solymosi in Prokam's appeal to BCFIRB, Day 2, at pp. 61, 62, 75-76 (lack of knowledge of the existence of minimum pricing in other provinces)

<sup>5</sup> See testimony of Andre Solymosi in Prokam's appeal to BCFIRB, Day 1, at p. 36; Day 2, at pp. 63, 78, 85-86.

The second example they gave was an episode a couple of years ago related to the tracking and publication of delivery allocation data on a weekly basis. The perception is that this reporting was taken away because it was going to cast BCfresh in a bad light.

In short, it is impossible for people to trust a commission that regulates from a position of dependence on the industry knowledge that it gets from just one dominant industry participant, and which has permitted itself to become a vehicle through which that dominant participant can advance its own interests and agenda.

### *The Solution to the trust problem*

In addition to our specific answers to the questions below, we wish to suggest five measures that we believe would go some way to solving the trust problem besetting the Commission.

- First, because the cultural problems identified above are largely structural, so too is the solution. The Commission should be structured in a way that will combat the tendency of Commission members to view themselves as “speaking for” a slice of industry. the Commissioners’ role is not to represent their sectors; it is to act in the best interests of the industry as a whole. If the grower seats on the Commission were reduced to two members elected by growers, with a maximum of one member affiliated with any given agency, that would go a considerable distance in resolving this issue. Our hope is that this would foster a culture of independent thinking. The experience of the CFP representatives with smaller boards, including the Chicken Marketing Board, confirm this.
- Second, we strongly favour the addition of two appointed independent Commission members. This would result in a Commission structure consisting of two grower representatives, two independent members, and the independent chair, ensuring that the majority of Commissioners are independent while the grower perspective and knowledge is retained.
- Third, we suggest that the majority-independent board elect the Vice Chair each year and that term limits be imposed on the Vice Chair and director positions. The current structure including the absence of term limits gives the Vice Chair excessive influence over the Chair, who is appointed only for a short, limited term. There is a concern that this imbalanced dynamic has been particularly pronounced with Mr. Guichon holding that position.
- Fourth, we suggest that significantly more resources be allocated to training and building industry knowledge of Commission staff. This would reduce the disproportionate influence that certain Commission members and certain other industry participants wield as a result. It would also contribute to the effectiveness of two of our other recommendations: adding independent Commission members and Commission members serving only short terms. In order to reduce its staff’s and members’ dependence on information supplied by certain interests represented on the Commission, there needs to be a serious investment in effective and independent data collection and management. Only then can decisions be made based on objective information. Other regulated industries operate with massive amounts of data, and the vegetable sector deserves no

less. We understand that this is a major undertaking, but we believe that it is one that an effective Commission would be able to achieve.

- Fifth, it seems that as far as accountability goes, the focus of this review has been on agencies. We believe that what is required is accountability *by the Commission*. We have reviewed the Commission's Public Accountability Reporting Project (PARP) report for 2019, and BCFIRB's cross-sector summary report, and we respectfully observe that the Commission's participation in that project appears to have been somewhat perfunctory compared to other sectors. For instance, we note that the Commission did not include board member evaluation in its most recent round of reporting, something we have flagged as a critical step. More generally, for PARP reporting to offer meaningful accountability, the Commission should be required to set tangible, readily measurable targets, such as overall industry growth.

***2. Does the use of panels and advisory committees result in sound decision-making by the Commission? Please explain. If no, what more does the Commission need to do to make sound decisions and manage perception of bias and conflict of interest challenges?***

The use of panels and advisory committees does not resolve the issues identified above. Because the issue is structural and cultural, there has been a loss of trust in Commission members across the board. As a consequence, assigning decisions to just a few of them does not assist. Moreover, it is difficult to have faith in this type of procedure when there is a track record of conflicted Commission members either failing to perceived that they are conflicted or recusing themselves from decisions but continuing to have influence over the decision-making process.<sup>6</sup>

As an example of ostensible removal proving ineffective, Mr. Dhillon recalled in the meeting an episode in Prokam's appeal to BCFIRB relating to letters that the Commission received from other agencies declining (with the involvement of BCfresh and the Commission) to take Prokam on as a grower when Prokam was seeking an agency other than BCfresh through which to market its potatoes.<sup>7</sup> When that is the context in which decisions are being made, recusal from a decision and assignment of that decision to an advisory committee to avoid conflict of interest problems cannot be a solution.

We therefore do not see panels and advisory committees as a solution to conflict of interest and bias issues. Rather, as set out above, the solution is structural.

We add this with respect to the importance of advisory committees as a source of information for Commission decision-making, as recorded in the "What We Heard" document. As noted, the need for Commissioners to supply each other with sector-specific knowledge is symptomatic of larger problems – inadequate staff and data collection capacity – and the provision of such information is in itself a source of bias in the Commission's decision-making. Furthermore, the need for sector-specific knowledge would be lessened if it were to focus – as we believe it should – on higher-level issues, leaving business and operational decisions like whether a grower

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<sup>6</sup> Testimony of Peter Guichon in Prokam's appeal before BCFIRB, Day 3, at pp. 65-66, 104-09, 120-121, 124-125, 127-129.

<sup>7</sup> Testimony of Peter Guichon in Prokam's appeal before BCFIRB, Day 3, pp. 127-129..

should plant in excess of its delivery allocation, or through which agency it should market, to growers.

***3. How could the industry benefit from the Commission adding independent member(s)? What are the risks?***

As we have said in our answer to Question 1, we believe that the addition of two independent members and the reduction of the Commission membership to five members, all with limited terms, is critical to rebuilding trust and ensuring fair, impartial, and effective decision-making. This structure has been effective and fair for the Chicken Board.

In our view, there are no risks to adding independent members.

We take it from the “What We Heard” document that some industry participants expressed concern about removing independents if an issue were to arise. In our view, the imposition of term limits should alleviate this concern.

The “What We Heard” document also indicates that there is a concern about a potential deficit of industry knowledge. We believe that this concern is answered by retaining two growers among the Commission membership and dedicating additional resources to training staff and building their industry knowledge. The appointment of highly competent independent Commission members equipped with both a pre-existing understanding of the basic building blocks on which regulated agricultural sectors operate and the capacity to quickly learn the specific nuances of the vegetable industry will also greatly assist.

As the CFP representatives explained at the meeting, there is no real need for technical sector-specific knowledge if the Commission’s staff is adequately equipped. The day when you needed to be a specialist to be effective is gone. People who have suitable general knowledge and are effective decision-makers are perfectly capable of familiarizing themselves with the salient issues in a timely fashion. The value of having every parochial view around the table is diminishing as the focus turns – quite properly – to finding ways to make things more efficient, remove “red tape”, and motivate people to grow their businesses.

Concerns about whether Commissioners will have sufficient sector-specific knowledge can also be addressed by limiting the degree of regulation imposed by the Commission.

For example, we suggest in our answers to the Delivery Allocation questions that the Commission leave decisions about whether to grow in excess of delivery allocation to the growers themselves. The same could be said of excessive Commission involvement in the assignment of producers to designated agencies.

If the Commission were to stay away from decisions that producers are best left to make for themselves, then there would be less need for the Commission members to employ the kind of practical knowledge that comes from having been a producer in a particular sector.

***4. If BCFIRB recommends to the Minister of Agriculture that the Scheme be changed to include the addition of an independent member(s), should the member be appointed by government or industry? Please explain. What skills and expertise do you think independent member(s) should have?***

Our view is that independent members should be appointed by government. We believe that this is more likely to lead to the appointment of impartial members and that it is appropriate that a government appoint Commission members based on the policy mandate given to the Ministry of Agriculture.

An independent member should have a mix of expertise in business at the management or executive level, combined with knowledge of the agricultural and food sectors. It perpetuates a poorly designed situation if you turn over the appointment of independent members to growers, because it decreases the prospect of having independent and fresh views at the table. Independent should mean truly independent from the sector to which new Commissioners are invited to apply their expertise. That purpose would be defeated if independent members were to be appointed by industry members, as was reported to have been proposed in the “What We Heard” document.

It appears that there are many potential independent board members prepared to get involved in aspects of the regulated vegetable marketing sector. In addition to Robin Smith and Alistair Johnston (both of whom have significant track records on regulatory bodies and prominent industry associations) accepting appointment to the board of CFP, Jim Collins (former executive director of FIRB) has recently accepted an appointment as an independent director on the board of IVCA.

***5. Commission positions go uncontested during the annual elections and there is little turnover in membership. What are the risks and benefits to the sector when there is a lack of board turnover? If you see this as a problem, what are the possible solutions?***

We see the lack of board turnover as a significant problem. As we have said in our answers to earlier questions, we think that the risk of having Commission members of extremely long standing is that their voices tend to become overpowering. It creates a power imbalance that risks defeating the purpose of having independently appointed members (and an independently appointed chair).

We also suspect that lengthy terms worsen the perception that specific members of the Commission act on behalf of their own sectors, as opposed to for the benefit of the industry as a whole. Lengthy terms also compromise impartiality because the views of one Commissioner are more likely to influence the decisions of others by virtue of years of working together, such that Commission members are less likely to approach each decision with a fresh mindset. The development of close personal relationships over long terms means that interpersonal influence (or the perception of it) is a risk even when a Commissioner has recused himself or herself from a particular decision.

We think that the solution to these problems is that members of the Commission should serve only for limited terms.

We also think that reducing the number of grower seats on the Commission and introducing term limits would likely assist in solving the issue of uncontested seats, for the following reasons:.

1. with only two grower seats, there would obviously be fewer seats to fill;
2. a commitment of potentially indefinite duration is probably unappealing to most prospective candidates, preventing them from volunteering;
3. the prospect of running against long-standing and influential incumbent Commissioners is likely unappealing to most prospective new candidates; and
4. there would be a greater perception of the newly elected grower's voice making a difference.

Even with term limits and a reduced number of seats, we are still concerned that the prevalence of a large, entrenched faction in the industry associated with BCfresh will make it difficult for others to break in. For this reason, we think that the optimism that Commissioners not acting in the best interest of the industry would simply be voted out – as recorded in the “What We Heard” document – is misplaced. The sheer number of BCfresh growers also means that in any election, BCfresh can ensure its growers are elected to the Commission by voting as a block or by disincentivizing growers from other agencies from participating through intimidation, and the perception in the industry is that both of these things have occurred in the past.

Though the CFP representatives suggested that limits on how many grower representatives could come from a given agency might go some way to solving the problem, that raises an issue of the dynamics of the industry and the need for more agencies, to which points we now turn.



## **Consultation Topic #2: Agency Accountability Framework**

### ***1. What do you think the primary purpose of an accountability framework should be?***

In our view, the most important way of ensuring agency accountability to producers is not to develop a framework of criteria by which the Commission evaluates agencies. It is to ensure that producers are in a position to “vote with their feet” by switching agencies if they feel that another agency could be doing more to advance their interests. This can be accomplished in the following ways:

1. increased transparency to producers. For example, for a time the Commission implemented a weekly monitoring system of agency shipments as a percentage of delivery allocation, though it did not do so for very long. This is the sort of information that gives producers the tools to hold their agencies accountable. Other information of this sort would be, for example, weekly tracking of delivery allocation usage and sales of imported product.
2. retaining the existence of multiple agencies, including additional agencies for the Lower Mainland, so that growers will have a meaningful choice of alternatives if they are dissatisfied with their agency;
3. non-interference from the Commission with a producer’s choice of agency; producers should never be forced to sell through an agency with which they do not wish to work.

If this is done, then accountability to the Commission and to BCFIRB need only relate to regulatory compliance. The Commission does not need to (and should not) involve itself in the management of the agency’s relationships with its producers or oversee the agency’s business performance. The critical element is competition, which will force agencies to be looking for markets and opportunities for their growers.

During the consultation, Ms. Stancil asked the Prokam representatives for their sense of what growers do when they are dissatisfied with their agency, and asked if they switched. The Prokam representatives explained that they have no real options to switch, and that is the problem. Furthermore, even if there were options to switch, it requires Commission approval, which engages the concern we have already discussed above about the influence of BCfresh over Commission decision-making. From Prokam’s perspective, its ability – through hard work and innovation – to deliver nugget potatoes to market more than two weeks earlier than ever before threatened BCfresh’s monopoly over that product in that lucrative period, a monopoly BCfresh was content to leverage by importing potatoes and marking them up for re-sale. The CFP representatives analogized BCfresh’s market position to one of assured supply, such that there is no incentive to foster innovation.

In a similar vein, the CFP representatives noted in their meeting that, if the Commission was truly functioning as an advocate for the industry in British Columbia, it should be monitoring an agency’s imports and ensuring that imports do not displace market opportunities for BC-grown regulated product.

***2. Should an agency accountability framework include reporting on compliance with the Commission's General Orders?***

It seems fairly uncontroversial that if there are compliance issues, there is no reason that information should not be public.

That being said, the CFP representatives questioned the value of giving agencies a regulatory mandate. Their focus should be on marketing, and the Commission's focus should be on regulating.

However, so long as agencies remain responsible for regulation, greater care must be taken to ensure that growers are not punished for the regulatory failures of their agencies – something Prokam has experienced repeatedly.

***3. Does an agency's business structure influence outcomes for producers and the industry?***

As we understand it, there are two business structures for agencies: corporate and cooperative. We understand that BCfresh has a corporate structure and that a large proportion of the shareholding interest is concentrated in relatively few individuals with longstanding historical connections to the industry, such as Messrs. Guichon and Driediger. In our view, the structural problems we have identified above related to the disproportionate influence that the most powerful people within the agency with a dominant market position have on the Commission is exacerbated by a corporate structure that concentrates beneficial ownership within a relatively few number of people.

An agency structure in which beneficial ownership is not vested proportionately in the growers whose product is marketed through that agency also brings to bear the risk that the agency could set out to earn its profits in ways that do not benefit the growers. For example, if an agency imports regulated product at prices below BC minimum price and resells it at markup, that is beneficial to the agency and its largest shareholders but detrimental to that agency's growers (and the growers of other agencies) who lose that market opportunity for their own product and may not necessarily see returns on those import sales.

Fostering an environment of grower and consumer and choice in which there are a variety of different agencies is likely to lead to agencies with a variety of different structures, but as to which structure is preferable, CFP and Prokam are largely agnostic.

### **Consultation Topic #3: Storage Crop Delivery Allocation**

#### ***1. Do the Delivery Allocation rules and how it is managed deliver on the purposes? Does it deliver on some purposes better than others?***

So long as there is no restriction on, or even tracking of, imports of regulated vegetables into British Columbia, the Delivery Allocation scheme is incapable of achieving its purpose. The market share that the Delivery Allocation scheme is meant to equitably apportion among producers is depleted by imports, and while imports remain untracked it is impossible to know with certainty the degree of market erosion or the differential impact that it has on producers with different agencies or in different areas of the Province. At least for potatoes, we know that the extra-provincial market is bigger than what local production currently supplies, as evidenced by the fact of Thomas Fresh's reliance on U.S. imports.<sup>8</sup> We also know that B.C. imports more potatoes than it produces.<sup>9</sup>

Furthermore, it has to be an objective of industry to be expanding the market for British Columbia vegetables while ensuring quality and a safe and secure supply for British Columbia.<sup>10</sup> The manner in which the Delivery Allocation scheme is currently implemented makes it very difficult to do this. If anyone manages to innovate – as Prokam did when it was able to have potatoes ready for market earlier than anyone else – the current system of Delivery Allocation penalizes them.

The notion that filling gaps in the market should be subject to prior approval by the Commission is a prime example of the excessive role that the Commission has taken on. Producers should surely be left to their own devices in deciding whether the risk of growing in excess of their delivery allocation, only to find themselves unable to have their product sold as gap filler, is worthwhile. This is a business decision. Involving the Commission serves no useful purpose, and reflects an approach to markets that is badly in need of modernization.

Moreover, it seems the Commission's efforts to monitor or enforcing production in excess of delivery allocation are either ineffective or selectively applied. We are aware of a farm in the Fraser Valley growing cabbage in the absence of any delivery allocation. Another farm on Vancouver Island is growing potatoes in excess of its delivery allocation. The Commission has advised us that it has not approved any applications for production in excess of delivery allocation this growing season, so either it does not have the resources to be able to monitor this business choice or it chooses not to enforce this issue depending on the farm in question. As discussed above under Topic 1, the Commission's apparently selective enforcement of its rules impairs its trustworthiness.

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<sup>8</sup> See testimony of Jason Tubman and Roy Hinchey in Prokam's appeal before BCFIRB, Day 1, at pp. 43-46, 50, 66, and 81.

<sup>9</sup> See testimony of Andre Solymosi in Prokam's appeal before BCFIRB, Day 2, at p. 60.

<sup>10</sup> For a discussion of the vulnerability of BC's onion supply, see the very recent article in The Abbotsford News entitled "B.C. imports 99 million kilos of American onions. Why?", available at <https://www.abbynews.com/news/b-c-imports-99-million-kilos-of-american-onions-why/>.

At least until the structural problems with the Commission are addressed, requiring that producers seek permission to grow in excess of their delivery allocation is simply one more opportunity for suspect decision-making. If a dominant market player like BCfresh is able to wield its influence with the Commission to block growers from planting with a view to gap-filling, then, when those market gaps do eventually appear, they get filled with imports, depriving growers of an opportunity to build delivery allocation and depriving the industry as a whole of an opportunity to replace imports with BC-grown products.

This sort of behaviour is especially troubling when the product of BC growers is being kept in storage and lost to culls while the agency imports product and marks it up for re-sale. We gather from the “What We Heard” document that some participants expressed the view that the delivery allocation scheme somehow protects BC growers from the effect of US product. This is simply not so. When Prokam was producing, the export demand for its potatoes always exceeded its ability to supply them, such that it never had to store. There is no reason BC farmers should be losing crops in storage while customers are filling that demand with US imports at a more lucrative margin.

Approval for planting in excess of delivery allocation is also the kind of granular issue that draws upon the business experience of growers, which risks alienating new, independent Commission members and undermines the benefits of appointing them. Getting the Commission away from this type of decision goes hand-in-hand with our proposals with respect to Commission structure. It is better for the Commission to keep to high-level decision-making.

Finally, the Commission has (rightly or wrongly) purported to apply the Delivery Allocation rules to product bound for export markets. They are particularly unsuitable for that context, given that there is no coordinated national market allocation system (unlike, for example, with chickens). We note that one of the “ideas” emerging from the consultation meetings was export-specific delivery allocation. In our view, the answer is not more regulation; it is simply to remove delivery allocation from the equation altogether for out-of-province markets. Other provinces have a free market, and there is absolutely no reason that there should be any impediments to B.C. producers seeking to grow the market for their product by competing in that sphere – growing the market for the entire industry by leveraging B.C.’s climate and geographic advantages in the process. Here again, the Commission’s approach stifles innovation and the expansion of markets in a way that is out of step with the modern approach that other sectors have adopted for bringing their product to market.

## ***2. Is Delivery Allocation an effective tool for your business? How does it work well? What elements could work better?***

No. The manner in which the Commission has purported to monitor “gap filler” production and sales has been an impediment to Prokam’s growth. The Commission’s stance on the availability of Delivery Allocation “freezes” for the years that Prokam has not produced have created significant uncertainty and strain.

This was worsened recently when the Commission advised that Prokam’s delivery allocation might be revoked. While this has not yet come to pass, the suggestion that Prokam’s circumstances would not permit it to retain delivery allocation following the protracted dispute

with the Commission and this supervisory review is an example of the type of decision-making that damages the industry's trust in the Commission.

From CFP's perspective, delivery allocation stifles growth and innovation by making it difficult for growers to offer new products and seek out new markets.

***3. Do you think Delivery Allocation benefits one group over another in the vegetable industry? Please explain.***

Prokam and CFP consider this question to be very important, particularly given their view, expressed above in answer to Question 1, that Delivery Allocation does not achieve its stated intended purpose.

In their view, the Delivery Allocation scheme favours those who have the most dominant market position and are accordingly in a position to import the greatest volumes of vegetables grown outside of British Columbia. Apart from the profit that those participants can earn (since there is no minimum price applicable to the sale in BC of imported vegetables), the high volumes of imports large agencies can market when their own growers cannot meet the demand in BC effectively fills this "gap", preventing smaller participants from earning more Delivery Allocation by filling the gap with their BC-grown vegetables.

From CFP's perspective, a company that wishes to support and market for innovators and up-and-comers suffers as well.

***4. Do you think the Delivery Allocation rules and how it is managed offers room to grow for established growers? Please explain.***

No. the Delivery Allocation rules, including the Commission's insistence on prior approval for growth in excess of a producer's delivery allocation, significantly impede new or small growers from earning new Delivery Allocation by filling gaps.

We made a request to the Commission under the *Freedom of Information and Protection of Privacy Act* for records containing the names of producers who had received approval from the Commission to grow in excess of their Delivery Allocation in 2020-21 in the hopes of getting a sense of how often this kind of approval is granted. The Commission's answer was that no such approvals were granted in 2020-21. This calls into question the Commission's view that applying for permission to plant in excess of delivery allocation provides producers a practical avenue for expansion. We have since added a request for the same information for 2017-18, 2018-19, and 2019-20, and we are awaiting a response.

In addition, providing opportunities for growth requires the cooperation of agencies, and in this way the Delivery Allocation issues tie into the agency accountability issue. If agencies favour the interests of their large, established producers – as they have every incentive to do – then any "gap filling" opportunities are likely to go first to those large, established producers.

***5. Does Delivery Allocation provide adequate opportunities for new entrants and renewal in the industry? Please explain.***

No. The Delivery Allocation scheme favours large, entrenched producers and makes it difficult for new producers to enter the market, and to grow their business once they do by earning additional Delivery Allocation. A business that is just starting out generally will not be able to finance the transfer of Delivery Allocation on a large scale; its only hope will be for gradual growth under the Delivery Allocation rules. Given the problems with the Delivery Allocation scheme we have identified in our answers to the questions above, there is not much incentive to “start at the bottom and work your way up” by acquiring a small amount of Delivery Allocation because of the headwinds new producers face once they enter the market. The entire structure is incompatible with the growth ambitions of the sector, the government, and individual and private enterprise.