



# HOW TO PARTICIPATE IN A NATURAL PRODUCTS MARKETING ACT (NPMA) APPEAL

## HOW YOU CAN BE INVOLVED

If you (or your organization) have an interest in or may be affected by the outcome of a regulated marketing appeal filed with BCFIRB, there are two ways to be part of the appeal hearing.

You can participate as a witness <sup>1</sup> for a party or as an intervener.

### Participating as a Witness

*Who is a witness?*

A witness provides factual evidence on the behalf of a party <sup>2</sup> to the appeal. For example, a party may ask an association representative to act as a witness to give evidence about specific matters relevant to an appeal such as a particular conversation or event that took place.

As a witness, you will attend the hearing in person or by teleconference. You will be asked to speak to factual evidence. The persons who filed the appeal, the commodity board responding to the appeal and the BCFIRB hearing panel may ask you questions on the facts that you have testified to in the hearing.

*How do I attend the hearing as a witness?*

You may be asked directly by one of the parties to the appeal to act as their witness. Alternatively, if you feel you have evidence to assist a party you may ask that party if you can act as a witness for their case.

### Participating as an Intervener

*Who is an intervener?*

An intervener provides information or a perspective on the matter under appeal that the panel may or may not receive from the parties and witnesses at a hearing.

An intervener does not need to support either party's position but rather provides additional information (which may include evidence), perspective and/or context to the issue being heard. For example, an association may attend to give its perspective on how the issue under appeal impacts its members and provide its view on suitable remedies.

In considering whether to intervene, you should assess whether you can bring a perspective to the appeal distinct from that of the parties which would assist the panel in its deliberations.

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<sup>1</sup> Witness: a person who has knowledge of (an event or change) from personal observation or experience.

<sup>2</sup> Party: a person who filed the appeal and the commodity board whose decision is being appealed.



As an intervener you will generally attend the hearing in-person or by teleconference. The persons who filed the appeal, the commodity board responding to the appeal and the BCFIRB hearing panel may ask you questions about the information and perspective you provide.

#### *How do I attend the hearing as an intervener?*

You must make an application to BCFIRB for the opportunity to attend a hearing as an intervener. You may also be asked by a party to the appeal or BCFIRB whether you wish to intervene in an appeal. See “Intervener Application Process” for more information

#### *Level of participation*

As an intervenor, there are different levels or “rights” of participation.

A full intervener has the same participation rights as a party and has an opportunity to present an opening statement, call witnesses, cross examine witnesses and give a closing statement. An intervener with partial or limited status participates to a lesser degree either through an oral or written submission at the close of the hearing.

You will need to think about what level of participation in the hearing would be needed to effectively share your views on the matter under appeal in the event you are granted intervener status. See “Intervenor Application Process” for more information on participation options.

#### *Intervener Application Process*

In making an application to BCFIRB you must include in writing:

- ☐ Name
- ☐ How you (or the proposed intervener) can make a valuable contribution or provide a valuable perspective to the appeal that an existing party cannot provide;
- ☐ How the benefit of your information outweighs any prejudice or inconvenience to a party; (prejudice includes considerations like lengthening, delaying or unduly complicating the hearing).
- ☐ The extent of participation that is sought, and;
- ☐ The date you became aware of the appeal and, if it applies, the reason for any significant delay between that date and the date of the application.

To help you in writing your application, consider the following questions:

- ☐ What is the valuable contribution or perspective on the issue under appeal can you offer that may not be provided by the parties and witnesses?
- ☐ Do you want to receive documentary disclosure from all the parties?
- ☐ Do you want to participate in pre-hearing processes such as pre-hearing conferences?
- ☐ Do you want to participate by filing a written submission which outlines your position on one or more of the issues on appeal with BCFIRB and each of the parties?



- ☐ Do you want to attend the hearing as an observer and make an oral and/or written presentation based on your previously submitted statement at the end of the hearing?
- ☐ Do you want to participate fully in the hearing by presenting witness and documentary evidence, cross examining the other parties' witnesses and make a submission

*What happens next?*

After BCFIRB receives your application for intervener status:

1. BCFIRB gives a copy of your application to each of the parties to the appeal.
2. Each party provides their position on your application to BCFIRB (whether or not they agree with you acting as an intervener, and why).
3. Your application and the parties' positions are provided to the panel chair for consideration.
4. The BCFIRB panel hearing the appeal decides whether you can participate as an intervener, and if so, to what extent (e.g. file a submission, or make a presentation at the end of the hearing or full participation in the hearing).
5. BCFIRB advises you of the panel's decision on your intervener application and how you will participate.

The BCFIRB panel decision is based on your application, the position of the parties to the appeal, your response to their position and Rule 8 in BCFIRB [\*Rules of Practice and Procedure for Appeals\*](#) under the [\*Natural Products Marketing \(BC\) Act\*](#).”

### **For More Information**

Contact BCFIRB at 250 356-8945(1-800-663-7867 toll free via Enquiry BC) or [firb@gov.bc.ca](mailto:firb@gov.bc.ca)

### **References**

[\*Administrative Tribunals Act\*](#) s. 33

[\*BCFIRB Rules of Practice and Procedure for Appeals under the Natural Products Marketing \(BC\) Act\*](#).