

BC FARM INDUSTRY REVIEW BOARD

BCFIRB 2017/18 Annual Report





BC Farm Industry Review Board

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Honourable Lana Popham
Minister of Agriculture
Parliament Buildings
Victoria, BC V8V 1X4

Dear Minister:

I respectfully submit the Annual Report for the British Columbia Farm Industry Review Board (BCFIRB) for the period April 1, 2017 through March 31, 2018, per section 59.2 of the *Administrative Tribunals Act*.

I am pleased to report that results and achievements compare well to planned targets and performance measures. As usual it was a very busy year with a significant workload, with multiple appeals, complaints and complex supervisory reviews. I am proud of BCFIRB's accomplishments in meeting its statutory mandates, while continuing to work on improving its operations and client service.

Looking ahead to 2018/19, BCFIRB plans to work closely with the commodity boards and commissions to improve public accountability and annual reporting. BCFIRB will also continue to proactively review and address issues that may arise within the regulated sectors, ensuring sound marketing policy in the public interest.

Sincerely,

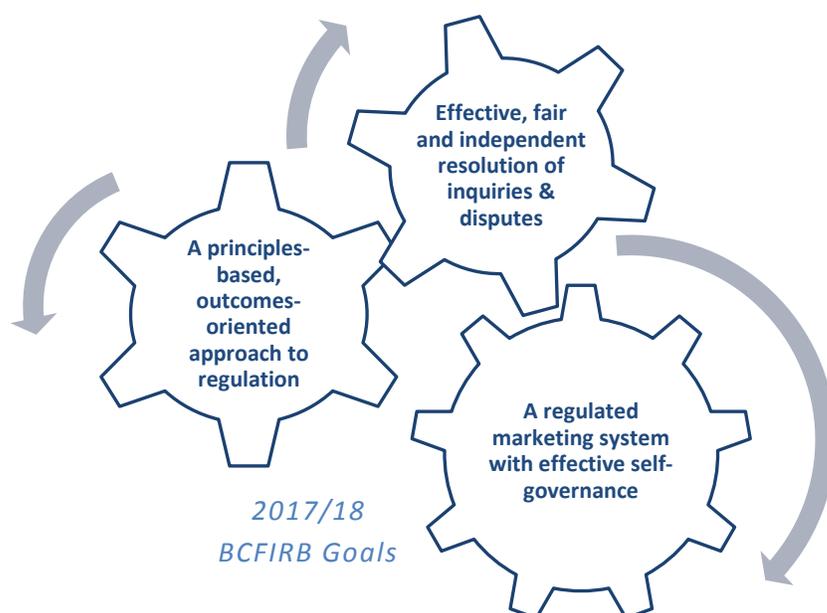
Peter Donkers
Chair
BC Farm Industry Review Board

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Introduction

The British Columbia Farm Industry Review Board (BCFIRB) was established in 1934 and is considered one of B.C.'s senior administrative tribunals. BCFIRB consists of a part-time board of up to ten members and nine full time-equivalent staff positions. Board members are appointed by the Lieutenant Governor in Council and bring a variety of skills, expertise and backgrounds to carry out BCFIRB's mandate. Decision-making by BCFIRB is independent of government.

The BCFIRB 2017/18 Annual Report describes achievements and results met from April 1, 2017 to March 31, 2018. Year-end results to March 31, 2018 are presented in relation to the goals, objectives, strategies and performance measures BCFIRB believes necessary to carry out its role as an independent administrative tribunal.



Purpose of BCFIRB

BCFIRB is responsible for the general supervision of B.C.'s regulated marketing boards and commissions. It provides oversight, policy direction, and decisions in the public interest.

BCFIRB is also an adjudicative tribunal and provides a more informal system than the courts for resolving disputes in a timely and cost effective way. BCFIRB posts all active appeals, complaints and decisions on its [website](#).

BCFIRB's statutory responsibilities are established in the [Natural Products Marketing \(B.C.\) Act \(NPMA\)](#), the [Farm Practices Protection \(Right to Farm\) Act \(FPPA\)](#), and the [Prevention of Cruelty to Animals Act \(PCAA\)](#), and are supported by the [Administrative Tribunals Act \(ATA\)](#).

BCFIRB's mandated responsibilities are listed below:

- [General supervision](#) of B.C.'s regulated marketing boards and commissions.
- Signatory to formal [federal-provincial cooperation agreements](#) in regulated marketing.
- Hearing [appeals of regulated marketing](#) board and commission orders, decisions and determinations.
- Hearing [appeals related to certain animal custody and cost decisions](#) of the B.C. Society for the Prevention of Cruelty to Animals (BCSPCA).
- Hearing [farm practices complaints](#) from persons disturbed by odour, noise, dust or other disturbances arising from agriculture or certain aquaculture operations.
- Conducting [farm practices studies](#).

BCFIRB supervises the following B.C. regulated commodity boards and commissions.

[B.C. Broiler Hatching Egg Commission](#)

[B.C. Chicken Marketing Board](#)

[B.C. Cranberry Marketing Commission](#)

[B.C. Egg Marketing Board](#)

[B.C. Hog Marketing Commission](#)

[B.C. Milk Marketing Board](#)

[B.C. Turkey Marketing Board](#)

[BC Vegetable Marketing Commission](#)

BCFIRB periodically reports to the Minister of Agriculture concerning its administrative mandate, but has adjudicative independence in its decision-making.

BCFIRB must follow the principles of natural justice, administrative law and due process in proceedings as set out in its rules of practice and procedure. BCFIRB is accountable to the Courts for its decisions (Judicial Review) and [the B.C. Ombudsperson](#) for its practices and procedures.

BCFIRB 2017/18 Results at a Glance

Goal 1: A regulated marketing system with effective self-governance.	Objective 1.1: BCFIRB and marketing boards and commissions practice good governance in their external and internal operations.	Performance Measure (PM) #1 Programs, policies and decisions reflect legislative intent, sound marketing policy and consider the public interest	Result Met
		PM #2 BCFIRB expenditures meet budget targets	Result Met
Goal 2: A principles-based, outcomes-oriented approach to regulation	Objective 2.1: BCFIRB and marketing boards and commissions use a principles-based approach to regulating.	PM #3 Outcomes are strategic, accountable, fair, effective, transparent and inclusive (show use of BCFIRB's SAFETI principles)	Result Met
		PM #4 Orders, decisions & determinations are published promptly	Result Met
Goal 3: Effective, fair and independent resolution of inquiries & disputes	Objective 3.1: Ensure issues and disputes arising within BCFIRB's jurisdiction are resolved in a fair and timely manner, including use of Alternative Dispute Resolution (ADR) methods where appropriate.	PM #5 Appeals and complaints are routinely handled within usual time periods established in BCFIRB's Practice Directives	Result Met

BCFIRB 2017/18 Performance

Goal 1: A regulated marketing system with effective self-governance.

Objective 1.1: BCFIRB and marketing boards and commissions practice good governance in their external and internal operations.

Strategies:

- Ensuring that marketing boards and commission activities and decisions are administratively fair, comply with legislation/regulations, and accord with sound marketing policy.
- Requiring boards to give consideration to the Government policy framework and the public interest.
- BCFIRB provides supervisory intervention when necessary.
- Working to achieve priorities within budget while continuing to place importance on board and staff development and training.
- While preserving its independence as a tribunal, continuing to work to ensure effective relations with the Ministry of Agriculture, regulatory agencies at all levels, and stakeholders.

Performance Measure 1:

BCFIRB, boards and commissions demonstrate that their programs, policies and decisions reflect legislative intent, sound marketing policy and consider the public interest.

Performance Measure	2017/18 Target	2017/18 Actual
Programs, policies & decisions reflect legislative intent, sound marketing policy and consider public interest	Meet all 2017/18 expectations	Met

2017/18 Results

BCFIRB worked with all of the regulated commodity boards and commissions throughout the year to support administratively fair activities and decisions, compliance with legislation/regulations, and delivery of sound marketing policy.

BCFIRB also worked with the supply-managed boards to review its quota management directions ([the 2005 Specialty Review](#)) to determine if they continued to support sound marketing policy. In February 2018, BCFIRB issued its [Quota Assessment Tools Evaluation Supervisory Review](#) decision. The decision included new annual reporting requirements for all boards and commissions, titled [the Public Accountability and Reporting Project \(PARP\)](#).

Substantive work with the B.C. Broiler Hatching Egg Commission was completed in 2017/18 on regulatory tools to effectively manage specialty hatching egg production. The review resulted in a framework for managing entry into this specialty sector and ensuring producer compliance with biosecurity, food safety and animal care regulations.

The B.C. Milk Marketing Board launched a review of its outdated New Entrant Program. The goal of the review was to establish a modern program to bring in new producers, promote innovation, and support a sustainable dairy industry in BC.

Finally, there was the successful completion of the regularly scheduled review of rules for the conduct of board elections. Regular review of this key governance tool not only supports a fair electoral process, but also promotes principles of inclusiveness, accountability and transparency.

Performance Measure 2:

BCFIRB and the boards and commissions it supervises exercise appropriate governance and fiscal procedures in exercising their mandates.

Performance Measure	2017/18 Target	2017/18 Actual
BCFIRB expenditures meet annual budget target	Expenditures on target	Met

2017/18 Results

While government recognizes BCFIRB’s independence as an administrative tribunal in executing its statutory mandates, BCFIRB is accountable to the Minister concerning budget.

BCFIRB expended \$1.393 million in 2017/18. About \$640,000 of this amount was expended on operating costs, which include both contracted legal services and board member time and expenses. Just under \$760,000 was expended on public service staff salaries.

In addition to 66 appeals and complaints to BCFIRB, there were also seven Judicial Reviews of BCFIRB decisions filed with the B.C. Supreme Court. Court proceedings necessitate preparation of significant documentation and the need for legal representation. Case volumes and complexities are challenging to predict as they are driven by outside parties and must be managed in accordance with the law.

Goal 2: A principles-based, outcomes-oriented approach to regulation.

Objective 2.1: The British Columbia Farm Industry Review Board and marketing boards and commissions use a principles-based approach to regulating.

Strategies:

- Working with boards and commissions to develop, adopt, and employ a principles-based approach to regulation.
- Requiring all BCFIRB, marketing board and commission orders, decisions and determinations to be made available to the public, except where privacy legislation and policies apply.
- Promoting policies that reflect B.C. interests at both the federal and provincial levels.

Performance Measure 3:

BCFIRB and the boards and commissions demonstrate the application of the [Strategic, Accountable, Fair, Effective, Transparent and Inclusive \(SAFETI\) principles](#) in their programs, policies and decisions.

Performance Measure	2017/18 Target	2017/18 Actual
BCFIRB & Boards and Commissions routinely apply SAFETI principles	Meet all 2017/18 expectations	Met

2017/18 Results

BCFIRB 2017/18 supervisory records demonstrated that there is progress being made on the implementation of the principles-based approach to regulation, including the use of the [SAFETI principles](#). Examples include:

- On-going work by the B.C. Hog Marketing Commission to build effective value chain relations and marketing opportunities with producers and processors in BC;
- The B.C. Vegetable Commission implemented self-identified governance improvements, including active exploration of adding a second independent member;
- The B.C. Cranberry Marketing Commission continued to collaborate with the BC Cranberry Research Society in support of research and plant trials, thus providing information to growers in support of effective and efficient cranberry production;
- B.C. Turkey Marketing Board's active participation in inter-provincial discussions in how shares of national turkey production are distributed between provinces and exploration of emerging market demands;
- B.C. Hatching Egg Commission publication and regular updating of its farm biosecurity audit status and number of corrective actions outstanding.

BCFIRB posts [regulated marketing industry snapshots](#) that contain overviews of the regulated agricultural commodity sectors, including key facts, issues and opportunities, and governance approach.

Performance Measure 4:

BCFIRB orders, decisions, determinations, practices and procedures and other information are published promptly. Marketing board and commission orders, decisions and determinations are published promptly after being made in order to preserve rights of appeal under the NPMA.

Performance Measure	2017/18 Target	2017/18 Actual
Orders, decisions & determinations are published promptly	Meet all 2017/18 expectations	Met

2017/18 Results

BCFIRB 2017/18 administrative and supervisory records demonstrated publishing expectations were met. BCFIRB posted all of its complaints and appeals decisions to its website no later than seven days following all decisions made, as specified in its [Rules of Practice and Procedure](#).

Supervisory decisions, all significant correspondence and all updates to policies and procedures were also published to BCFIRB’s website in a timely fashion.

BCFIRB continues to be satisfied with the progress boards and commissions are making publishing orders, determinations, decisions and other information in a timely manner. Timely publication of decisions supports producer business planning and right of appeal to BCFIRB.

Goal 3: Effective, fair and independent resolution of inquiries and disputes.

Objective 3.1: Ensure issues and disputes arising within the British Columbia Farm Industry Review Board’s jurisdiction are resolved in a fair and timely manner, including use of Alternative Dispute Resolution methods where appropriate.

Strategies:

- Using farm practices studies to help prevent and resolve farm practices disputes.
- Using supervisory processes to help prevent and resolve regulated marketing disputes.
- Using timely, fair and accessible processes to help resolve complaints under the FPPA and appeals under the NPMA and PCAA.

Performance Measure 5:

BCFIRB reports on time from appeal or complaint filing to resolution, average costs per case, and user satisfaction for each of its statutory mandates and associated adjudicative processes.

2017/18 Results

In total BCFIRB administered 66 cases in 2017/18. Of these, 35 were resolved within the fiscal year, with 23 decided following a hearing and the other 12 dismissed or withdrawn.

Performance Measure	2017/18 Target	2017/18 Actual
BCFIRB reports annually on time from filing to resolution, cost per case, and user satisfaction for each of its appeals and complaints processes. Appeals and complaints are routinely handled within usual time periods established in its Practice Directives	Meet 2017/18 expectations	Met

Summary of BCFIRB's appeals and complaints in 2017/18

2017/18 CASE STATUS	FPPA	NPMA	PCAA	TOTAL
Carried forward from 2016/17	15	14	1	30
New appeals/complaints in 2017/18	12	13	11	36
<i>Total appeals/complaints in 2017/18</i>	<i>27</i>	<i>27</i>	<i>12</i>	<i>66</i>
Total appeals/complaints resolved in 2017/18	9	15	11	35
Total appeals carried forward to 2018/19	18	12	1	31

While there is considerable cost variability from case to case, approximate average cost-per-case estimates were \$9,500, \$4,400 and \$3,300, for PCAA, NPMA and FPPA mandates, respectively in 2017/18. The higher PCAA average cost reflects the fact that almost all of these appeals require a hearing.

In 2017/18, BCFIRB managed seven Judicial Reviews (JRs) at the B.C. Supreme Court, all findings to date in support of BCFIRB decisions. Costs for JRs averaged about \$11,000 per case. In 2017/18, no complaints were filed with the Ombudsperson regarding BCFIRB's practices and procedures.

BCFIRB has published policy and procedure documents that set out the process, steps and timeframes associated with the filing and hearing of appeals and complaints under its different statutory mandates. In 2017/18, 74% of all cases that went to a formal hearing were decided within established timelines, with 100% of the animal custody appeals that went to hearing resolved within the established time period.

BCFIRB was one of the first tribunals in B.C. to use Alternate Dispute Resolution (ADR) and continues to investigate new and improved ways to resolve disputes. Out of the 35 cases resolved in 2017/18, six were resolved using ADR, primarily through facilitated or negotiated agreements.

In March 2017, BCFIRB implemented a new user experience survey to gather feedback about the appeal and complaints process, website and staff response times. Suggestions are now routinely examined to help identify appropriate areas for service improvements.

BCFIRB in 2018/19

BCFIRB will be focusing on transparency and accountability – both for itself and the commodity boards and commissions – through effective performance measures and public reporting.

A successful principles-based, outcomes oriented approach to regulation is partly based on regular assessment and demonstration of board performance and outcomes. To that end, in February 2018 BCFIRB directed all boards and commissions to annually report on industry performance targets, governance measures and quota management data, starting in June 2019. Going forward, these reports will help inform BCFIRB's annual assessment and report.

BCFIRB will continue to proactively solve problems within regulated sectors or commodity boards that warrant or necessitate BCFIRB supervisory reviews, investigations or decisions. A well governed regulatory system that facilitates and encourages stakeholders in making long-term plans and business decisions furthers the interests of B.C. Agri-food industries, now and in the future.

Further information about BCFIRB may be found at:

<http://www2.gov.bc.ca/bcfarministryreviewboard>

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