

1981

IN THE MATTER OF THE NATURAL PRODUCTS MARKETING (B.C.) ACT

AND

IN THE MATTER OF AN APPEAL TO THE BRITISH COLUMBIA MARKETING BOARD FROM A DECISION OF THE BRITISH COLUMBIA CHICKEN MARKETING BOARD

BETWEEN:

B.C. Poultry Processors Association Appellant

AND:

British Columbia Chicken Marketing Board Respondent

P. Hayward Appearing for the Appellant

John J.L. Hunter Appearing for the Respondent

Members of the Board hearing the Appeal: Chas.E. Emery - Chairman, E.Mona Brun, Martin Hunter, Nigel Taylor, and Robert Reynolds - Members.

Donald A. Sutton Counsel for the Board

This appeal was brought on pursuant to the provisions of the Natural Products Marketing (B.C.) Act and was heard in Richmond, B.C. on Friday, April 24, 1981.

The Appellant is appealing a price increase for chicken resulting from the Respondent's Interim Order No. 140 dated March 26, 1981 which became effective April 6, 1981.

In it's brief to this Board the Appellant requested 3 items as follows:-

1. That the B.C. Chicken Marketing Board Interim Order No. 140 be rescinded.

2. That a new Pricing Committee be formed. This Committee would be composed of representatives from all segments of the industry, with an impartial chairperson.

Recommendations from this Committee would be presented to the B.C. Chicken Marketing Board for ratification or rejection.

3. That the new B.C. Chicken Marketing Board's "Cost of Production Formula" be reworked taking into consideration competitive factors, to prevent reduced production.

The Respondent presented a very comprehensive brief and book of materials which clearly outlined the steps taken both Federally and Provincially that led to the formulation of Cost of Production Formulas used by the Respondent in preparing Interim Order No. 140. The Respondent's submission concluded with the statement that "The C.O.P. formulas that have been developed indicate that the B.C. grower is not receiving his cost of production at this time from the market place, and this is a goal which the primary producer must work towards in the future, to ensure the survival of a viable B.C. chicken industry in the Province".

During argument Mr. Hayward indicated that it was not so much the use of the Cost of Production formulas which had upset the Appellant in this instance, but rather the method by which the price increase, resulting from the order, was implemented. He stated that in the past the processors were

well aware of the date upon which price was to be increased which allowed them to minimize the effect on the marketplace. In the present instance however, the order was initiated without proper notice causing consternation and embarrassment to the processors and a straining of relations between parties.

This Board has determined that the price increase resulting from Interim Order No. 140 issued by the Respondent dated March 26, 1981 should be allowed to stand. It wishes to state, however, that it deplors the lack of communication and consultation which occurred prior to the issuance of the order. It is obvious from the evidence that never before had a pricing order been issued by the Respondent without ample consultation with the Appellant. In the judgment of this Board the Respondent must become more sensitive to the position of the processors and retailers in the Province in the setting of price. Competition from out of Province, in the way of very low prices, can have a major effect on retailer attitudes.

In view of the evidence and the fact that the Appellant did not seriously question the documentation relating to the Cost of Production formula of the Respondent, the Board is of the opinion that the formula is not being disputed. With reference to the Appellant's request for the formation of a new Pricing Committee the Board is of the opinion that the pricing criteria outlined in the Federal-Provincial Agreement with respect to the establishment of a Comprehensive Chicken Marketing Program in Canada sufficiently details procedures to be followed. The pertinent sections of this Agreement are as follows:-

#### PRICING

- 1) Pricing policy to be carried out by Provincial Producer Marketing Boards in a manner that supports

and is not in conflict with the principles and responsibilities described herein and which in the long term provides the producer with a reasonable return on investment and labour as related to a national cost of production formula. If market demand requires deviation from the formula, the amount will be limited to the Agency guidelines subject to the approval by Council. The Cost of Production formula should be reviewed within the initial two year period.

2) Various policies may be followed in respect to pricing. It is recommended that the Plan provide:

(a) that the Provincial Producer Marketing Boards have, and exercise properly, the authority for establishing prices for chicken produced in their respective provinces and shall establish similar terms and conditions for the sale of live chicken;

(b) the Provincial Producer Marketing Boards will be required to give prompt notice to the Agency and other Provincial Producer Marketing Boards of all live price changes;

(c) in the exercise of establishing such prices, Provincial Producer Marketing Boards would have to face the constraints imposed on them by the market and free trade principle;


(d) each Provincial Producer Marketing Board would be required to maintain a realistic price relationship with other provinces and weekly price variation would be subject to the Agency guidelines approved by Council;

(e) an effective communication system would be established to ensure the fullest exchange of information.

3) All Provincial Producer Marketing Boards must have all necessary powers over prices and product to ensure the proper functioning of the Plan."

It is ordered that the deposit of the Appellant be forfeited to the Minister of Finance.

DATED at Richmond, B.C., this // day of May, 1981.

  
CHAS. E. EMERY-CHAIRMAN  
BRITISH COLUMBIA MARKETING BOARD