

Primary Poultry Processors Association of BC v. BC Chicken Board (Rosstown #3)

Decision Date: September 18, 2003

Keywords: consultation, new entrant program (processor), vertical integration, authority of Commodity Board

Issue:

Two issues were identified:

- a) did the Chicken Board err in allowing Rosstown to custom kill its own production as part of a move towards having its own processing facility?
- b) does the Chicken Board have the authority and/or exercise its authority properly in designating product to a new entrant without consultation and when BC allocation is less than requested by BC processors?

Decision:

Rosstown and the Poultry Processors have had a lengthy conflict stemming from Rosstown's decision to become a vertically integrated breeder/hatchery/broiler/ processing operation. Several appeals and supervisory decisions have been issued by BCFIRB over the previous few years. The heart of this appeal is who had control over the Rosstown's production which previously formed part of the processors' allocation that they required to meet their market demands.

The panel agreed with the Appellant and rescinded the order of the Chicken Board which allowed Rosstown to kill its own production. The reasons given were:

- a) Rosstown was not a processor, but a grower and to allow a grower to control his production subverts the "bottom up" allocation system whereby processors advise the Chicken Board of their market requirements and the Chicken Board negotiates nationally to meet their requests. Such a significant change requires consultation with the major industry stakeholders which did not happen in this case.
- b) The amount of production in question was significant to the processors who were not receiving their full requirements before the reassignment to Rosstown. In addition, there was a disturbing lack of transparency as the order was passed on the eve of the expiration of the terms of the Chicken Board members who had been appointed to the Chicken Board
- c) The lack of industry consultation and the lack of rationale given for deeming Rosstown to be a "processor" at this time was acting outside the Chicken Board's August 2000 policy rules and creating a new category of industry participant.

Order: The Order of the Chicken Board was rescinded and the Chicken Board directed to continue consultation with industry participants to develop a comprehensive new entrant program for processors.