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October 13, 2017

VIA EMAIL

British Columbia Farm Industry Review Board
780 Blanshard Street (1st Floor)
Victoria, BC V8W 2H1

Attention: Wanda Gorsuch (wanda.gorsuch@gov.bc.ca)

Dear Sirs/Mesdames:

**Re: British Columbia Broiler Hatching Egg Commission – Supervisory Review re:
Regulation of Specialty Hatching Egg Production**

We write on behalf of Unger’s Chick Sales (1974) Ltd. dba Coastline Chicks (“Coastline”) and Robert & Patricia Donaldson dba Bradner Farms (“Bradner”) in reply to the Response of the BC Broiler Hatching Egg Commission (the “Commission”) to BCFIRB Questions Regarding: Regulation of Asian Hatching Egg Production dated September 29, 2017 (the “Response”). This submission will also comment on the material submitted by Skye Hi Farms Inc. V3 Farms and W Friesen Enterprises (the “Skye/Friesen Response”).

Coastline and Bradner continue to be astounded by the Commission’s failure to comprehend the risks to this sector of the industry and to the public interest inherent in a continuation of the present unregulated market for Asian chicks.

Whereas the Commission’s approach is characterized by Skye/Friesen as exhibiting a reasonable apprehension of bias, Coastline and Bradner see it as a clear illustration of “confirmation bias”, i.e. a systemic error of reasoning that tends to search for, interpret and favour information in a way that confirms a pre-existing decision or hypothesis. “People tend to interpret ambiguous evidence as supporting their existing position”.¹ After losing an appeal brought by Skye Hi Farms and V3 the Commission reversed itself and, in its recommendation report in June 2016, declined to proceed with its proposed regulation of the specialty hatching egg market or otherwise take any action that would stabilize the industry supporting the appellants’ business. After that report and in response to pointed questions directed to the Commission by BCFIRB, the Commission conducted belated consultations and has now developed a set of reasons to support its earlier decision. This is a classic example of confirmation bias and is a good reason in itself why BCFIRB should take control of the issue and conduct an independent inquiry.

The Commission states, incorrectly, that “industry stakeholders have also had shifting positions on this question, including by way of appeal of the February 2015 decision to establish a quota based system”.

¹ https://en.wikipedia.org/wiki/Confirmation_bias

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Coastline and Bradner have never changed their position. They have been in this industry for decades. They managed quite well in the early stages without regulation. However, the industry has now matured and is vulnerable to predatory practices. If left unregulated these practices will inevitably lead to cannibalization, consolidation and a loss of diversity. Whereas it may seem odd for Coastline and Bradner to be raising this concern, since they are the larger players in this sector, they feel strongly that turmoil and consolidation in the industry is bad for everyone, large and small alike.


The material submitted by Skye/Friesen amply demonstrates that this industry sector is in turmoil. The Commission says that it will “monitor the sector – including for predatory practices – and enable it to reassess its position with respect to regulatory requirements if and as circumstances warrant”, yet when faced with evidence of predatory practices in the form of the squeezing out a small player in the industry (Friesen Enterprises) the Commission does nothing.

Coastline and Bradner respectfully request that BCFIRB make a fresh assessment and unbiased decision in accordance with the general statutory mandate “to provide for the promotion, control and regulation of the marketing of natural products”.²

Fairness requires it. The statutory mandate requires it.

Yours truly,

MACKENZIE FUJISAWA LLP

Per: 
CHRISTOPHER HARVEY, Q.C.

CWH:ao

cc: Claire E. Hunter (by email: chunter@litigationchambers.com)
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² Natural Products Marketing (BC) Act (NPMA), s. 2(1).
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