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## BC Farm Industry Review Board

# 2019-20 VEGETABLE SUPERVISORY REVIEW

## UPDATED What We Heard Summary Consultation Meetings

August 14, 2020

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<sup>1</sup> Updates marked in red text

# Overview

## Supervisory Review Purpose and Scope

BCFIRB initiated this Supervisory Review (Review) to support the BC Vegetable Marketing Commission (Commission) with its projects related to Commission governance, agencies, and storage crop industry policies and rules. These projects and this Review arise, in part, from a recent series of appeals and industry issues.

The areas of focus for this Review, are:

- Commission structure;
- Agency accountability; and
- Storage crop delivery allocation

## Consultation Meetings

The BCFIRB supervisory review panel met by video or teleconference with over 20 industry individuals and groups in July/August 2020 to receive input on Commission structure, agency accountability and storage crop delivery allocation.

Participants included: storage crop producers, greenhouse growers, designated storage agencies, designated storage crop/greenhouse agencies, other supply chain members, producer associations, and two businesses applying to become designated agencies.

The meetings were guided by a set of questions and background information provided by the panel in a July 10, 2020 Consultation Document to participants in advance of the consultation meetings.

The panel appreciates the time all participants took to provide their comments and recognizes that for some participants speaking up may have been difficult. The panel recognizes that participants' livelihoods depend on the vegetable industry and appreciate the candor with which many responded.

The panel has attempted to capture the range of views shared in the following summary.

# What We Heard

## Commission Structure and Governance

The questions BCFIRB will answer with the help of industry input are:

1. Does the Commission structure enable it to make effective and strategic decisions regarding the production and marketing of BC vegetables (sound marketing policy)?
2. Does the Commission structure allow it to effectively, fairly and accountably manage potential conflicts of interest and apprehension of bias in its decision-making?

The panel asked five related questions regarding the Commission and its structure to help it collect industry input. Industry input from the five questions asked during the consultation meetings is summarized below.

### ***Trust***

Overall participants spoke to trust being a cornerstone for success/good relationships. Participants identified the need for regular communication and consultation between the Commission and the sector. Some indicated that the Commission should clarify its rules to avoid ambiguity and then consistently enforce them, both of which would lead to a higher level of confidence (there are too many grey areas). Similarly, prompt decision-making leads to greater confidence. Several participants noted the Commission is increasing its enforcement activities which they advised was a positive change. Confidence in the decision-maker encourages greater trust.

Some felt there are no trust problems while others indicated serious trust issues. Some stated that perception of bias/conflict of interest with Commission members contributes to a lack of trust. Concerns arise because of the actual structure of the Commission because more than one Commissioner markets through the same agency. This leads producers to question the fairness of decision-making because power becomes vested in an agency not the Commission. This could lead to systemic bias because Commissioners, without fully considering the effect of their actions, may make decisions that favour that one agency. Others say the unfairness arises because of the individuals who pursue outcomes favourable to the agencies they supply. Actual or perceived unfairness erodes trust.

### ***Commission decision-making***

Many participants felt the Commission generally makes good decisions and noted that the Commission operates in a tough decision-making environment. However, there were varying degrees of concern, some very strong, regarding perception of bias and conflict of interest improperly influencing decision-making. Some felt there is both systemic bias (institutional bias) and operational bias (individual bias) in the decisions the Commission makes.

A key issue for many participants was how long the Commission takes to make decisions – specifically on new entrant and delivery allocation applications.

### ***Use of panels and advisory committees in Commission decision-making***

Some felt that the recent use of panels and advisory committees help address perception of bias and conflict of interest issues with decision-making. Others were concerned that conflicted members may still inappropriately influence Commission decisions – such as through member roles on the advisory committees or through existing long-standing relationships operating outside of Commission meetings. Some noted confusion in the roles between the Commission (decision maker) and the advisory committees (providing information).

Several noted that advisory committees can introduce fresh insights and information to Commission decision making. Others commented that advisory committees had been used successfully in the past to inform Commission decision-making and the Commission should support and reinstate their use.

A key concern raised by many participants, about the reliance on panels was the ability of greenhouse members to make sound storage crop decisions and vice-versa, due to lack of knowledge of one sector in the other, despite advisory committee supports. One or two suggested knowledge deficits could also be addressed through panel's use of expertise retained under contract.

### ***Commission turnover***

Participants shared mixed views regarding the impact of a lack of Commission member turnover, and why positions go uncontested during elections.

Some felt that a lack of turnover is not an issue and that if members were not working in the best interest of the industry they would not continue to be nominated/elected by producers. Others spoke to a lack of turnover leading to complacency and used the terminology “old boys club” to describe continuing members. Many participants spoke to the value of having members who know the history of industry issues and have experience on the Commission, balanced with the need for fresh ideas and outlooks.

As for why positions go uncontested, input included:

- producers are busy and investing time in their farm businesses is a priority;
- new people/smaller farms/young people are not encouraged to seek nominations, and due to the hierarchical nature of the leadership in the sector, are concerned that if they seek nomination, they will be denied nomination or be characterized as insubordinate;
- there are more committees/boards than producers;
- the time commitment; and,
- larger agencies with the majority of voting producers reduce the opportunity for others to be voted for.

### ***Independent members***

All participants supported the addition of further independent member(s) to the Commission. Comments included the value of bringing new ideas, outlooks and skills to Commission decision making. Some observed that vegetable industry businesses have found benefit by adding independent members to their boards.

The main risk identified by participants was a lack of agriculture/industry knowledge negatively impacting Commission decision-making. Some raised the concern that it could be difficult to remove an independent member if there were issues. Others noted risk if the number of independent members was greater than industry members, resulting in the potential for independent members out voting industry members.

Proposed skills/knowledge/background important for an independent member included:

- marketing;
- retail;
- wholesale;
- governance;
- regulated marketing;
- fresh produce/perishable products;
- business; or,
- financial.

A couple of commenters estimated it would take a new independent member about a year to get up to speed. Some felt industry specific knowledge was not necessary as can come from staff/other members or hired expertise.

Generally, participants preferred industry having a role in appointing additional independent members; primarily to ensure usefulness and a good fit. Some supported government appointment, with input or referral from industry.

### ***Other***

Several participants felt the Commission was under-resourced, including staffing.

### ***Ideas***

Participants offered the following ideas:

- Increase Commission member diversity.
- Establish membership at 5-7 total members.
- Set term limits for Commission members/independent members (e.g. 2-3 years; maximum 4 years for independent members; 2 years with 3-year break between terms).
- Require representation from different sizes of growers on the Commission.
- Have representation from all agencies on the Commission or obtain that outcome by rotating members to represent each of the agencies.
- Remove the processor representative position.

### ***Ideas con't***

- Increase the number of greenhouse representatives on the Commission.
- Restrict member positions to growers who do not have agency ownership.
- Cap the percentage ownership members can have in related businesses.
- Remove all the current members and restructure the Commission.
- Restrict member positions to growers who do not have ownership in multiple related businesses.
- Structure so half the members are independents.
- Add 2 more additional independent members.
- 3 members appointed by government (1 Chair, 2 members) and elect 2 producer members.
- Require every producer to take a turn serving on the Commission.

## **Agency Accountability Framework**

The questions BCFIRB will answer with the help of industry input are:

1. What should an agency accountability framework include?
2. How should an agency accountability framework be used?

The panel asked three related questions regarding agency accountability to help it collect industry input. Industry input from the three questions asked during the consultation meetings is summarized below.

### ***Accountability***

Participants generally agreed that agencies need to be responsible and accountable. Some specified the need for accountability with both the industry and public. Communication and transparency were raised as keys for maximizing market penetration. Some noted there should be more agency reporting to the Commission and agencies should provide the Commission information about markets and opportunities.

Some participants expressed concern about reporting becoming onerous or an undue burden for agencies. Smaller agencies may not have the resources to comply with current Commission requirements.

### ***Reporting to producers***

The majority of producer participants expressed general satisfaction with the type and frequency of information provided to them by their agencies through regular documents, phone calls and annual meetings. One grower indicated that the communication was inadequate.

Many expressed the expectation for agencies to work with producers as markets change.

### ***Compliance reporting***

Most participants supported the concept of a Commission agency compliance report (compliance with Commission Orders). There was general support for making a compliance report public.

### ***Agency business structure***

The majority of participants reported that an agency's personnel and bylaws/policies were more important for agency success than any particular business structure. Some clearly supported corporate structures, others supported direct producer involvement. Many observed that co-ops are becoming rare.

### ***Other***

Some participants noted that agencies are not cooperating with each other. Some expressed concerns about a small number of agencies controlling the bulk of production. Producers will determine if agencies are accountable by choosing their agency. Some growers commented

that they hear few complaints from others about agencies. Agencies should be innovators, developing new products or specialty products capable of displacing imports. Each agency is distinct and compete based on relationships and on their particular business focus.

### ***Ideas***

Participants offered the following ideas:

- Agencies should report quarterly to the Commission (policy and obligatory responsibilities), with a separate report to public, supply chain and producers.
- Commission General Manager should attend the agency annual meetings.
- Reporting on imports is needed.
- Agency General Manager and the Commission Chair should review agency performance annually.
- Producers should have access to the minimum price sheets.
- The Commission should allow producers to ship to multiple agencies.
- The Commission should undertake better auditing of agencies and require better disclosure from agencies of prices.
- The Commission should ensure regular communication between agency managers and the Commission (e.g. Managers meeting 2X per year).

## Storage Crop Delivery Allocation

The questions BCFIRB will answer with the help of industry input are:

1. Is market access being managed effectively and strategically for storage crop producers through Delivery Allocation?
2. What, if any, changes are required to align Delivery Allocation rules and how it is managed with its intended purposes and meet the current needs of the industry?

The panel asked five related questions regarding storage crop delivery allocation to help it collect industry input. Industry input from the five questions asked during the consultation meetings is summarized below.

### ***Delivery Allocation (DA) purpose and effectiveness***

Most participants feel that DA is meeting its stated purposes. Some proposed there are areas that could be improved, particularly in relation to new entrants and new markets. Others noted that DA management may not be a central matter for smaller agencies.

General comments heard included:

- DA is a guide for producers/agencies as to how much to plant.
- DA does not guarantee sales.
- DA is not keeping up with demand.
- Some regions have markets for local product (e.g. Vancouver Island) that should be taken into consideration by the Commission.
- **Agencies manage the operational details of DA differently depending on their business policies.**

### ***DA Pros and Cons***

The panel heard general agreement that delivery allocation is useful and provides stability for producers. For example, preventing large volumes of product suddenly entering the market and impacting markets/prices. Participants explained DA allows for long-term planning, including cash flow, and in turn, assists with accessing bank loans. DA acts as a guide for producers on how much to plant. The rules provide opportunity for producers to increase DA over time if they take the risk of growing over 100% of their DA. Several participants commented that it is important to have an identified market for a “new” product.

A number of participants noted that DA does not guarantee a producer will be able to sell everything they plant, and producers must still focus on market demands. Agencies are responsible for managing DA and for building good relationships with purchasers by providing trusted, quality product.

Concerns identified by participants included:

- DA can be restrictive for producers when crop type and market demand changes;
- Rules for DA management and increases can benefit larger producers over new/smaller producers, DA was described by several respondents as an “old boys club”;
- **Managing DA by delivery periods favours larger, established farms and makes it difficult to balance market opportunities across all producers;**
- DA tells growers what to produce and removes motivation to increase orders;
- **Allowing DA to be privately sold or transferred between producers is not fair to all producers;**
- Growing in the shoulder seasons to build DA is not viable as it is too slow; and,
- DA does not work for starting new producers.

### ***New entrants***

Participants spoke in general favor of having new people entering the sector.

Views varied on whether the Commission should grant DA to new entrants. Some felt granting DA is important for ensuring continuation of the industry. Others felt there are adequate opportunities for those interested in growing regulated product to start earning DA by filling production/market gaps (e.g. shoulder seasons). Some spoke to farm succession being a success noting that if a farm is sold, it is sold as an operating farm. Others noted a lack of family succession and farms shutting down. There was an overall tension expressed about the amount of time it is taking the Commission to make decisions on new entrant DA applications. Several emphasized the need for effective, transparent and timely decision-making.

The panel heard from several people that anyone with a good business plan and the support of an agency or proof of a valid new market should be able to grow product. While some commenters indicated that new producers should not be able to grow large quantities and risk displacing those who have worked their way up through the system, others suggested that new growers should receive an incentive for growing into the shoulder seasons in the form of prime season allocation.

Barriers to entry for new producers in the regulated vegetable industry include Commission policies that favour existing producers. Building DA through shoulder season markets is not effective for new producers as these seasons are a higher risk for production, and success requires extensive up-front capital investment in storage and infrastructure. In addition, new producers holding produce to sell in the shoulder-seasons are more likely to suffer storage-related losses. It was also noted that the longer new entrants are restricted from entering the industry in a meaningful way, the more likely people are to turn to appeals and litigation.

### ***Other***

There is question as to whether production controls work when there are no import controls.

## ***Ideas***

- While the system should remain provincially based, there may be some case for consideration of regional markets needs, particularly with regards to new growers.
- Have separate DA's for export production (out of province) and domestic consumption.
- Producers/agencies should seek Commission permission before marketing over production (as per Commission Orders).
- Establish a timeline for Commission DA decisions.
- Consider what is an acceptable amount to overplant DA.
- Establish a DA bank for new entrants.
- Manage DA on the basis of quality, not on "first in time/first in right" and producer size.
- New producers should have priority delivery under DA.
- The system requires more flexibility in DA administration to allow market responsiveness.
- Include acreage in DA calculations, not just tonnage, **or replace tonnage with acreage.**
- **Unused DA should revert back to the Commission to be allocated through a fair process to a producer(s) who wants to grow more and could access the appropriate market.**
- **DA management needs to be an open and transparent system, managed centrally by the Commission.**

## **Additional Input**

Many participants voluntarily stated regulated marketing is working for producers and brings stability. With the relatively small size of BC's vegetable sector, it would be quickly overrun with US product without the regulatory system. A couple wondered if regulation itself restricted opportunities for growers and if it continued to meet industry and consumer needs.

A number of commenters expressed concern about increasing operating costs, but stagnant prices. Many indicated they struggled with today's regulatory burden from a number of sources connected with production and harvesting and others commented that consultations themselves were becoming burdensome. Some noted that consumers express resistance to regulation and perceived price fixing in the system. A few noted that the industry is becoming more litigious, generating additional risks and expenses, especially for the Commission.