

September 16, 2020

DELIVERED BY E-MAIL

BC Farm Industry Review Board
PO Box 9129 Stn. Prov. Govt.
Victoria BC, V8W 9B5

Attention: Wanda Gorsuch

RE: 2019-20 VEGETABLE SUPERVISORY REVIEW - CONSULTATION WITH THE BCVMC

Thank you for the opportunity to provide a written submission in response to the July 2020 Consultation document, the What We Heard summary document based on consultation meetings with industry members, and written submissions.

As stated under the purpose and scope of the July 2020 Consultation document, the BCFIRB initiated this Supervisory Review to support the BC Vegetable Marketing Commission (Commission) on its projects related to Commission Governance, Agencies, and Storage Crop industry policies and rules. These projects were initiated by the Commission with the vision that licensed participants and stakeholders of the regulated vegetable industry can be reasonably assured that the orderly marketing system in BC continues to operate with the best interests of the industry and the public in mind.

We would like to thank the BCFRIB for your commitment to assisting the vegetable industry in working on these projects that deal with fundamental components of the regulatory framework. The reality is that we have a system that has been built on trust, and heavily relies on trust to maintain orderly marketing. The underlying objective of these projects is to add clarity and transparency to the rules and policies that form the regulation, and develop a governance model and accountability framework that builds trust. We also need to acknowledge that the regulation also needs to continue to support a very competitive business environment where Agencies require significant flexibility and confidentiality in their business dealings. The regulations need to continue to support the delegation of authority to Agencies so that they remain competitive and can achieve the best possible returns for BC producers. Balancing regulation with flexibility can be achieved through the application of a strong accountability framework that is clear and concise on the regulatory expectations and the consequences of non-compliance.

We also wish to take this opportunity to express our appreciation to the Producers, Agencies, Wholesalers, Processors and other stakeholders that took the time to contribute to this review process. June through August is a very busy time of the year for the vegetable industry and we appreciate that you provided your perspective on the topics under review and the vegetable regulatory system in BC.

Response to Consultation Meeting Summary Information and Written Industry Submissions

It is not surprising that the consultations revealed support for the Commission from the majority of those that participated. The vegetable industry competes in a highly competitive market place and operates in a market environment where market dynamics change daily. This cannot be emphasized enough. Consolidation amongst retailers and the implementation of centralized purchasing systems have had a significant impact on the markets for BC grown vegetables. The five largest retailers control the majority of the retail space in western Canada. In the food-service sector, the two largest food service companies control the majority of the distribution of that sector. The BC industry has historically serviced both these segments of the market with regulated vegetables. This consolidation has increased the strength of buyers' bargaining power, placing price pressure on suppliers while impacting the industry's production and selling decisions to adopt higher quality of service and product that meets or exceeds a customer's expectations; in addition to satisfying requirements for new food safety and traceability regulations. The industry has become highly capital intensive and margins are continually being challenged.

We are fortunate to have the regulative authority to provide for the orderly marketing of BC grown vegetables. It allows for managed product flow to the market and the ability to stabilize pricing through the implementation of a minimum price (i.e.) currently applied on storage crops. The industry is stable, healthy, attracts capital investment, and producers are investing in growth. It is because there is regulation of the BC Vegetable industry that vegetable producers are attracted to producing regulated vegetables. The industry receives numerous inquiries annually from producers wanting to enter into the system. One only needs to look at the market dynamics on unregulated vegetables, risk on investment, and the long term viability of a business plan to service the unregulated vegetable market to see why producers are attracted to a regulated system. The question has also been asked of Commission staff why the Commission does not regulate more vegetables in the province. This inquiry of expanding the scope of vegetables regulated within BC is very much attainable once we address the topics under supervisory review.

It is also evident that we have some work to do. However, there are no surprises. Observations extracted from the feedback reveal that in order to restore trust we need to adjust the regulatory system to be more responsive and transparent, and better positioned to effectively manage bias while maintaining industry expertise in its decision making process. This in turn will ensure that our decision making is supported when under appeal with BCFRIB. It is a given that all actions taken to address these observations and adjustments made to the regulatory system need to be done in consideration of business interests that are to remain confidential. Noted observations from the consultation process include but are not limited to,

1. Clarity and transparency in decision making:

- Modernization of the system that includes providing greater clarity and transparency in decision making process and criteria.
- Decrease ambiguity in the Commission General Order and Policy.

- Independent Commission members and Advisory groups to broaden input on Commission decisions.

2. *Communication and Education:*

- Build upon an outreach program to educate and reaffirm with stakeholders their understanding on how regulation is applied and inform to address gaps.
- Implement a feedback loop that will assist us with evaluating performance.
- Enhance accessibility to the commission and engagement of stakeholders.
- Use of townhall discussions throughout the season with stakeholders.
- Draw from Advisory groups potential candidates for Commission members.
- Appoint agriculture industry stakeholders outside of the vegetable sector to the Advisory groups and/or the Commission members.

3. *Market Knowledge*

- There is a need for market knowledge and independent verification of information that can assist the Commission in making decisions.
- Market data, both qualitative and quantitative, ensures that we have ongoing insights necessary to support effective marketing of root crop, storage, and greenhouse products. The resulting market intelligence, reports and insights should result in practical recommendations that benefit the overall orderly marketing of regulated vegetables and assists the Commission in decision making. Reporting can evolve according to market needs but always focus on the accessible presentation and practical application of market intelligence.
- Focus on building stronger BC and Export market platforms.
- Support new product development with Agencies leading direction with their growers through seed and packaging development.

4. *Timely Decision-Making*

- New Entrants to the Storage Vegetable Crops - This has been an issue with the storage industry over the past year. In an effort to manage bias we adjusted our decision making process to rely on industry expertise through the use of appointed advisory groups. Multiple applications were received over the course of several months. A panel of the Commission was appointed and advisory groups were formed and consulted. When making decisions on granting new delivery allocation either as a new entrant or under PART XV of the General Order '*Marketing of "New" or Additional Regulated Product By Existing Agencies & Producer-Shippers*' the Commission needs to consider if a market exists for this product and how other Producers and Agencies will be impacted. Simply put, at an industry level, if the Commission grants delivery allocation it needs to identify if it comes at the expense of displacing market access by the equivalent amount for the group of producers that currently hold delivery allocation. With reference to the BCfresh submission *"the reality [is] that the industry is at market capacity in BC for most of the year with limited room for expansion. Exports, resulting in lower returns, are increasing. We understand that there are pressures to allow more producers into the system. The*

- question is, at whose expense?"* The Commission agrees that we need to accommodate new entrants but we also need to consider the market capacity and identify niche markets where expansion can be permitted.
- Grant new delivery allocation for Storage Vegetable Crops with a focus on timing increases to cover real demand gaps / import requirements during certain periods that does not displace like product from existing producers with delivery allocation and supports price stability.
 - The policy on New entrants and granting new delivery allocation is currently being reviewed.

Commission Structure and Governance

The written submissions provided numerous suggestions on how the Commission can restructure to make effective and strategic decisions and manage apprehension of bias in its decision making. For this submission the Commission reaffirms the supervisory panel that it is committed to restructuring to add independent Commissioners, and will consider the suggestions provided. The vision is to adopt a Commission structure that instills trust that decisions are made with access to industry expertise and are fair and objective. The Commission also wants to have a say in the appointment of qualified candidates.

Agency Accountability Framework

The vision for this project is to develop an Agency Governance Manual. The Commission has been actively progressing with this project over the past several weeks. Numerous meetings have been held with each of the three advisory groups to introduce the Agency Review Report and discuss the findings. The advisory groups have prioritized the following topics:

1. Agency Governance and Corporate Structure
2. Agency Requirements Framework which outlines the criteria for becoming and maintaining an Agency

Discussions are proceeding on both these topics and an independent facilitator has been retained to lead the discussion. This is a busy time of the year for producers and meetings need to accommodate producer schedules. With storage crop producers harvesting their crops for storage, the next meeting is to be scheduled by mid -October.

In building a Governance Framework for Agencies we need to acknowledge that it is not practical to assume that the Commission will take care of the regulatory and compliance needs of each Agency. The relationship needs to be viewed as a Subsidiary Governance Framework that lays out the roles and responsibilities of both the parent (Commission) and each subsidiary (Licensed Agency). Through these discussions with the Advisory Groups we want to explore ideas and best practice that ensure both downstream and upstream governance flows are robust and support compliance.

The Governance Framework is intended to achieve the following:

- Takes into consideration the existing BCVMC governance rules and regulations, and how they apply to the organization's entities – which are the Agencies.
- Provides for a clear understanding of the Commission's oversight, expectations, objectives, "risk appetite", and reporting requirements.
- Informs and assures the Agency's board of directors and stakeholders that the Agency is operating in compliance of the regulations and its responsibilities.
- The Agency completes internal audits as part of the governance framework.
- Create sound governance practices and promote best practice.
- Renewed focus on Agency and Producer ownership as being BC based.
- Requirements for clearly articulated business plans by Agencies and Producer submissions for expansion in supply.
- Maintains flexibility for producers to move to alternate Agencies. Access to producers to move to other Agencies has not been withheld by the Commission. Multiple Agencies have been established to provide producers with access to market and the flexibility to consider net grower return (NGR) alternatives based on Agency performance and the inclusion of exit clauses in GMAs.
- Overall - The framework has clearly assigned roles and responsibilities and is subject to checks and balances as well as regular audits of process.

Storage Crop Delivery Allocation

It can be difficult for some with familiarity in the supply managed system to set aside their bias towards that system in order to comprehend a system based on regulating access to a market. The Commission does not make decisions to approve planting in excess of delivery allocation. The Commission approves decisions to grant delivery allocation. Delivery allocation manages the flow of product to the market place.

Delivery allocation is a mechanism used to provide for orderly marketing in the storage crop segment. The fundamental principle of delivery allocation is to make it possible for fair and equitable sharing of market access amongst all producers. It is also used to coordinate the expansion and contraction of supply and the movement of product to the market. The benefit to producers is the assurance that their market access is secured, predictable, and coordinated with all producers of the regulated vegetable. It controls market access of regulated storage crop vegetables.

Designated agencies are responsible for managing the delivery allocation of each of their Producers. Growth ambitions of any particular designated agency must take into account the collective view of market growth and expansion opportunities. This is achieved by requiring designated agencies to apply for additional delivery allocation under PART XV of the

Commission's General Order. No agency is permitted to ship in excess of the aggregate delivery allocation held by its producers unless authorized by the Commission.

The vision is to add clarity to the rules in the General Order that address Access to the Market by Storage Crop Agencies. It has been suggested that rules specific to planting intentions and acceptable sleeves to account for yield variance should be considered. Discussions are preliminary and have yet to be introduced to the Advisory Groups. The intention is to further clarify and define the aggregate delivery allocation that an Agency is licensed to market, and set consequences that define marketing costs and losses charges that can be imposed on a producer and its Agency if they ship in excess of this authorized market access.

An administrative policy has been drafted and applied to manage market access of competing storage crop Agencies for the 2020 crop year as we continue discussions on the topic.

Yours truly,

A handwritten signature in black ink, appearing to read "Andre Solymosi", written over a horizontal line.

Andre Solymosi, General Manager

A handwritten signature in black ink, appearing to read "Debbie Etsell", written over a horizontal line.

Debbie Etsell, Chair