

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

IN THE MATTER OF THE *NATURAL PRODUCTS MARKETING (BC) ACT* AND  
BC Chicken Marketing Board Interim Pricing Formula Weight Class Amendment Prior  
Approval Starting Period A-178

August 24, 2022

## Decision Summary

1. The Panel approves the following amendment to the existing interim formula starting in A-178 until BCFIRB approves the BC Chicken Marketing Board's (Chicken Board) long-term formula, or directs otherwise:
  - a. The Ontario live price weight category input of 2.45kg - 2.65kg is replaced by the Ontario live weight price category input of 2.15kg - 2.45kg.

## Introduction

2. In March 2020, the BC Farm Industry Review Board (BCFIRB) established a Chicken Sector Pricing Supervisory Review Panel (the Panel) to address the Broiler Hatching Egg Commission's (Commission) notice to exit the price linkage agreement and any related supervisory matters the Panel deemed necessary.
3. In April 2020, given the Chicken Board's failure to issue a decision on a long-term pricing formula after it was granted two deadline extensions and the inter-connected nature of broiler hatching egg and chicken pricing, the Panel decided to include the outstanding long-term chicken pricing formula<sup>1</sup> as a related supervisory matter.
4. A full chronology of events leading to the Chicken Sector Pricing Supervisory Review is detailed in the Panel's supervisory decision of July 3, 2020, entitled "Interim Pricing in the BC Chicken Sector" (Interim Decision). That chronology will not be repeated here.
5. In the Interim Decision, the Panel made the following interim order to support industry stability and orderly marketing while discussions for a long-term pricing formula continued (Interim Order):
  44. The Chicken Board and the Commission are directed not to change any aspect of the current pricing structures as defined in this decision, unless by the way of BCFIRB prior approval or until such time as BCFIRB determines otherwise.
  45. The Commission and the Chicken Board are directed not to exit the price linkage agreement without BCFIRB prior approval.
6. In the summer of 2021, the Panel reviewed the Interim Order and the state of industry stability at that time. After consultation with the Chicken Board, the Commission and stakeholders, the Panel decided on August 20, 2021, that it would not be amending or rescinding the Interim Order.

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<sup>1</sup> The June 2018 Chicken Board interim formula was appealed by the Primary Poultry Processors Association of BC (PPPABC) and the BC Chicken Growers Association (BCCGA), which proceeded to hearing in late 2018. In its May 16, 2019 decision, the BCFIRB appeal panel directed the Chicken Board to issue a decision on a long-term pricing formula no later than January 2020.

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7. On January 20, 2022, the Chicken Board sought the Panel's prior approval to amend the interim pricing formula, commencing in production period A-174 (January 16, 2022 to March 12, 2022).
8. On January 27, 2022, the Panel decided not to approve the Chicken Board's proposed amendment based on insufficient data. However, the Panel did not preclude the Chicken Board from seeking approval to amend the interim price formula for future production periods.
9. On February 25, 2022, the Chicken Board sought the Panel's prior approval to amend the interim pricing formula, commencing in production period A-175 (March 13, 2022 to May 7, 2022). The Chicken Board recommended that the interim formula include a provision to cover 50% of the formula costs exceeding the upper guardrail. The purpose was to address the recent wheat/corn price differential<sup>2</sup> which had resulted in escalating feed price pressures on growers.
10. On March 4, 2022, further to the Chicken Sector Pricing Supervisory Review process, the Chicken Board submitted its Final Pricing Proposal to the Panel seeking prior approval of its cost-based formula development plan. The Broiler Hatching Egg Commission (Commission) also submitted its final long-term pricing recommendations.
11. On March 9, 2022, the Panel approved the Chicken Board's recommendation for two production periods (A-175 and A-176) with one change and on one condition. The provision to cover 50% of the current formula costs exceeding the upper guardrail was to be calculated after adjustment for the cumulative increase or decrease in Ontario grower margins arising from changes to the Ontario Cost of Production formula (COPF) starting in A-175. The Panel instructed the Chicken Board to provide a clear description of how the interim pricing formula would be applied for periods A-175 and A-176 to BCFIRB and supply chain members. The Panel did not preclude the Chicken Board from seeking approval to amend the interim price formula for future production periods.
12. On April 26, 2022, the Chicken Board sent an email to stakeholders stating it intended to seek removal of the Panel adjustment to the 50% top-up provision<sup>3</sup>.
13. On June 10, 2022, the Chicken Board recommended that the interim formula continue to include a provision to cover 50% of the formula costs exceeding the

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<sup>2</sup> BC broiler rations are wheat-based; Ontario's are corn-based. Traditionally, the prices of wheat and corn have moved in tandem. During the summer of 2020, drought in the Prairies significantly reduced Canada's domestic wheat supply. The war in Ukraine has exacerbated global supply chain problems, creating a widening price gap between the prices of wheat and corn broiler rations. Because BC's price is based on Ontario, BC growers have faced unusually high feed prices that are not fully reflected in the BC pricing formula.

<sup>3</sup> The provision to cover 50% of the current formula costs exceeding the upper guardrail to be calculated after adjustment for the cumulative increase or decrease in Ontario grower margins arising from changes to the Ontario Cost of Production formula (COPF) starting in A-175.

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upper guardrail; that the Panel's Ontario Margin adjustment to this top-up provision be removed; and that the weight category on which the BC liveweight price is based be changed. On June 28, 2022 the Panel approved the Chicken Board's guardrail-related recommendations, with some limitations and committed to providing a decision on the weight class recommendation before the start of A-178 (August 28, 2022).

### Issue

14. Does the Chicken Board's recommended weight class amendment from 2.45kg - 2.65kg to 2.15kg - 2.45kg in its interim pricing formula accord with sound marketing policy?

### Legal Authorities

15. Under s. 7.1 of the *Natural Products Marketing (BC) Act (NPMA)*, BCFIRB is responsible for the general supervision of all marketing boards and commissions in the province, including the Chicken Board. Section 7.1(2) of the *NPMA* provides for this supervisory authority to be exercised "at any time, with or without a hearing, and in the manner [BCFIRB] considers appropriate to the circumstances".
16. Under s. 9 of the *NPMA*, BCFIRB "has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined by [BCFIRB] under [the *NPMA*]".
17. The Chicken Board has the authority to regulate the price of regulated products under s. 4.01(g) of the BC Chicken Marketing Scheme.

### Process Summary

18. On July 8, 2022 the Panel requested further information from the Chicken Board on the weight class recommendation. A response was received on July 18, 2022. At an August 3, 2022 meeting between the Panel and the Chicken Board, the weight class recommendation was discussed and the Panel asked the Chicken Board to provide additional information in writing. A response was received on August 15, 2022. The Chicken Board subsequently issued a correction to its August 15 information on August 16, 2022.
19. Following receipt of the Chicken Board's submissions and the August 3, 2022 meeting, the Panel determined it did not require further information from stakeholders.

### Analysis

20. In its June 28, 2022 decision, the Panel was not prepared to approve the Chicken Board's weight class change recommendation from 2.45kg - 2.65kg to 2.15kg - 2.45kg for the following reason:

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25. Given the concerns expressed by BCCGA and PPPABC, it is unclear to the Panel how it is possible to find a balanced solution to interim pricing tensions by, as the Chicken Board requests, decreasing minimum liveweight price \$0.02/kg through dropping the weight class basis while, at the same time, including a provision to increase minimum liveweight price by returning to growers over-guardrail losses due to a wheat/corn price disparity that may or may not continue in the future. The recommendation itself is not accompanied by meaningful analysis by the Chicken Board, nor accountable arguments from PPPABC and BCCGA for or against such a recommendation.
21. The Chicken Board reports it considered a number of options to balance fair returns to efficient growers with processor competitiveness in a rapidly increasing high-cost operating environment: status quo; “sharing” the Ontario Grower Margin increase (A-175); changing the guardrails; replacing the current interim formula with an interim fixed differential formula; changing the BC feed conversion ratio; and, changing the weight class. It concluded changing the Ontario weight class used in its interim formula to 2.15kg – 2.45kg fulfills the SAFETI<sup>4</sup> principles.
22. The change would make the weight class consistent with the largest proportion of BC chicken production (approximately 38% in A-175) and decrease the live price by \$0.02/kg. In the Chicken Board’s view, while processor competitiveness should not be measured on the basis of live price alone, the price decrease will better position the processors in relation to Ontario.
23. Regarding growers, the Chicken Board notes that the addition of 50% of cost recovery over the upper guardrail, currently approved by the Panel through to A 179 (starting October 23, 2022) would relieve some of the financial impact on growers arising from the weight class change. It calculates that the weight class change would be approximately equal to 1% of grower revenues.
24. The Panel continues to acknowledge the previously expressed positions of the Primary Poultry Processors Association of BC (PPPABC) and the BC Chicken Growers Association (BCCGA) that, while both parties agreed to the change in weight class earlier during this supervisory review, changing the weight class now would no longer properly balance their business interests.
25. In summary, PPPABC’s position was any improvement for processors from the weight class change would be offset by several other factors and they would be better served by an update to the feed conversion ratio in the interim formula. The Panel disagrees with the PPPABC’s argument that a corresponding decrease to the guardrails would be required for a weight class change to have any effect. The Panel agrees with the Chicken Board that it is more strategic and accountable to address the feed conversion ratio as part of the long-term formula.
26. In summary, BCCGA’s position was the weight class change would put growers at further financial risk. The Panel agrees with the Chicken Board’s argument that the

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<sup>4</sup> Strategic Accountable Fair Effective Transparent Inclusive

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floating upper guardrail (50% over guardrail allowance) provides a reasonable balance and there would be minimal impact to grower revenue through to period A-179 which commences October 23, 2022. The Panel will take this into consideration should the Chicken Board request the floating upper guardrail be extended beyond A-179.

27. As per its June 28 decision, the Panel continues to agree with the Chicken Board and the PPPABC that an interim price balance needs to be found between the business interests of growers and processors in these exceptional circumstances. The Panel notes interim pricing decisions are further complicated by the lack of data from either processors or growers on any premiums paid to growers over and above the minimum price set by the Chicken Board. It will continue to be extremely challenging to balance grower and processor interests in a transparent, accountable manner until a long-term pricing formula and measures of fair returns for efficient growers, and processor competitiveness are in place

**Decision**

28. The Panel approves the following amendment to the existing interim formula starting in A-178 until BCFIRB approves the Chicken Board's long-term formula, or directs otherwise:
  - a. The Ontario live price weight category input of 2.45kg - 2.65kg is replaced by the Ontario live weight price category input of 2.15kg - 2.45kg.
29. The Chicken Board is not precluded from submitting further requests to BCFIRB for prior approval to amend the interim pricing formula for future production periods.

In accordance with s. 57 of the *Administrative Tribunals Act*, "an application for judicial review of a final decision of (BCFIRB) must be commenced within 60 days of the date the decision is issued."

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Dated at Victoria, British Columbia, this 24<sup>th</sup> day of August, 2022.



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Peter Donkers  
**Chair, Chicken Sector Pricing Review Panel**



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Al Sakalauskas  
**Member, Chicken Sector Pricing Review Panel**