

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

IN THE MATTER OF THE *NATURAL PRODUCTS MARKETING (BC) ACT* AND  
BC Chicken Marketing Board Interim Pricing Formula Amendment Prior Approval  
Period A-181

February 7, 2023

## Decision Summary

1. For period A-181 the Chicken Board interim formula is amended to include the following floating upper guardrail:  
  
A provision to cover 50% of the current formula costs exceeding the upper guardrail after adjustment for the cumulative increase in Ontario grower margins arising from changes to the Ontario Cost of Production Formula (COPF) starting in A-180. If the resulting number is negative, no adjustment will be made to live weight price.
2. The Chicken Board is directed to work with the BCFIRB Pricing Liaison and in consultation with the Primary Poultry Processors of BC (PPPABC) and the BC Chicken Growers Association (BCCGA) to establish a wheat-corn price differential trigger for the provision set out above.
3. If the Panel is satisfied with the trigger, it is prepared to approve amending the interim pricing formula to include the provision above for A-182 and for subsequent pricing periods until the long-term pricing formula is approved.
4. 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.

## Introduction

5. In March 2020, 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.
6. 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 interconnected 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.
7. 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.

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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.

British Columbia Farm Industry Review Board  
Prior Approval Chicken Interim Pricing Formula  
February 7, 2023

8. 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.
9. 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.
10. 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).
11. On January 27, 2022, the Panel decided not to approve the Chicken Board's proposed amendment concluding insufficient data had been provided. However, the Panel did not preclude the Chicken Board from seeking approval to amend the interim price formula for future production periods.
12. 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.
13. 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 Commission also submitted its final long-term pricing recommendations.
14. 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

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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-based broiler rations. Because BC's price is based on Ontario, BC growers have faced unusually high feed prices that are not fully captured by the BC pricing formula.

British Columbia Farm Industry Review Board  
Prior Approval Chicken Interim Pricing Formula  
February 7, 2023

guardrail was to be calculated after adjustment for (deduction of) the cumulative increase in Ontario grower margins arising from changes to the COPF starting in A-175.

15. 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.
16. 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>.
17. On June 10, 2022, the Chicken Board sought the Panel's prior approval to amend the interim pricing formula. The Chicken Board recommended that the interim formula continue to include a provision to cover 50% of the formula costs exceeding the upper guardrail; that the Panel's adjustment to this top-up provision be removed; and that the weight category on which the BC liveweight price was based be changed to align with Ontario. The Chicken Board proposed implementing these changes beginning with allocation period A-177 (July 3, 2022) and that the amendments remain in place until such time the Chicken Board implements a "long-term BC Cost-Recovery model".
18. On June 28, 2022, the Panel approved the Chicken Board's recommendation that the interim formula continue to include a provision to cover 50% of formula costs exceeding the upper guardrail for three production periods, starting in A-177 (July 3, 2022) and ending in A-179 (ends December 17, 2022). On August 24, 2022, the Panel approved the Chicken Board's recommendation that the weight category on which the BC liveweight price was based be changed to align with Ontario starting in period A-178 until BCFIRB approves the Chicken Board's long-term formula or directs otherwise.
19. On November 18, 2022, the Chicken Board recommended that the provision to cover 50% of interim formula costs exceeding the upper guardrail be extended from A-180 (starting December 18, 2022) until the Chicken Board's long-term pricing formula is in place or until otherwise directed by BCFIRB. The Panel approved the interim formula amendment for A-180 only and encouraged the Chicken Board explore, with PPPABC and BCCGA, how to determine a verifiable "normal" versus "extraordinary" feed price differential.

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

British Columbia Farm Industry Review Board  
Prior Approval Chicken Interim Pricing Formula  
February 7, 2023

20. The Panel received the Chicken Board's January 24, 2023 recommendation that the provision to cover 50% of interim formula costs exceeding the upper guardrail after first deducting any cumulative increase in Ontario producer margins starting in A-180 be extended from A-180 through to A-182.

### **Issue**

21. Does the Chicken Board's recommended amendment to its interim pricing formula for A-181 and A-182 accord with sound marketing policy?

### **Legal Authorities**

22. 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".
23. 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*]".
24. 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**

25. The Chicken Board sent its interim formula recommendation to its Pricing and Production Advisory Committee (PPAC) on January 13, 2023, copying BCFIRB. The Chicken Board asked for PPAC's feedback.
26. On January 20, 2023, both the BCCGA and the PPPABC responded to the Chicken Board Executive Director in writing. Both submissions were copied to BCFIRB.
27. To the Panel's knowledge, a PPAC meeting was not held, nor did the Chicken Board receive a PPAC recommendation in addition to the separate PPAC member submissions.

### **Analysis**

28. In its PPAC member submission, the BCCGA supports the Chicken Board's recommendation to continue with the provision to cover 50% of interim formula costs exceeding the upper guardrail. It also requests two further amendments:

British Columbia Farm Industry Review Board  
Prior Approval Chicken Interim Pricing Formula  
February 7, 2023

- a. no deduction be made for any cumulative increase in Ontario grower margins beginning in period A-180; and,
  - b. increase the minimum live price by two cents.
29. The BCCGA disagrees with the margin adjustment, arguing that grower operational and capital costs (excluding feed and chick) have continued to increase. It notes any changes to the Ontario margin do not impact processor competitiveness because all provinces price based on the COPF price. BCCGA reports that data being collected as part of the on-going long-term formula cost of production survey work shows that the current formula's feed conversion ratio is resulting in understated feed costs. In closing, it asks for an additional two cents be added to the minimum live price to "return the 2 cent reduction to growers resulting from the changes to the Ontario weight category".
30. The PPPABC did not expressly state in its PPAC submission if it supports or opposes the Chicken Board's recommendation. However, based on PPPABC's submission, the Panel understands PPPABC is opposed to the Chicken Board's recommendation. PPPABC argues the Chicken Board has yet to effectively grapple with how changes to the Ontario COPF in A-169 have impacted the live price and the operation of the formula's guardrails. In relation to the deduction of any Ontario margin increase from over-guardrail feed and chick costs before calculating the 50% over-guardrail addition to the live weight price, it states that "sharing certain cost issues on a 50/50 basis" does not come "close to offsetting the benefits that have flowed to the growers" from the A-169 Ontario COPF changes. In closing it states that it has provided all relevant data needed for the Chicken Board to fairly adjudicate the issues and information.
31. The Panel continues to agree with the Chicken Board that, until there is verified data, the Chicken Board is limited on how much weight it can give to the feed conversion ratio in its interim pricing decision-making. This applies to both the BCCGA's January 20 PPAC submission and previous arguments made by the PPPABC.
32. With respect to the deduction of any Ontario grower margin increase, the Panel also agrees with the Chicken Board and the BCCGA that grower margin increases arising from any changes to the Ontario COPF will not negatively impact processor competitiveness. Since all provincial chicken boards set their price based on Ontario, all provincial prices will increase concurrently. The deduction recognizes that, when the BC minimum price increases due to an increase in Ontario margin, it helps BC growers mitigate the increase in feed cost. The Panel notes the Chicken Board does not recommend removing the adjustment for any cumulative increase in Ontario grower margins arising from changes to the Ontario COPF as requested by BCCGA. The Panel is not prepared to consider removing the adjustment without a rationale and recommendation from the Chicken Board.

British Columbia Farm Industry Review Board  
Prior Approval Chicken Interim Pricing Formula  
February 7, 2023

33. As pointed out by the Chicken Board, the Panel addressed the matter of the weight class change and resulting decrease in the minimum live price in its August 24, 2022 decision. The Panel is not prepared to revisit its direction at this time. Nor is it prepared to consider a two-cent increase to the minimum live price on the basis of the weight class change in the absence of a rationale and recommendation from the Chicken Board.
34. The Chicken Board's primary rationale for its recommended interim formula amendment is that while the wheat-corn price differential appears to be closing, the future is uncertain. As per previous submissions, its position is that once the wheat-corn differential normalizes, the provision to cover 50% of interim formula costs exceeding the upper guardrail would not be triggered because the upper guardrail would not be reached. Hence, the Chicken Board argues, the Panel should approve the 50% over the upper guardrail amendment because it would only be triggered if the wheat-corn differential continues to be extraordinary for A-181 and A-182.
35. The Panel disagrees with the Chicken Board's analysis and conclusion. The BC live weight formula price has consistently exceeded (and therefore been capped by) the upper guardrail starting in period A-169 (April 2021). This occurred as a result of changes to the Ontario COPF in A-169 that had the effect of lowering Ontario feed costs, and hence widening the feed cost gap between BC and Ontario. It was only when the price gap between wheat and corn-based broiler rations began to increase above historic levels in the fall of 2021, that Chicken Board recommended the Panel amend the interim formula to reflect an extraordinary wheat-corn differential starting in A-174 (January 2022).
36. In the Panel's view, it is reasonable to assume that if the 50% upper guardrail amendment remains in place, it is likely to be triggered in most, if not every, pricing period regardless of whether the wheat-corn differential is "extraordinary".
37. The Chicken Board does not take issue with the Panel's observation in its December 2022 decision of the need to explore a verifiable "normal" versus "extraordinary" feed price differential trigger for the 50% upper guardrail amendment. However, it points out that with the change in Chicken Board membership, the holiday season, Avian Influenza and tight timelines, those discussions have not occurred. A meeting is scheduled between the Chicken Board and PPPABC on February 6, 2023 which the Chicken Board is hopeful will assist in future productive conversations on pricing.

British Columbia Farm Industry Review Board  
Prior Approval Chicken Interim Pricing Formula  
February 7, 2023

38. The BCFIRB Liaison informed the Panel that the Chicken Board hopes to have a long-term formula recommendation for BCFIRB's approval by April/May 2023. If this was the case, there would be limited value in pursuing an interim formula trigger for extraordinary feed costs. However, given the outstanding questions yet to be resolved with the long-term pricing formula (e.g. how to account for efficiency, regional production costs, metrics for processor competitiveness), it may be several pricing periods before a long-term formula is approved.
39. In the interests of enabling the Chicken Board, BCCGA and PPPABC to focus on developing a long-term pricing formula, the Panel finds development of an accountable "extraordinary wheat-corn differential" trigger for the provision to cover 50% of interim formula costs exceeding the upper guardrail is strategic and effective.

### Decision

40. For period A-181 the Chicken Board interim formula is amended to include the following floating upper guardrail:

A provision to cover 50% of the current formula costs exceeding the upper guardrail after adjustment for the cumulative increase in Ontario grower margins arising from changes to the Ontario Cost of Production formula (COPF) starting in A-180.<sup>4</sup> If the resulting number is negative, no adjustment will be made to live weight price.

41. The Chicken Board is directed to work with the BCFIRB Pricing Liaison and in consultation with PPPABC and BCCGA to establish a wheat-corn price differential trigger for the provision set out in paragraph 38.
42. If the Panel is satisfied with the trigger, it is prepared to approve amending the interim pricing formula to include the provision in paragraph 38 for A-182 and for subsequent pricing periods until the long-term pricing formula is approved.

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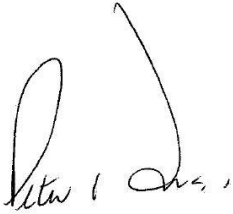
<sup>4</sup> For example, if in period A-181 the BC formula price (Ontario adjusted plus 75% of the BC-ON differential in feed and chick costs) exceeded the upper guardrail by – hypothetically - 6¢/kg, a floating guardrail would add half this amount (3¢/kg) back to the BC liveweight price (in effect increasing the guardrail by 3¢). With the BCFIRB amendment in place, if in the same pricing period the Ontario grower margin increased by – hypothetically – 2¢/kg, then this amount would be deducted from the over-guardrail amount before adding 50% of that number to the liveweight price. In the above example, the BCFIRB amendment to the floating guardrail calculation would have the effect of increasing the guardrail by 2¢/kg (not 3¢/kg), adding 2¢/kg (not 3¢/kg) to the BC liveweight price (6¢/kg – 2¢/kg = 4¢/kg \* 50% = 2¢/kg).



British Columbia Farm Industry Review Board  
Prior Approval Chicken Interim Pricing Formula  
February 7, 2023

43. 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.

Dated at Victoria, British Columbia, this 7<sup>th</sup> day of February, 2023.



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



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