



April 23, 2021

**VIA EMAIL**

British Columbia Farm Industry Review Board  
PO Box 9129 Stn Prov Govt  
Victoria BC V8W 9B5  
Attention: Kirsten Pedersen

**Re: Long Term Chicken Sector Pricing Review – Further Procedural Concerns**

The Primary Poultry Processors Association of British Columbia (PPPABC) writes to express its concerns about the Chicken Sector Pricing Review (Review) process and the conduct of the British Columbia Chicken Marketing Board (BCCMB) and the British Columbia Broiler Hatching Egg Commission (BCBHEC).

It has been well over a year since the PPPABC's appeal N1911, challenging the BCBHEC's decision to leave the linkage which ultimately led the BC Farm Industry Review Board (BCFIRB) to set up the Chicken Sector Pricing Review. A primary purpose of the Price Working Group and Chicken Sector Pricing Review was to define the two policy objectives in setting the live price of chicken: "reasonable returns to chicken growers and hatching egg producers" and "processor competitiveness in the Canadian market for chicken".<sup>1</sup> Unfortunately, despite significant efforts by the PPPABC, we have yet to see any substantive results from the BCCMB on how they are assessing and measuring these two concepts. Without a clear understanding by the parties of how these concepts are being assessed and measured, the BCCMB will be unable to put forward a sound and acceptable pricing model.

In advance of the BCCMB's reveal of its pricing recommendations, the PPPABC has no insight into how the BCCMB has assessed or has used submissions to draw conclusions on processor competitiveness and grower returns. To the extent that the BCCMB has entered into dialogue with the PPPABC, the dialogue has been superficial, with no indication that BCCMB directors have thoroughly reviewed or even understood our submissions.

It has become clear that the BCCMB and BCBHEC are not committed to an open and transparent process in this review as they have not shared any of their thinking on the core issues of processor competitiveness and grower returns. This leads us to conclude that both the BCCMB and the BCBHEC appear to be working towards pre-determined outcomes that continue the pattern of increasing grower returns at the expense of processor competitiveness. The PPPABC has spent considerable time, money, and effort bring forward fact-based information and has consistently tried to engage the boards on issues relating to the policy objectives. The responses received from the BCCMB fail to grapple with the key issues raised by the PPPABC, or there has been simply no response at all. As a result, the PPPABC has lost confidence in the BCCMB and BCBHEC to manage the Chicken Sector Pricing Review effectively and fairly.

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<sup>1</sup> BC Chicken Marketing Board/BC Broiler Hatching Egg Commission, Long Term Chicken Sector Pricing Review Process, Terms of Reference - October 28, 2020, P.1

Given the importance of any long-term pricing decision to the interests of the PPPABC, the PPPABC reserves the right to seek an oral hearing in front of the supervisory panel, along with the right to make submissions, adduce evidence, and cross-examine witnesses.

### **Intent of the Long Term Chicken Sector Pricing Review**

The October 28, 2020 Terms of Reference for the Chicken Sector Pricing Review Process were intended to establish a process by which the boards would reach “SAFETI reviewed, evidence-based decisions” for a long-term pricing structure in British Columbia. The boards were to engage stakeholders throughout this process. There was to be “full and complete transparency” in the process, as evidenced by the appointment of a Review Liaison to report to the BCFIRB and parties. The Terms of Reference envisioned a “Stakeholder Engagement Strategy” that would “enable meaningful dialogue, opportunity for input and response to all matters relating to the Review”.

Despite the best efforts of Wendy Holm, as Review Liaison, in trying to bring openness, transparency and meaningful dialogue to the process, the actions of the BCCMB and BCBHEC have undermined the intent of the process and potentially biased the outcome of the Chicken Sector Pricing Review. In previous correspondence, the PPPABC has noted the BCBHEC’s single-minded goal to implement a cost of production formula (COPF). The BCBHEC has continued to demonstrate its pre-determined intention to implement a COPF for hatching egg producers with no regard for its impact on the health of the industry. As a result, the BC Chicken Growers Association (BCCGA) have decided to disregard the work done by the Price Working Group (PWG) to pursue their own COPF. The intent of the review has now become lost as the lack of transparency in the process now has individual agendas superseding industry objectives.

Despite our concerns and frustrations with both boards, this letter will focus primarily on the actions of the BCCMB.

### **Information and Data Submitted by the PPPABC**

In the BCFIRB’s May 16, 2019 appeal decision, the BCFIRB identified several topics about which it sought more data from the PPPABC. Although the PPPABC disagreed with the results of the appeal decision, the PPPABC has done its best to participate in the subsequent processes to reach a competitive long-term pricing formula.

Going into the Chicken Sector Pricing Review, the PPPABC has put considerable time, effort, and money to fill the perceived data gaps. This was done to the fullest extent possible, given that the members of the PPPABC are competitors with each other and with processors from Central Canada which makes some information difficult to ascertain. As the BCFIRB and boards are well aware, the PPPABC faces structural challenges in its ability to present sensitive and confidential information relating to processor competitiveness that could be damaging to individual businesses, the industry as a whole, or both.

Despite these challenges, throughout the Chicken Sector Pricing Review, the PPPABC found creative ways to put forward data, information and metrics that measure processor competitiveness. The PPPABC provided the boards with significant data and information to support the PPPABC’s position, including but not limited to:

- An overview of the British Columbia chicken market current market dynamics (December 11, 2020);

- Submissions to the BCCMB on advantages and disadvantages for Ontario processors based on the Central Canada processing structure (January 28, 2021);
- *Market Submissions – List of Outstanding Questions and Concerns* (January 6, 2021), critiquing the BCCGA's *Costs and Returns in BC Chicken Marketing* report, which was written with a strong Central Canadian bias;
- A February 12, 2021 critique of the British Columbia Chicken Growers' Association's (BCCGA) submissions in *Live Chicken Pricing in BC: An Evaluation*, which were written based almost exclusively on the industry in Central Canada;
- Submissions on processor competitiveness, which included confidential processor data that compared operating cost of processors in Central Canada to those in BC (February 18, 2021 and March 9, 2021);
- Submissions on *Fixed Price Differential and Assurance of Supply* (March 29, 2021);
- Response to *Questions on Processor Competitiveness* (March 28, 2021), and *Processor Competitiveness Comparison* (March 31, 2021);
- Submissions on our *Grower Return Model* and our process concerns with the Chicken Sector Pricing Review (March 29, 2021); and
- A submission to deal with changes to the Ontario COPF and potential issues with *A-169 Live Pricing* (March 4, 2021).

The PPPABC has in good faith put forward robust and detailed information and data to assist the BCCMB in support of defining metrics and measuring the policy objectives. The PPPABC material presented is all fact-based using actual processor and producer data and does not rely on theoretical models, unlike the Serecon COPF.

The PPPABC made several attempts to ensure that the data and information presented were relevant and understood by the BCCMB, in addition to requesting that information gaps be identified. The PPPABC has asked the BCCMB on numerous occasions to provide their assumptions and conclusions - based on the submissions received to ensure a common stakeholder perspective and understanding and to frame further submissions. There has been no response to this request.

### **Failure of BCCMB to Engage with Issues Raised by the PPPABC**

Despite the extensive data and information that the PPPABC has provided to the BCCMB, the BCCMB has failed to effectively engage and enter into a meaningful dialogue with the PPPABC on the policy objectives and the pricing issues facing the British Columbia chicken industry. Significantly, the PPPABC has presented the BCCMB with extensive information and data to define and measure the metrics for reasonable grower returns and processor competitiveness. While the BCCMB agreed to definitions for the policy objectives, they have not provided any substantive feedback on the metrics and the process that will be used to measure these metrics. This failure on the part of the BCCMB has left PPPABC in the dark as to whether its data and information is relevant and meets expectations or if there are gaps that need to be filled.

On the occasions where the BCCMB has engaged and made comments, it is clear that they have reviewed the PPPABC's submissions with bias. Rather than trying to understand the data and information, the BCCMB's comments come predominantly from a grower perspective, as opposed to an industry perspective. The BCCMB is focused more on tearing down the information, rather than looking at how it can be used to support or dispel aspects of the two policy objectives. The BCCMB appears to be focused on reaching a pre-determined outcome, ignoring or discounting data that does not accord with its vision for live pricing in British Columbia.

### **(1) British Columbia as Net Importer of Chicken**

One example of this is the BCCMB's handling of the question of whether British Columbia is a net importer or net exporter. The data clearly shows that British Columbia is a net importer of chicken. The BCCGA tried to argue the opposite, taking the position that British Columbia is a net exporter of chicken. It turned out that there were significant gaps and discrepancies in the BCCGA's data. After much discussion, the Review Liaison was able to assist in resolving the clear issues with the BCCGA's data. This was reflected in the January 5, 2021 Roundtable minutes which confirmed, "Based on the revised set of assumptions, i.e., inclusion/exclusion of specialty production, TRQ and fowl, the analysis showed BC being a net importer of chicken".<sup>2</sup>

Despite this work and understanding by the parties, at a March 25, 2021 meeting with the PPPABC, the BCCMB commented, "BC is both a net importer and exporter of chicken, depending on which numbers you use". It is unfathomable, this far into the Chicken Sector Pricing Review, how the BCCMB could make this statement about a fundamental aspect of the review that had actually been resolved. As a first instance regulator and as a matter of sound marketing, the BCCMB should have a clear, evidence-based position on this key issue. Instead, the BCCMB, for unknown reasons, seems to be creating a false equivalence between the BCCGA's flawed data and the PPPABC's verified data.

### **(2) PPPABC Definition and Metrics of Grower Returns**

To support the definition and metrics of Grower Returns, the PPPABC retained an independent third party to build a robust interactive model that represented actual cash flows that an existing grower would experience on their farm. It should be noted that this is the same type of cash flow model that growers would need to submit to the banks when faced with needing capital to finance barn replacement. This model was used to provide our recommendation on how the BCCMB should define and measure reasonable grower returns.

On March 19, 2021, the PPPABC provided a comprehensive set of assumptions for the model and presented it to the BCCMB on March 25, 2021. To its credit, the BCCMB provided some comments at a meeting on March 25, 2021 and requested a number of different scenarios. On March 29, 2021, the PPPABC responded to the feedback with five different scenarios using its model. The BCCMB has not provided any further feedback, sought information, or made any further requests on the PPPABC's March 29, 2021 grower returns model scenarios.

As a matter of interest, one of the scenarios showed the impact of implementing the full Serecon COPF for hatching egg producers and broiler growers: increasing the current live price by an additional 18 cents

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<sup>2</sup> Roundtable #3 – Pricing Review Part II/Ontario COPF, Long Term Chicken Sector Pricing Review (January 5, 2021), p. 3.

per kilogram. Under this scenario, growers would receive a 60.3% equity implied rate of return and an average annual cash flow of \$439,748 while processors would no longer be competitive. In plain language, it would be completely absurd to implement or even continue to contemplate the full Serecon COP.

The BCCMB still however appears to view the Serecon COPF as a viable foundation for a long-term pricing formula which would ultimately devastate the industry. Allowing this position to continue only indulges the unrealistic demands of growers and fails to recognize the clear policy objective of processor competitiveness. It appears that the BCCMB has closed its mind to the PPPABC's model of grower returns, while at the same time has failed to indicate or share any other appropriate metric or definition of grower returns.

### **(3) Failure by BCCMB to Appreciate Canadian Market for Chicken**

Further, as the PPPABC set out in correspondence dated March 29, 2021, the BCCMB appears to be continuing to revisit basic market realities in which processors compete and is unable to lay out even the most basic of market assumptions. In that correspondence the PPPABC clearly laid what it sees as the market assumptions for the review but the BCCMB has again chosen not to respond. These basic assumptions are necessary to lay out an appropriate context for the policy objectives. The PPPABC is concerned that the BCCMB is simply disregarding facts about the Canadian market for chicken in order to reach its preferred outcome.

Further to this, the 2010 supervisory review, the BCFIRB supervisory panel stated that "a workable pricing model must be consistent, predictable, transparent, and result in a live price that gives growers a reasonable return and allows processors to be competitive in the Canadian market".<sup>3</sup> The panel reiterated, "that British Columbia processors must be able to compete nationally, and that Ontario and Quebec represented the majority of chicken production in Canada."<sup>4</sup>

From its conduct during the Chicken Sector Pricing Review, it is clear that the BCCMB has chosen to reject aspects of the 2010 supervisory review decision, and in that respect does not appear capable of fairly developing a measure for processor competitiveness.

### **(4) Period A-169 Pricing**

The BCCMB's handling of live pricing for period A-169 provides a further example of the board failing to critically engage on issues raised by the PPPABC. Since 2018, the PPPABC has repeatedly raised the need to consider and deal with the impact of changes in the Ontario COPF into British Columbia live pricing. In letters dated March 4 and April 9, 2021, the PPPABC again raised the need to implement a temporary pricing formula for period A-169 to allow stakeholders time to assess the changes in the Ontario COPF and to not disadvantage stakeholder groups.

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<sup>3</sup> BCFIRB, *In the matter of the Natural Products Marketing (BC) Act and a Supervisory Review of BC Chicken Marketing Board Pricing-Related Recommendations*, Decision (June 9, 2010), at para. 23.

<sup>4</sup> BCFIRB, *In the matter of the Natural Products Marketing (BC) Act and a Supervisory Review of BC Chicken Marketing Board Pricing-Related Recommendations*, Decision (June 9, 2010), at para. 28.

Although certain changes that were ultimately implemented were unforeseen, the BCCMB knew for over two years that the Ontario COPF would be changing and that an increased live price was the expected outcome. It could have worked to create a framework to incorporate future changes that could have been reviewed with the BCFIRB. The BCCMB did not substantively or effectively engage with the PPPABC's submissions on the topic. The BCCMB ultimately chose to do nothing in the face of significant changes to the foundation of the British Columbia live pricing system. The Board also knew that the expected increased live price would flow entirely to the growers if nothing was done with the formula. If, under the current formula, the expected increases flowed all to the processors, we believe the Board would have taken action to avoid this. This has now set a dangerous precedent for the Chicken Sector Pricing Review as growers have established a new unreasonable base for negotiations.

### **Loss of Confidence in the Boards**

The PPPABC has lost confidence in the ability of the boards to put forward fair, unbiased, and sound pricing recommendations. This loss of confidence has been compounded by the BCCMB's lack of transparency in the process, lack of meaningful dialogue, and inability to share with stakeholders even the most basic of assumptions and conclusions required to frame the policy objectives. The BCCMB also does not appear to have any motivation to meet deadlines as there have been continual delays and issues that are dragging out the process and ultimately costing processors even more money. The BCCMB and the other stakeholders are not motivated to resolve these issues or delays as they are not the ones financially impacted. In fact, growers are better off now than they were when the review started.

These costly delays and issues with the current supervisory review for processors include:

- a. Processors, despite their appeal in 2019, continue to pay for BCBHEC's departure from the linkage.
- b. Ontario vaccine costs have been included in the British Columbia live price for at least three production cycles – this issue remains unresolved.
- c. 100 percent of the Ontario efficiency adjustments have passed through to British Columbia growers in period A-169, unlike any other Western province.
- d. The changes to the Ontario feed conversion in period A-169 were allowed to benefit British Columbia growers.
- e. By locking in the current formula for period A-169 (and possibly longer, as it is unlikely a new formula will be in place for period A-170), the BCCMB has provided growers with record returns while processors have been placed into their worst possible competitive position.

There is no motivation for the BCCMB and growers to conclude this review expediently while growers realize extraordinary returns. The PPPABC filed its original appeal, N1911 over a year ago, because the live price was not competitive and processor competitiveness was eroding; so far, the supervisory review has only succeeded in increasing grower returns while reducing the competitiveness of processors.

Finally, the PPPABC is concerned that if the BCCMB introduces a complex pricing formula it will be prone to errors, transparency issues, and a lack of understanding by stakeholders as to how the live price is calculated. In 2018, during the last pricing appeal in the BCFIRB, the PPPABC identified several

implementation errors by the BCCMB, such as the live price being based on the wrong weight category among others. During the 2018 appeal, the PPPABC pointed out that the implementation errors exhibited the difficulties and unpredictability associated with the BCCMB's complex pricing formula when it moved away from a fixed differential. For these reasons, the PPPABC supports moving forward with a straight-forward transparent pricing formula that is simply fixed differential over Ontario that recognizes some regional differences and allows stakeholders to get back to focussing on their business.

Given the above, the BCFIRB must exercise careful supervision over the pricing recommendations put forward by the boards and have a thorough understanding of the data and evidence the BCCMB relied on to come to their conclusions and how these apply to the policy objectives. Any pricing recommendations must adequately grapple with the submissions and data of the stakeholders and demonstrate a coherent reasoning process in doing so. To date, the BCCMB has failed in its foundational task of transparently and coherently defining the concepts and measures of reasonable grower returns and processor competitiveness.

The PPPABC maintains its commitment to participating in the Chicken Sector Pricing Review in good faith. However, this good faith must be reciprocated by all stakeholders and boards. Therefore, before any pricing models are revealed, we expect the boards to disclose their due diligence process on the material and submissions submitted and how they developed the conclusions they are using in the pricing recommendation. It is our expectation that both the BCBHEC and BCCMB must provide substantive responses to the PPPABC's submissions and provide the PPPABC a meaningful opportunity to respond to any further questions that the boards may have about the submissions to date. It is our position that until these conditions are met, the boards cannot fairly or soundly proceed with presenting their pricing recommendations and the Chicken Sector Pricing Review cannot progress.

Sincerely,



Blair Shier  
President  
Primary Poultry Processors Association of BC

c. Harvey Sasaki – BCCMB  
Jim Collins - BCBHEC  
Wendy Holm – BCFIRB Liaison