



BC Farm Industry Review Board

August 20, 2021

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Delivered by email

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Chair, BC Chicken Marketing Board

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BC Broiler Hatching Egg Producers' Association

Ernie Silveri, President and Pricing Liaison
BC Egg Hatchery Association

Dear Chairs and Parties:

INDUSTRY STABILITY AND CURRENT PRICING STRUCTURES – BCFIRB REVIEW AND DECISION

On July 8, 2021, the BC Farm Industry Review Board (BCFIRB) supervisory panel on chicken sector pricing advised that it would review the Interim Orders it made on July 3, 2020 with respect to chicken and hatching egg pricing given: the passage of time; a long-term pricing outcome will not be reached until fall 2021; the changes to the Ontario Cost of Production Formula; and the Primary Poultry Association of BC (PPPABC) concerns about the stability of current pricing structures.

The goal of the Interim Orders were to ensure industry stability and orderly marketing while longer-term pricing solution discussions were underway. The panel ordered that:

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.

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The Process

All parties were invited to make written submissions. Submissions were received from the PPPABC and the BC Chicken Growers Association (BCCGA).

On July 23, 2021, a joint response from the BC Chicken Marketing Board (Chicken Board) and the Broiler Hatching Egg Commission (Commission) on the submissions of the parties was received by BCFIRB. All parties were then invited to make a final reply to BCFIRB. Responses were again received from PPPABC and the BCCGA.

On August 5, 2021, the BCCGA sent a letter requesting the panel provide a further right of reply to any final submissions made by the PPPABC. In the panel's view, the submission process provided adequate opportunity for input by the BCCGA. The BCCGA had two opportunities to provide information and rationale on whether the current pricing structures were resulting in industry stability for growers.

BCFIRB thanks all of the parties that provided submissions, and thanks the Commission and the Chicken Board for its joint submission.

The Submissions

The BCFIRB supervisory panel has now had an opportunity to review all of the submissions received on the question of reviewing the Interim Order. Specifically, BCFIRB asked that if any of the parties believed that one or more of the current pricing structures are resulting in industry instability, that a SAFETI-based rationale be provided that clearly demonstrated how one or more of the current pricing structures are resulting in industry instability. This rationale was required to include a definition of industry instability together with measurable or substantiated objective evidence and/or data on how this instability is being experienced by the processors.

The BCCGA asserts that the current pricing structures have not, and are not presently, creating instability within the BC chicken sector. The BCCGA did not provide a definition of market stability/instability.

The PPPABC indicates that market destabilizers can manifest themselves in a wide variety of ways in the BC poultry industry, over varying lengths of time. They suggested market instability is best defined as, "activities within the value chain that create significant shifts in historical trading patterns, or activities that create market uncertainty which reduces or shifts investment and commitments to the BC industry." Examples of situations that would destabilize the industry include:

46. Extensive grower movement between processors that increases costs and the inability of processors to meet sales requirements;
 - Capital investments reduced or not being made in barns and processing upgrades to meet quota expansion and production growth; and
 - Shifts in customer order commitments and sales contracts from BC processors to processors in other provinces.

The PPPABC asserts that if the production or pricing relationships are disrupted and high value customers shift their business to other provinces, then BC processors are unable to effectively compete and left to service low value markets with high-cost products. The PPPABC provided the following statements as evidence of instability in the BC poultry sector:

- The BC live price differential with Central Canada is currently at the highest level it has ever been for a sustained time period.
- Customers are enquiring as to why BC live prices are going up faster than prices in other parts of Canada.
- Customers are shifting orders and purchasing products from processors in other provinces because of lower live prices.
- BC processors are being forced to re-evaluate fixed term pricing contracts given the indications on where live pricing is now headed in BC.
- BC processors are feeling compelled to re-assess their investment decisions in BC and elsewhere based on the expectation that the historical live price relationships with Central Canada are no longer relevant, and that a possible 20 cent per kg gap in live price is on the horizon.

The PPPABC then states that its members would independently provide information directly to BCFIRB on a confidential basis that outlines their experiences and shows where market instability is starting to surface based on current pricing structures.

The Commission and Chicken Board, in their July 23, 2021 joint response to the PPPABC and BCCGA submissions on instability, indicated that the submissions offer no new material, data or information that provide substantive evidence for the Boards, as the first instance regulators, to assess. The Commission and Chicken Board express concern that the PPPABC would independently provide information directly to BCFIRB on a confidential basis that outlines their experiences and shows where market instability is starting to surface based on current pricing structures. They believe this position constrains their ability to make fully informed decisions and to provide fully informed long-term pricing recommendations to the BCFIRB supervisory panel.

Finally, in response, the PPPABC indicates that they maintain that the changes to the Ontario Cost of Production Formula and the restrictions on BC Live Pricing by the Interim Orders are starting to create market instability. Examples of other provinces reducing their live price differential with Ontario and concerns regarding member customers were cited.

BCFIRB Review and Decision

First, the panel notes that as this Supervisory Review has progressed over the past year and a half, the state of the relationship and communications between the Chicken Board and the PPPABC appears to have steadily declined, to the point where an impasse and/or communication crisis appears now to have developed. It is extremely concerning to the panel that the level of trust, collaboration, and communication between the Chicken Board and PPPABC appears to be virtually non-existent. It is BCFIRB's view that this dynamic must change.

Efforts must be made by both the Chicken Board and the PPPABC to find ways to effectively build trust and work together. This is critical not only for a successful long-term outcome for this current supervisory review, but for the long-term health, growth and sustainability of the BC chicken sector.

The Chicken Board and Commission are the first instance regulators of the BC chicken sector. In BCFIRB's view, all essential evidence, information and data about pricing and the state of markets, regardless of how confidential or sensitive, must be provided to these first instance regulators. If there are internal reasonable apprehension of bias or conflict of interest concerns, those need to be addressed by the boards in the first instance in order to carry out their mandates and make sound decisions based on the best information available. Further, these boards are obligated, under provincial privacy legislation, to protect commercial and financial information that is supplied to them in confidence, and which, if disclosed, could harm third party business interests. BCFIRB believes it is imperative that these boards, but particularly the Chicken Board, put in place appropriate practices to bridge these concerns so that they can obtain the information they need to carry out and demonstrate sound decision making.

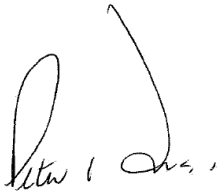
With respect to the issue of industry instability, BCFIRB understands the frustrations and concerns of the PPPABC and the expressed position of the BCCGA. BCFIRB also appreciates the views of the Chicken Board and Commission with respect to their comments about a lack of data, evidence or new information.

BCFIRB asked for written submissions, that would then be reviewed and responded to by BHEC and the Chicken Board, and all parties, that demonstrated how one or more of the current pricing structures are resulting in industry instability. BCFIRB asked for these submissions, in part, because the PPPABC raised concerns about the stability of current pricing structures. The submissions were required to include a definition of industry instability together with measurable or substantiated objective evidence and/or data, on how this instability is being experienced.

BCFIRB was not given any measurable or substantiated objective evidence or data of industry instability during this process, so as a result, it will not be amending or rescinding its Interim Orders of July 3, 2020 at this time. Should, however, there be any significant market shifts, or new or emerging developments take place, BCFIRB is prepared to re-evaluate this assessment, provided there is a solid evidentiary basis to do so.

On a final note, in asking for written submissions from all parties to review its Interim Orders of July 2020, it was not the panel's intent to encourage parties to operate outside of the Supervisory Review process, or bypass working directly and constructively with the first instance regulators and other parties to the Review. In the panel's view, the PPPABC's request to disclose key information only to BCFIRB on a private and confidential basis was a troubling and problematic development.

Regards,

A handwritten signature in black ink, appearing to read "Peter Donkers". The signature is stylized with a large initial 'P' and a long, sweeping underline.

Peter Donkers

cc:

Bill Vanderspek
Executive Director and Pricing Liaison
BC Chicken Marketing Board

Stephanie Nelson
Executive Director and Pricing Liaison
BC Broiler Hatching Egg Commission

Wendy Holm
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BCFIRB web site