

July 6, 2022

File No.: 582211-1

Sent Via E-mail

Peter Donkers, Chair
British Columbia Farm Industry Review Board
1st Floor 2975 Jutland Rd.
Victoria, BC V8T 5J9

Dear Mr. Donkers

Re: Draft Terms of Reference - MPL British Columbia Distributors Inc. ("MPL") Agency Designation

We write further to the Draft Terms of Reference dated June 28, 2022 and our prior correspondence of March 1, 2022 and March 16, 2022.

MPL will exercise its right of participation in the British Columbia Farm Industry Review Board ("BCFIRB") approval process

1. Terms of Reference

MPL submits that the current questions for the scope and focus of this review set forth by BCFIRB are the correct considerations, namely:

1. Did the BC Vegetable Marketing Commission conduct a SAFETI-based process?
2. Is the BC Vegetable Commission's decision to designate MPL BC as an agency in the public interest and consistent with sound marketing policy?

The review by BCFIRB should be focused on the SAFETI-based process and ensuring the BC Vegetable Commission's decision is in the public interest and consistent with sound marketing policy. This review should not be a de novo hearing of MPL's agency application, previously approved by the BC Vegetable Marketing Commission.

In MPL's letter of March 16, 2022, it was noted:

MPL is also concerned with your advice that the "prior approval panel will also need to address the impact of the ongoing Allegations of Bad Faith Review process on the prior approval process". It is unclear what impact you are referring to or on what basis BCFIRB considers the supervisory review flowing from MPL's unrelated allegations of bad faith (made in connection with alleged events that occurred prior to MPL submitting its current agency application) are relevant to BCFIRB's approval process.

The supervisory decision in the Allegations of Bad Faith and Unlawful Activity supervisory review should have no bearing on this current process before BCFIRB. MPL has already set out its detailed concerns about the irrelevance of this supervisory review in its letter of March 16, 2022. A copy of this letter detailing these concerns is attached for your reference.

The supervisory review of Allegations of Bad Faith and Unlawful Activity was a self-initiated review by BCFIRB as a result of court filings made by MPL. It is wholly unrelated to MPL's application for agency status and should have no bearing on the approval process for MPL's agency designation.

2. Participants

MPL further submits that the following proposed eligible participants have already had opportunities for consultation as part of the BC Vegetable Marketing Commission process. These participants, proposed by BCFIRB, include:

Agencies licensed to market BC regulated greenhouse vegetables;

Producer-shippers licensed to produce and market BC regulated greenhouse vegetables;

Wholesalers licensed to market BC regulated greenhouse vegetables, only if providing new or additional information not provided by a licensed agency or MPL BC;

Processors licensed to process regulated greenhouse vegetables; and

Producers licensed to produce BC regulated greenhouse vegetables, only if providing new or additional information not provided by a licensed agency or MPL BC.

Should any of these entities be permitted to participate in the current BCFIRB approval process, their participation should be limited to new information not before the BC Vegetable Marketing Commission during the previous agency application review.

On October 13, 2021, as part of the agency application review process, the BC Vegetable Marketing Commission sought input from industry stakeholders regarding MPL's application for an agency licence. Fifteen separate letters of feedback were received from industry stakeholders including producers and current holders of agency licences. It would now be an inappropriate exercise of BCFIRB's supervisory power to allow these stakeholders to utilize this approval process in simply restating their concerns.

The concerns of these stakeholders were adequately considered by the BC Vegetable Marketing Commission and any participation should be limited to new information.

Yours truly,

Dentons Canada LLP



Morgan L. Camley
Partner

MLC/rb