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## BC Farm Industry Review Board

March 27, 2023

File: 44200-35\MPL

### DELIVERED BY EMAIL

Morgan Camley  
Counsel  
Dentons Canada LLP  
20th Floor, 250 Howe Street  
Vancouver, BC, Canada V6C 3R8

Derek Sturko  
Chair  
BC Vegetable Marketing Commission  
207 – 15252 32<sup>nd</sup> Ave  
Surrey BC V3Z 0R7

Dear Ms. Camley and Mr. Sturko:

### **MPL BRITISH COLUMBIA DISTRIBUTORS INC. (MPL BC) AGENCY PRIOR APPROVAL PROCESS – PANEL QUESTIONS FOR WRITTEN SUBMISSIONS**

As per the March 8, 2023 “Final Terms of Reference Prior Approval Application: MPL British Columbia Distributors Inc. Agency Designation”, eligible participants are invited to provide written submissions and any supporting documents on the following questions.

These questions are intended to assist BCFIRB in preparing for the upcoming oral supervisory hearing, including understanding what the issues are and any deficiencies in the Commission’s agency designation process and the information that it considered.

Eligible participants must serve all other eligible participants with their documents at the same time they file them with BCFIRB unless they require a non-disclosure order pursuant to BCFIRB’s May 2020 “Protection of Privacy and Confidentiality in BCFIRB Supervisory Processes and Reviews” Practice Directive. Please be advised that all written submissions and documents will be posted to the BCFIRB web site unless BCFIRB has granted a non-disclosure order.

Submissions are **due by April 7, 2023**.

Final reply from MPL BC and the BC Vegetable Marketing Commission (Commission) **due by April 18, 2023**.

Please send your submissions and any documents to Wanda Gorsuch, Manager Issues & Planning at [Wanda.Gorsuch@gov.bc.ca](mailto:Wanda.Gorsuch@gov.bc.ca), cc [firb@gov.bc.ca](mailto:firb@gov.bc.ca)

## Questions for all eligible participants

As the purpose of these questions is to assist the panel in understanding the issues in advance of the oral hearing, and given that participants will be able to expand on their positions in that process, BCFIRB anticipates that these responses do not need to be lengthy. To promote efficiency and order in this supervisory process, BCFIRB will be imposing page limits for submissions received. Here, 30-40 pages (excluding Appendices) should be ample to respond to the following questions.

1. Did the Commission conduct a SAFETI-based<sup>1</sup> process in reaching its recommendation on MPL BC's agency designation?
  - a. If not, identify any defects in the Commission's process and,
  - b. Identify what steps this panel could take to remedy any process defects?
2. Is there any information that was put before the Commission that the Commission did not consider in making its decision?
  - a. If yes, what information was not considered, and why should it be considered in this supervisory process?
3. Is there any relevant information that the Commission did not have before it in reaching its recommendation on MPL's agency designation?
  - a. If yes, what information was not considered and,
  - b. Why was this information not provided to the Commission in the first instance?
4. Are there any public interest or sound marketing policy arguments that the Commission did not consider in making its decision?
  - a. If yes, what arguments were not considered and why should they be?

## Questions for the Commission

1. Please provide an overview of the regulated BC greenhouse sector, including:
  - a. Percentage of BC greenhouse market served by BC agencies
  - b. How much volume of regulated greenhouse product sold in BC is imported by BC agencies

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<sup>1</sup> Strategic, Accountable, Fair Effective, Transparent, Inclusive

- c. Other market areas served by BC agencies (interprovincial and export)
  - d. Greenhouse agencies
  - e. Area and percentage of Production Allocation by crop
  - f. Number and identity of producers shipping to each agency
2. What information did the Commission rely on to determine that MPL BCs' market presence as an agency will result in an incremental growth in grower collective returns versus loss of market share of established agencies?
  3. Did the Commission identify any deficiencies in MPL's application based on Part XIV - Procedures For Designation of Agencies of the Commission's General Orders? if so, what were the deficiencies?
  4. What information did the Commission rely on to support market penetration opportunities for BC producers should MPL BC be designated as an agency?
  5. Given the BC agencies' existing quote sheet pricing system for regulated greenhouse products, what implications – if any - does the Commission feel MPL BC's proposed fixed price contracts will have on BC producers and the industry?

### *MPL BC Reporting Requirements*

In its December 22, 2020 Decision<sup>2</sup>, BCFIRB directed the Commission to develop and implement a rules-based agency compliance reporting template. BCFIRB also recommended that:

the framework content should be based on agencies demonstrating compliance with Commission-required agency functions, including related information provision, as per the General Orders. Agency functions include, but are not limited to:

- i. Planning for and meeting market demands;
  - ii. Identifying, developing and expanding markets;
  - iii. Managing shared producer market access;
  - iv. Ensuring fair returns for producers;
  - v. Contributing to new producer entry;
  - vi. Contributing to orderly marketing.
1. How should MPL BC be reporting on the criteria above, in order to be accountable for compliance and good behavior to the Commission and BCFIRB?
  2. What, if any other, reporting criteria should MPL BC comply with?

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<sup>2</sup> 2020, December 22, BCFIRB, In the matter of the Natural Products Marketing (BC) Act and the 2019-20 Vegetable Review.

- a. What is a suitable timeline for reporting?
3. How will the Commission integrate MPL BC's reporting requirements with its agency accountability framework?

Regards,



Pawan Joshi

Panel Chair

cc: Robert Hrabinsky, Legal Counsel, BC Vegetable Marketing Commission  
Craig Ferris, K.C., Legal Counsel, Greenhouse Grown/Windset  
Agency Applicants and Storage crop Agency Managers  
Greenhouse Agency Managers  
Storage crop/Greenhouse Managers  
Storage crop Producers  
Greenhouse Producers  
Processing Producers  
Wholesalers  
Processors  
BCFIRB web site