

Primary Poultry Processors Association of BC v. BC Chicken Board (Rosstown # 2)

Decision Date: December 13, 2002

Keywords: production, quality standards, integrated operations, new entrant program (processors), sound and proper marketing policy,

Issue: The issue under appeal was whether, as a matter of sound marketing policy, the Chicken Board should have directed four processors to purchase Rosstown Farm's production during specific "home weeks".

Decision:

On September 23, 2002, the Chicken Board issued an order directing four processors to purchase Rosstown Farm's production during five "home weeks" in periods A-49 and A-50. ("Home weeks" are the weeks in which a producer has its chicken processed.) On October 9, 2002 the Chicken Board applied for and received an enforcement order from the Supreme Court. On the same day, four processors collectively filed an appeal of the Chicken Board's order.

The appellants took issue with the Chicken Board's direction of product which they viewed as interference in their ability to plan their market requirements. They argued that the market for chicken has become increasingly specialised and that the direction of Rosstown's product would interfere with their complex scheduling and cause additional business costs. Further, the processors had concerns about loss of control of breed and strain of chicken, the quality of chick supplied, and the economic impact on their hatchery businesses.

The Chicken Board argued that while its actions were unprecedented, it was required to ensure that the producer's product was taken up and the united position of the processors was intended to work maximum harm to Rosstown's operations. The Chicken Board argued that it was required to ensure a shipping schedule that was fair to both the processors and Rosstown.

The panel found that the Chicken Board's action represented an improper intrusion into the processors' ability to serve their customers and disrupted the home week schedules of others. Further, it found that the Chicken Board had intervened in the economic underpinnings of the chicken industry without adequate assessment of the implications. The panel found that what was essentially an economic power struggle between competing hatchery businesses should not be the concern of the Chicken Board.

Order:

In the interests of industry stability, the panel ordered the processors to comply with the Chicken Board's order for period A-49. For A-50, Rosstown was ordered to take appropriate steps to ensure that its birds shipped would meet contract specifications. After A-50, the only obligation on the processors was to ensure Rosstown's production was picked up in each period.