



October 12, 2012

File: 44200-60 MMB
QUOTA REVIEW

DELIVERED BY EMAIL

Jim Byrne
Chair
BC Milk Marketing Board
200 – 32160 South Fraser Way
Abbotsford BC V2T 1W5

Dear Mr. Byrne:

BC FARM INDUSTRY REVIEW BOARD SUPERVISORY REVIEW OF BC DAIRY QUOTA GOVERNANCE

As discussed at the September 20 meeting between our boards in Abbotsford and in our following letter of September 26, the BC Farm Industry Review Board (BCFIRB) is initiating a supervisory review of dairy quota governance, in which we will consider the BC Milk Marketing Board's (Milk Board) 'FIFO and 10/10/5' policy change proposal in the context of its provincial allocation policy i.e. how quota is allocated and prioritized in the BC dairy industry while ensuring such decisions also address the overall public interest.

Why a 'quota governance' review?

'Quota governance' is the process whereby supply managed commodity boards make important decisions about quota, determine whom they involve in the process and how they render account.

As you know, building better governance in the regulated marketing sector has been a central focus of the discussions between BCFIRB and the boards over the last year as we have been jointly developing the [SAFETI principles](#) for the sector (Strategic, Accountable, Fair, Effective, Transparent, and Inclusive).

We appreciate that the Milk Board, in its April 30 '*FIFO and 10/10/5 vs. LIFO and 10/10/10*' proposal, has focused on finding a solution to some of the dairy industry's long-standing and

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inter-related quota management issues¹. Identifying and responding to systemic challenges is an important part of strategic leadership – a cornerstone of governance.

However, governance is not only about *where to go*, but also about *who should be involved in deciding*, and in what capacity.² As discussed in our meeting, we are not satisfied that replacing one policy with another, without considering broader impacts, options or interests, is sound marketing policy. As stated previously, “in order to demonstrate that a policy is sound, a marketing board must be able to point to processes of good governance”.³

I would like to re-iterate that BCFIRB is – as any good regulator should be – open to change. As stated in our September 26 letter:

In this case, the onus will be on the Milk Board, in consultation with your stakeholders, to show *why* change is needed, *where* the industry ought to go, and *how* it ought to get there. As part of its consultative process, the Milk Board will be expected to consider *who* should be involved in charting this path. In your final proposal, BCFIRB will expect to see due consideration of differing opinions and interests as they relate to these broad governance questions.

As you know, discussing policy around quota transfer in supply managed industries is already complicated in that regulatory decision-making in these industries must be accountable to the legal principle that *quota has no value and is to remain within the exclusive control of the boards at all times*. In re-opening debate around quota transfer policies (LIFO and 10/10/10), which restrict the trade of quota between producers, we risk obscuring this fundamental premise of supply management.

At the same time, reviewing policies that were put in place following the [2005 Specialty Review](#) provides an opportunity to assess their effectiveness and continued relevance. We recognize there may be better policy solutions for your industry that are both supported by BC’s quota governance framework (the legislation, agreements, policies and procedures that define authorities, accountabilities and responsibilities for decisions concerning supply managed quota in BC) and guided by the regulated sector’s SAFETI principles.

A principles-based, outcomes-oriented approach

It’s been found, when principles are applied to governance challenges, that there are no absolutes; that principles often conflict; that the ‘devil is in the detail’; and that context matters.⁴

We expect many questions will arise as we make our way through this review. However, it is only through dealing with these questions of governance *in the context of regulated marketing*

¹ In recent years, the Milk Board (with varying degrees of intervention from BCFIRB) has been overseeing a number of issues with respect to quota management in BC’s dairy industry – including issues related to under and over production, availability of quota, effective functioning of the Quota Exchange and transparency in quota transfers, Graduated Entry Program governance and administration, and succession planning.

² [‘Principles for Good Governance in the 21st Century’, Policy Brief No. 15, Institute on Governance, 2003.](#)

³ [2010 BCFIRB Supervisory Review Decision of the Milk Board’s Accommodation Levy.](#)

⁴ See footnote 2.

that the SAFETI principles become useful tools to achieve better outcomes for the dairy industry and the public it serves.

As the first instance regulator of the largest agriculture industry in BC, we feel the Milk Board is in a strategic position to demonstrate leadership in applying principles to deal with governance challenges in agriculture. Strong leadership from the Milk Board has potential to influence not only the dairy industry, but also the other supply managed industries and BC's regulated agriculture sector more broadly.

Next Steps

We would like to schedule a first meeting to introduce the working group for the review and get started in designing a process. As mentioned, BCFIRB has assigned member Andy Dolberg and staff analyst Jessica White to support the Milk Board in its review.

We propose a meeting with the review team at the Milk Board office on the afternoon of Thursday, October 25th. Please contact Jessica White at jessica.k.white@gov.bc.ca to confirm your/your team's availability for this date and, if required, to make alternate arrangements for another day either in Victoria or Abbotsford.

We look forward to working with you on this initiative over the coming months. If you have any questions, concerns, or wish to discuss this review at any time, please feel free to contact me.

Yours truly,



Ron Kilmury
Chair