

Schedule 15
(Part 55)
(Section 55.4)

Board Decision or Determination

Form B

attach applicable Forms A, if available

Pricing Model (Mainstream) Formula Decision 2018

1. Date(s) of this decision:

Interim BCCMB Determination position on June 8, 2018

Final decision on June 27, 2018

2. Members of Board present for decision:

R. Smith, DA Janzen, A. Johnston, R. Nickel and R. Payne

3. What sources of information did the Board consider in coming to its decision?

- Form A - Application for Decision or Determination
- Board Staff's Briefing Note
- Applicant's oral submissions
- Board's Orders (give reference numbers, if applicable):
Schedule 19 – Pricing Model
- Other (explain):

- Schedule 15 – Pricing Model (Mainstream) Formula Decision 2017
- September 8, 2017 meeting notes from facilitated session
- September 11, 2017 pricing formula review process/timeline notes
- September 8, 2017 BCCMB Minutes
- April 20, 2018 Meeting between /BCCMB/BCCGA/PPPABC/PPAC – notes
 - Charts and graphs as prepared by BCCMB staff for the meeting
- May 24, 2018 letter from CPEPC to CFC re: Live chicken prices and industry competitiveness
- May 25, 2018 email to PPPABC from BCCMB re: questions respecting processor presentation.
- June 1, 2018 letter from CFO in response to CPEPC letter of May 24, 2018.

BCCGA Submissions:

- April 17, 2018 submission of BCCGA
- May 3, 2018 letter from BCCGA re: previous submission
- May 7, 2018 letter from BCCGA re: previous submission
- May 26, 2018 letter and submission from BCCGA – supplemental response
- June 20, 2018 submission from BCCGA on June 11/18 BCCMB Interim Determination

PPPABC submissions:

- May 4, 2018 letter from PPPABC re: error in A-146 to A-150 formula
- May 17, 2018 PPPABC submission “BC Live Bird Pricing Executive Summary”
- Previous submission from PPPABC materials:
 - Economic & Cost Analysis of the BC Mainstream Chicken Broiler Industry – November 2016 PWC
 - BC Live Pricing Review submission by PPPABC dated December 8, 2017.
- June 3, 2018 email response to BCCMB email of May 25/18 re: questions on processor submission.
- June 22, 2018 submission from PPPABC in response to BCCMB’s Preliminary Pricing decision received on June 11, 2018.

Don Ference materials:

- February 8, 2017 update on economic analysis to develop a pricing model for live BC grown chicken.
- May 26, 2018 letter from D. Ference re: response to PPPABC submission of May 17/18
- May 30, 2018 letter from D. Ference re: response to BCCGA submissions of April 17, May 7 and May 25, 2018
- May 30, 2018 letter from D. Ference re: impact of new BC pricing formula implemented A-144 and onwards
- June 8/18 power point from D. Ference re: Pricing Analysis for Live BC Grown Chicken

BCBHEC Submissions:

- April 18, 2018 initial submission from BCBHEC re: pricing

- May 25, 2018 letter from BCBHEPA re: Pricing
- May 25, 2018 letter from BCEHA to BCBHEC re: pricing
- May 26, 2018 letter from BCBHEC re: Live Price Formula Review
- June 22, 2018 letter from J. Collins of BCBHEC re: Live Price formula Review

BCCMB data:

- Graphs 1-2 as prepared by BCCMB staff and circulated with April 16/18 agenda to BCCGA and PPPABC and PPAC members

4. What is the Board's decision?

The Board has made the decision to implement a new pricing formula for periods A-151 to A-156 inclusive based on:

Ontario Price based on the weight category of 2.45 to 2.65 kilograms. It will **NOT** include the \$0.012 per kilogram CFO modular loading cost recovery.

Plus

75% of the difference in feed and chick costs per kilogram of live chicken between BC and Ontario based on a 6 period rolling average.

Plus

\$0.0365 per kilogram which is the current catching cost. Increases or decreases in the price of catching must be approved by the BCCMB in advance. If approved, these increases or decreases will be reflected in the live price.

Plus

Guardrails: The differentials between the Ontario and BC live prices will be set at a maximum of \$0.1249 and a minimum of \$0.0970. The guardrails are to be a "ceiling" and/or "floor". The guardrails will be adjusted to reflect any changes in catching costs.

This interim decision will be reviewed upon the completion/implementation of the Ontario COPF2 and/or the completion of the BC initiatives respecting Pricing Linkage and update to costs for BC chicken production which may occur prior to the completion of quota period A-156.

This new formula will be used beginning in period A-151. Shipments for this period begin on July 8, 2018.

5. How did the Board come to this decision?

The BCCMB is committed to the concept of principle based regulation (PBR) and outcome based decision making through SAFETI (Strategic Accountable, Fair, Effective, Transparent, Inclusive) initiatives as directed by FIRB. These initiatives support good governance in the regulated marketing sector.

SAFETI has been applied at all stages of the decision making process: information gathering, analysis of risks and opportunities, options development and evaluation through to the final decision of the Board.

After the original pricing decision was rendered by the Board in April 24, 2017 the PPPABC appealed the decision to FIRB. Prior to the appeal being heard, the PPPABC requested mediation which was held on September 8, 2017. A mediated agreement was agreed to between the growers and processors for quota periods A-146 to A-150 inclusive. The Board ratified the agreement and implemented it. The PPPABC then withdrew its appeal at FIRB, and a summary dismissal order was issued by FIRB.

Since that time the processors have appealed the mediated agreement. As a matter of course, the decision of the Board stands until amended or varied by order or direction of FIRB. Consequently, the Board will not discuss this matter further in this decision other than to acknowledge that it appears there is no longer agreement to have the Ontario modular loading cost (currently 1.2 cents/kg) included in the BC price.

The processors and growers agreed that pricing needed to be based on the Ontario live price and some recognition of BC specific costs, and that chick and feed costs make up a largest components in any pricing model.

The advantages of the pricing formula are that it is fact based; the formula is based on feed and chick cost differences as stated in the BC COP and Ontario COP – both COP's are based on regular surveys of feed mills in each province.

The Board's preliminary decision recognized 100% of the feed and chick differential. Prior to the Board's final decision, Ontario increased its live price which increased returns to BC growers. Consequently, the Board reduced the percentage to 75% to assist processors with the issue of being competitive.

As a feed deficient province, BC must import virtually all of its grain from other areas of North America resulting in high freight costs which must be borne by BC chicken growers and processors. In the view of the Board, there are unique costs to producing chicken in BC which must be considered. As has been stated many times, "there is a cost to being a chicken grower in BC." This applies equally to BC processors. The formula recognizes the need for BC chicken processors to be competitive with chicken processors in other parts of Canada and in particular Ontario as the largest chicken producing province; it recognizes the higher feed and chick costs of growers in BC; and encourages growers and processors to work together to minimize feed and chick cost differentials. The model is transparent and predictable, as it is based on Ontario and BC feed and chick costs which are readily available to both growers and processors. The model uses a six period rolling average to smooth out market shifts for feed and chick costs. The model uses a one period lag for BC chick pricing as the chicken price must be set before the chick price can be determined for the period. (BCCMB/BCBHEC pricing linkage).

Some of the operational advantages to Ontario processors versus BC processors are simply out of the control of the BCCMB or the BC chicken industry. An example of this would be the BC processor's lack of access to TRQ as compared to their counterparts in Central Canada.

The new pricing formula is a major shift from the previous BCFIRB mandated formula in that it does not use as a component the live prices in Alberta, Saskatchewan or Manitoba. The BCCMB agreed with the processors that the departure of the West from historic price differentials to Ontario were causing unintended consequences. The BCFIRB formula was not designed to account for structural changes to the pricing regimes in the Prairie Provinces that did not always come with full transparency or rationale for those changes.

The Board continued to struggle with the concept of “fair return to growers” and “keep processors competitive” as both concepts are somewhat subjective. The new documents provided by the parties did not provide clear definitions and the data was, in some cases incomplete. The Board noted that in the mediated agreement notes of September 8, 2017 one of the caveats added by the growers and endorsed by the processors was *“a commitment was made by all parties to establish what constitutes a fair return to growers and processor competitiveness”*. The Board cannot see any agreement, nor any new work done by the parties on this issue. Consequently, the Board focused again on what the two sides could agree to and what was “fact based, and transparent, with information readily available.”

Verifiable data from independent sources identified grower costs and returns. Grower margins in BC are some of the lowest in the country.

Evaluating processor competitiveness is more subjective. The main issues concerning a competitiveness gap raised in the processors submission and supported in their November 2016 report by Price Waterhouse Cooper (PWC) included:

- Labour costs differing from Ontario
- TRQ volume
- Scale and efficiency factors

The Board accepts that these factors have negative impacts on processor competitiveness but also recognize factors that have positive effects on competition including:

- Catching costs
- Premiums (incentives) payments to growers
- Transportation costs

The labour cost information presented in the PWC document was for three BC processing plants out of the seven in the PPPABC. This data should include all plants (as some are not unionized) and the final number should be weighted by volume of production with each plant. This is the standard rigour used in weighted average costs in a COP.

The Board can accept the argument that with only six percent of Canada’s TRQ compared to 88% in Ontario and Quebec that BC processors are at a price disadvantage, as are those in other provinces with even less TRQ. The processors have not confirmed whether 100% of their TRQ is used in BC.

Understandably the scale of Ontario plants versus BC suggests greater operating efficiency. The size and consolidation of processing plants is a decision for processors not the Board.

In BC, growers pay for catching and that cost is added to the live price, thereby increasing the price differential between BC and Ontario. In Ontario, processors pay for catching and it is not in the live price. This currently gives the BC Processors a \$0.0365 per kilogram positive contribution over Ontario processors.

The “loyalty” premium or incentive paid voluntarily by processors to growers are reported to be higher in Ontario compared to BC, again giving the comparative advantage to BC Processors. During price discussions in 2017 BC Processors voluntarily increased this premium from \$0.02 per kilogram to \$0.03 per kilogram.

Transportation costs from the farm to the processing plant are lower in BC than in Ontario due to the shorter transportation distances. This is not reflected in the price, but is a positive contribution to BC Processors competitiveness.

In summary, there are several factors that contribute either negatively or positively to processor competitiveness. How to incorporate such factors into a pricing formula could be an important subject area for discussion between all parties.

As processors have not provided processor margin information specific to BC, the Board must assume that BC processors’ margins are no different from those reported by CPEPC for Canada. Those margins have been considerable higher in recent years than they were historically. Although BC live prices are higher than those in Ontario, so too are the retail prices of chicken.

In summary, the positions of the two sides were as follows:

- Growers
 - Keep 1.2 cents modular loading in BC formula.
 - 100% of the difference in the cost of growing chicken (feed and chick costs) between BC and Ontario using a 6-period rolling average.
 - Adoption of meaningful guardrails through the use of either:
 - Soon to be updated grower COP
 - CPEPC processor gross margin
 - Prefer to be the same as Ontario, where costs of catching is the processors’ responsibility.

- Processors
 - Return price gap versus Ontario to level that was in place between 2010 and 2015.
 - Use only the Ontario posted price plus a differential of 4.5 cents (remove the prairie factor).
 - Use the Ontario weight category of 2.15 to 2.45 cents.

- No guard rails.
- No catching cost included in the price.
- No modular loading cost recovery in the price.

Period A-155 ends in April of 2019; it is the expectation of the Board that at that time two major initiatives will be completed that will allow for the information required for the development of a long term pricing strategy.

- CFO is currently undertaking a full review of their COPF which is expected to be completed and released by the end of 2018 for implementation in 2019.
- The current three year review of the pricing linkage between the BCCMB and BCBHEC is underway and scheduled for completion and implementation in period A-155. This will provide the BCCMB with up to date costs for BC chicken production.

The “traditional” weight category of 1.84 to 1.95 kilograms was historically used by Ontario to set their live price. It was the base price from which all other provinces set their live price off of. In quota period A-129 (commencing on February 22, 2015) CFO began using a “new” weight category of 2.15 to 2.45 kilograms. The rationale provided was that the change to the pricing grid category was to reflect the most popular or used weight category in Ontario. The change decreased Ontario’s live price by 2 cents. The BCCMB PPAC met in April of 2015 and unanimously agreed to continue to adopt the 1.84 to 1.95 kilograms Ontario weight category.

The CFO pricing category of 2.45 to 2.65 kilograms represents approximately 38% of BC production in period A-149 compared to the previous category of 1.84 to 1.95 kilograms which only accounted for approximately 5% of BC production. The PPPABC has long recommended the use of a weight category that more accurately reflects BC’s position. The new formula takes this into account. The shift in weight class has no net effect on the BC Pricing Formula at this time as the Ontario minimum farm-gate live price currently is the same for both weight classes (1.84 to 1.95 kg and 2.45 to 2.65 kg). Again this is a matter for discussion at PPAC, and it is the expectation of the Board that the PPAC will be requested to examine this issue and bring forward a recommendation to the Board once the Ontario COPF2; BCCMB/BCBHEC Pricing Linkage; and updated costs for BC chicken production is complete.

Not including CFO’s modular loading cost recovery of \$0.012 per kilogram is consistent with the BCCMB’s pricing decision of A-145. The CFO category of 1.84 to 1.95 kilograms inclusive of the modular loading cost recovery premium for periods A-146 through A-150 inclusive was used as a result of the September 8, 2018 mediated agreement between the BCCGA and PPPABC. As the two sides no longer agree on its inclusion the Board returned to its original decision of A-145 to not include the cost of the Ontario modular loading cost recovery. The new formula takes this into account.

On June 11, 2018, the Board issued an interim pricing determination for consideration and comment by the industry. This formula used a fixed differential from Ontario’s price (Ontario

weight category of 2.45 to 2.65 kilograms) of \$0.1024 per kilogram which represented 100% of the difference in feed and chick costs per kilogram between BC and Ontario on a 6 period rolling average. The inclusion of a fixed differential was to provide a level of price predictability to alleviate industry's concerns against anticipated rising feed and chick costs. This decision was made prior to Ontario's posted A-151 live price becoming available. It appears that the difference in feed and chick costs per kilogram between BC and Ontario's was not at the level proposed by the fixed differential. As it was apparent from the final submissions that neither growers nor processors were in favour of the fixed differential as proposed by the Board, the Board revisited its decision.

In light of the negativity from both parties to a fixed differential, the Board was of the view to return to the pricing model that allowed for actual feed and chick prices only being held in check by the 6 period rolling average going forward.

The new information from Ontario's A-151 price increase of 5.1 cents was due to feed (an increase of 3.38 cents) and chick (an increase of 1.69 cents). The increase in chick price was much lower than predicted in the processors submission. In light of this new information, the Board determined to move to 75% of the difference in the cost of feed and chick costs per kilogram between BC and Ontario on a 6 period rolling average.

Increases/decreases in the cost of catching will be reflected in the live price but must be accompanied by rationale and will require approval by the Board.

Since the Board has now moved away from a fixed differential, guardrails are again necessary. The Board took the existing guardrails for A-150 (which included an increase to take into account the increase in catching costs) agreed to in the mediated agreement and increased them by the same magnitude as the differential. Going from a differential of 50% to 75% added 25% to each guardrail. They will act as a ceiling and/or floor to cap the price for the specific period. When a guardrail is reached, the guardrail become the price for that period. The guardrails will only change with any change to the cost of catching.

RATIONALE FOR DECISION BASED ON OUTCOME BASED PRINCIPLES

Strategic & Effective:

The Board has the authority to make orders it considers necessary or advisable to promote, control and regulate effectively the marketing of the regulated product, and to amend or revoke them, under 11(1)(q) of the Natural Products Marketing (BC) Act. The Act at 11(1)(k) gives the Board the authority to set the prices, maximum prices, minimum prices or both maximum and minimum price at which the regulated product or a grade or class of it may be bought or sold in British Columbia or that must be paid for a regulated product by a designated agency and to set different prices for different parts of British Columbia.

The BC Chicken Marketing Scheme (1961) grants the Board the power under 4.01(g) to fix the price or prices, maximum price or prices, minimum price or prices, or both maximum and minimum prices at which the live chickens over 2 days old that are regulated product, or any grade or class thereof, may be bought or sold in the Province, or that shall be paid for the regulated product by a designated agency, and may fix different prices for different parts of the Province. Further, 4.01(l) gives the Board the authority to make such orders, rules and regulations as are deemed by the Board necessary or advisable to promote, control and regulate effectively the production, transportation, packing storage or marketing of the regulated product and to amend or revoke the same.

Under the Chicken Scheme at 3.20 Pricing and Production Advisory Committee at section (3) it states the Board must consult with the committee and consider the committee's advice before the Board makes any decision relating to pricing or production.

The decision is in keeping with the Board's strategic priorities as illustrated in both the Board's old and new Strategic Plan (completed and adopted by the BCCMB in March 2017). The decision manages risk in a timely basis.

The process leading to the final decision was effective. The consultation process followed the agreed upon dates and timelines. The Board obtained independent analysis and was provided with a report on the materials received from the BCCGA and the PPPABC, and an updated analysis on the use of the mediated formula regarding its impact.

There was sufficient, accurate information to make a decision that leads to an effective outcome. It will have a clearly defined regulatory outcome – to provide the chicken industry with a fact based, pricing formula that is simple, transparent and capable of providing predictability and stability until such time as the long term pricing strategy is developed.

Accountable

The Board is accountable for its decisions to the entire industry and must consider the impact of its decisions on other parties.

The Board is taking into account the interests of both growers and processors. Those who determine they are aggrieved by this decision may appeal to BCFIRB. Both growers and processors are well aware of their rights to appeal and the methodology to do so.

The BCCMB maintains its legitimacy and integrity through understanding and discharging its responsibilities (as per the NPMA, Provincial Policy, BCFIRB direction) and is accountable by providing reasons explaining the course of action to stakeholders within this Schedule 15.

Fair

The decision making process has ensured procedural fairness. All sides were consulted and their opinions heard. The Board has with this document provided a rationale illustrating sound marketing policy.

The new pricing formula recognizes the concerns brought forth of both the growers and processors in their submission and addresses some of them by incorporating them into this decision.

The formula in A-150 was amended by the Board to account for a price increase in the BC cost of catching as per a request by the PPPABC. This is fair as it was clearly outlined in the draft BCCMB motion that *“any increases or decreases in the cost of catching during the period up to and including the end of period A-150 will result in corresponding increases or decreases to the maximum and minimum prices contained in the BCCMB motion.”* This accommodation continues going forward in the bridging agreement from A-151 through A-155 inclusive

Transparent

Pricing orders are transmitted to all mainstream growers and processors by email.

The decision making process is transparent. The processes, practices, procedures and reporting on the mandate are open and accessible to the people impacted by the decisions and operations of the Board.

This Schedule 15 containing the Board’s decision and rationale will be posted on the website. Further, an explanation will be included in the BCCMB Monthly Board report and will also provide a reference to the Schedule 15 on the website.

Inclusive

In his “Chicken Industry Pricing – Episode III” letter dated March 18, 2016 BCFIRB Chair John Les stated:

The fundamental premise behind how best to determine the price a grower receives for their chicken from a processor remains the same as it was in 1995 and in 2010. In summary, and as recorded in paragraph 23 of the June 9, 2010 BCFIRB decision:

All parties in this supervisory review agree that a workable pricing model must be consistent, predictable, transparent, and result in a live price that gives growers a reasonable return and allows processors to be competitive in the Canadian market. These same considerations apply to the BC broiler hatching egg sector.

In its June 2010 decision BCFIRB gave the Chicken Board flexibility for making changes to the current formula-based pricing model (paragraph 30): any long term changes to the pricing model will also require the Chicken Board to consult with PPAC. BCFIRB wishes to make it clear that if the Chicken Board decides as the first instance regulator that it should undertake any initiative regarding the pricing model, the requirement to consult with PPAC remains.

Finally, as per BCFIRB’s general supervisory expectations, the Chicken Board must demonstrate a thorough and substantiated use of principles-based regulation and SAFETI in arriving at any changes to the pricing model that clearly reflect “sound marketing policy”. This would necessitate consultation with a broad range of stakeholders and consideration of inter-provincial and national implications

As per BCFIRB’s March 18, 2016 instructions, appropriate interests were considered and consulted. The PPAC consists of representatives of chicken growers, processors and hatching egg producers.

The BCCGA and PPPABC provided input. The Hatching Egg sector provided input. The Board felt that the Hatching Egg input was best dealt with through the full linkage and full COP updates that are anticipated in early 2019. The decision of the Board is in the public interest to provide continuity and stability respecting the live pricing of the regulated product.

Parties impacted by the decision were provided ample opportunity to comment. After the Board made an interim or initial determination on June 8, 2018 which was circulated to the parties, it gave them time to provide further comments and input and to meet with the Board, as well as the opportunity to come to an agreement prior to the Board making a final decision on June 27, 2018.