

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

IN THE MATTER OF THE *NATURAL PRODUCTS MARKETING (BC) ACT* AND
BC BROILER HATCHING EGG COMMISSION FINAL PRICING
RECOMMENDATIONS

June 3, 2022

British Columbia Farm Industry Review Board
Broiler Hatching Egg Commission Final Pricing Recommendations
June 3, 2022

Decision Summary

1. The British Columbia Farm Industry Review Board (BCFIRB) gives approval to the British Columbia Broiler Hatching Egg Commission (Commission) to implement its long-term pricing recommendations on the following conditions:
 - a) The Commission give one production period implementation notice to the BC Chicken Marketing Board (Chicken Board), stakeholders, and BCFIRB; and,
 - b) The Commission follow the graduated process established in its March 4, 2022 submission.
2. The Commission will provide an implementation progress report to BCFIRB by December 16, 2022.
3. On an on-going basis, the Commission will monitor implementation impacts on hatching egg producers and hatcheries; and, through the Chicken Board, implementation impacts on chicken growers and processors.
4. The Commission and Chicken Board are to collaborate as necessary to ensure any significant implementation impacts are duly considered and mitigated as appropriate.

Introduction

5. On March 17, 2020, BCFIRB established a Chicken Sector Pricing Supervisory Review (Pricing Review) and panel (the Panel) to consider the Commission's notice to exit the price linkage agreement with the Chicken Board and address any related supervisory matters that the Panel deemed necessary. The exit notice was concurrent with linkage-related appeals filed by the Primary Poultry Processors Association (PPPABC) and the BC Chicken Growers Association (BCCGA) in December 2019. The appeals were subsequently deferred pending completion of the supervisory process.
6. Meanwhile, the Chicken Board was continuing development of a long-term pricing formula for chicken growers, arising from BCFIRB's May 16, 2019 *PPPABC and BCCGA v BC Chicken Marketing Board*¹ appeal decision. The decision directed the Chicken Board to complete a long-term pricing formula by period A-161 (January 19, 2020). The Chicken Board requested (January 15, 2020) and was granted (January 21, 2020) a deadline extension to "... not later than the start of period A-163" (May 10, 2020) following submissions from the Commission and sector stakeholders.

¹ The June 2018 Chicken Board's interim formula of June 2018 was appealed by the Primary Poultry Processors Association of BC (PPPABC) and the BC Chicken Growers Association (BCCGA), which proceeded to hearing in late 2018.

British Columbia Farm Industry Review Board
Broiler Hatching Egg Commission Final Pricing Recommendations
June 3, 2022

7. On April 29, 2020, the Chicken Board notified BCFIRB that it required a second deadline extension to complete its long-term pricing formula. On April 29, 2020, the pricing appeal panel rescinded its Order establishing the A-163 extension deadline and concluded its involvement with the long-term pricing formula. Subsequently issues related to the adoption of a new chicken pricing formula were subject to BCFIRB's supervisory authority.
8. As a result of the April 29, 2020 appeal panel decision, the Chicken Board's development of a long-term pricing formula was incorporated into BCFIRB's Pricing Review.
9. A full chronology of events leading up to the Pricing Review is detailed in the Panel's July 3, 2020, Interim Pricing supervisory decision.² That chronology will not be repeated here.
10. The goals and objectives of the Pricing Review were set out in the "Long Term Chicken Sector Pricing Review Process Terms of Reference" (Terms of Reference), developed by the Commission and the Chicken Board and approved by BCFIRB on October 28, 2020:

A long-term pricing approach for regulated products in the mainstream chicken and broiler hatching egg sectors in BC, including a decision on the appropriateness of a price linkage agreement between the two sectors that address the policy objectives of:

- Verified COP/reasonable returns-based pricing mechanisms for BC hatching egg producers and chicken growers.
 - BC chicken processors being competitive in the Canadian market for chicken.
 - BC hatcheries receiving a "reasonable" margin for hatching services.
 - The confirmation of a breeder chick pricing formula.
 - The confirmation of a breeder vaccination program pricing formula for hatcheries.
11. To assist the Commission and Chicken Board (the Boards) with meeting the Terms of Reference objectives, BCFIRB retained a liaison. The liaison was responsible for working with the Boards and stakeholders to facilitate a successful outcome and provide regular reports to the Panel.
 12. On March 4, 2022, the Boards made final submissions to the Panel under a common covering letter. The Commission provided its final long-term pricing recommendations for the hatching egg and hatchery sectors that included a cost-based pricing formula. The Chicken Board, however, only provided a plan to develop a long-term cost-based pricing formula. Initially, the Chicken Board said this would take two years. Further to stakeholder input, the Chicken Board agreed that they should be able to get it done within a year.

² 2020 July 3. BCFIRB. [In the Matter of the *Natural Products Marketing \(BC\) Act* and Interim Pricing in the BC Chicken Sector.](#)

British Columbia Farm Industry Review Board
Broiler Hatching Egg Commission Final Pricing Recommendations
June 3, 2022

13. The Boards stated their submissions followed on intensive internal deliberations (separately and jointly), and extensive stakeholder consultation. The Boards further stated their submissions represented the best way forward for all industry stakeholders by delivering pricing stability to support orderly marketing.
14. On April 12, 2022, the Panel met separately with the Commission and the Chicken Board to discuss the March 2022 submissions.
15. The Commission reported to the Panel that it is prepared to implement its pricing recommendations, including its cost of production pricing formula, starting in period A-178 (August 28, 2022 to October 22, 2022).
16. The Chicken Board indicated to the Panel its next step is to start working on developing a verified grower cost and reasonable returns-based pricing formula. In the Chicken Board's view, it thought it could not proceed with developing a long-term pricing formula without the Panel's prior approval. In accordance with the Terms of Reference, the Panel confirmed at the April 12, 2022 meeting its support in principle of a "reasonable returns-based pricing formula" to the Chicken Board and encouraged it to quickly issue a Request for Proposal for a consultant to undertake the work.
17. In its March 4, 2022 submission, the Chicken Board indicated that there would be verifiable data, third-party verification and that the Chicken Board would actively engage stakeholders during the process to achieve a successful outcome. The Chicken Board informed the Panel that its long-term pricing formula would take into consideration grower efficiency and processor competitiveness.
18. On April 28, 2022, the Panel wrote to the Boards and stakeholders stating that despite the Chicken Board having not yet developed a long-term pricing formula, the Panel was prepared to consider moving forward with the Commission's pricing recommendations. The recommendations were summarized in the letter as follows:
 - a) Use a rising floor to the efficient New (2020) Cost of Production (COP)-derived recovery, over X periods. The proposal recommends starting at 95.0% and increasing 0.5% per pricing period to reach an efficient producer.³ The linkage calculation will be used to ensure that the Commission's price is not significantly impacting (negatively) the supply chain for external reasons such as a dramatic increase to broiler feed that may have otherwise hit a pricing guardrail.
 - b) That the hatchery margin be increased by 1.75 cents within the context of the COP Based Pricing Model being implemented.
 - c) Crystallization of the breeder chick margin at a rate of 1.25 cents per saleable chick, approximately one-half of the implied 2.37 cent margin within the system

³ This means that the COP will be used for the purposes of pricing using a phase-in schedule suggested by the Commission on page 104 of its March 4, 2022, submission.

British Columbia Farm Industry Review Board
Broiler Hatching Egg Commission Final Pricing Recommendations
June 3, 2022

currently. This would be an approximate crystallization of a 10.5% breeder chick margin. Combining this with hatchery margin request would equal a net hatchery margin increase of 3.0 cents (1.25 cent breeder chick margin cost translation + 1.75 cent hatchery margin increase). This reflects the agreement reached by the Commission Sub-Committee.

- d) The workplan for the vaccination input is already in progress. A final report will be circulated to stakeholders shortly for their final comments and then the vaccination program price will be finalized and input into the COP.
19. On May 10, 2022 the Panel invited written submissions from the BCCGA, the BC Egg Hatchery Association (BCEHA), the BC Hatching Egg Producers' Association (BCHEPA) and the PPPABC on the following question:

What, if any, outstanding sound marketing policy considerations should the Panel take into account before accepting the Commission's recommendations - prior to the Chicken Board completing its long-term pricing formula? Please provide a SAFETI based rationale.

20. The Commission was invited to make a closing submission by May 13, 2022.
21. The Panel received a submission from the PPPABC and a closing submission from the Commission.

Issues

22. Do the Commission's final pricing recommendations accord with sound marketing policy?
23. Is it sound marketing policy for the Commission to implement its final pricing recommendations in advance of the Chicken Board reaching its final pricing recommendations?

Legal Authorities

24. Under s. 7.1 of the *Natural Products Marketing (BC) Act (NPMA)*, BCFIRB is responsible for the general supervision of all marketing boards and commissions in the province, including the Chicken Board. Section 7.1(2) of the *NPMA* provides for this supervisory authority to be exercised "at any time, with or without a hearing, and in the manner [BCFIRB] considers appropriate to the circumstances".
25. Under s. 9 of the *NPMA*, BCFIRB "has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined by [BCFIRB] under [the *NPMA*]".
26. The Commission has the authority to regulate the price of regulated products under section 8 of the British Columbia Broiler Hatching Egg Scheme.

Commission Process

27. BCFIRB expects BC's commodity boards, including the Commission, to use SAFETI-based⁴ processes in decision making. Prior to making its March 4, 2022 submission to the Panel, the Commission's process included:
- a) engaging in consultations and discussions with the BCBHEPA, BCEHA, the BCCGA, and the PPPABC on pricing issues since April 2018;
 - b) contracting with Serecon Inc. (Serecon) in October 2020 to carry out independent analyses on key questions using a stratified, structured survey process to update and validate costs of producing hatching eggs in BC that considered both cash and opportunity costs for producers;
 - c) working with Serecon and stakeholders extensively on the development of its long-term pricing model since October 2020;
 - d) ensuring that the new cost of production model is fully transparent and defensible by engaging MNP LLP (MMP) to conduct a thorough third-party review of the cost of production in consultation with Serecon. The MNP report and Serecon responses were included in the Commission's submission to BCFIRB;
 - e) obtaining specific feedback on its final draft long-term pricing recommendations from all stakeholders in February 2022, and then demonstrated it considered that feedback;
 - f) obtaining feedback and the position of the Commission's Pricing and Production Advisory Committee (PPAC) on the long-term pricing recommendations on February 10, 2022; and
 - g) working very closely with the Chicken Board on evaluating the potential impacts of its pricing proposal on downstream stakeholders, commencing with the broiler (day-old) chick price.

Analysis

28. As established in the Terms of Reference, the intent of the Pricing Review was to establish joint long-term pricing structures for the chicken and hatching egg sectors. A supply chain approach to long-term pricing supports industry stability and competitiveness and builds a value chain approach to business.
29. The Panel now finds itself in the position of considering whether it is sound marketing policy to move forward step-wise on supply chain long-term pricing for the hatching egg sector alone. The Commission reports it is ready to implement its

⁴ Strategic Accountable Fair Effective Transparent Inclusive

British Columbia Farm Industry Review Board
Broiler Hatching Egg Commission Final Pricing Recommendations
June 3, 2022

final pricing recommendations, while the Chicken Board is proposing a plan to reach a final pricing formula recommendation in approximately a year. This situation has arisen despite the extensive time and resources committed to these issues since spring 2020.

30. The Commission recommends a cost of production formula based on a reasonable return to mainstream producers. The Commission's intent is to use a similar approach to specialty production pricing. A hatchery margin increase was agreed to, and plans have been established to build a cost-based hatchery pricing model by 2023 based on reasonable returns. Crystallization of a breeder chick margin was achieved, and a work plan is in progress on vaccination program pricing as an input to the cost of production formula.
31. The new formula has mechanisms to address rising input costs. If returns prove to be insufficient, costs will be indexed on a period-by-period basis. Should new costs arise, the Commission and its PPAC will consider them. The new cost(s) would then either be borne by the producer, reflected in the formula as an added cost, or covered by Commission levies.
32. The Commission notes that achieving producer efficiencies is critical to BC as a high-cost production province. As costs rise and margins come under pressure, efficiencies are key to all members of the value chain. Because of this, efficiency incentives are built into the formula.
33. Finally, the Commission reports that the cost of production pricing formula will be adjusted and updated over time. For example, the labour survey component is scheduled to be updated in 2023.
34. In its March 13, 2022 final submission, the Commission clarified that it would compare the price resulting from its new production-cost-based pricing formula with the price that would have been set under the price linkage agreement for two periods post-implementation. The phased-in approach, on a period-by-period basis, provides opportunity for the Commission to review the pricing increments timeline should evidence be presented that warrants such an action. The PPACs continue to have a role in forwarding pricing issues at their own initiative.
35. The Panel acknowledges the level of focused work, effort, problem-solving and collaboration shown by the Commission over the past two years, working with the stakeholders, Chicken Board and Serecon to develop its long-term pricing recommendations. The Panel appreciates this work required a large commitment of time, focus and resources. The ongoing global pandemic, the summer 2021 heat dome, and the winter 2021 atmospheric rivers and catastrophic flooding made this work all that much more difficult to complete.
36. A phased-in implementation approach allows the supply chain to adjust to the Commission's pricing changes and the Commission and Chicken Board to quickly identify and address any significant issues that may arise within their respective

British Columbia Farm Industry Review Board
Broiler Hatching Egg Commission Final Pricing Recommendations
June 3, 2022

pricing jurisdictions. It also starts to address the long-standing hatching egg producer cost of production recovery issues without an abrupt pricing change that could cause disruptive supply chain impacts.

37. In its April 12, 2022 meeting with the Panel, the Chicken Board verbally acknowledged the extensive work done by the Commission and indicated its support for the implementation of the Commission's recommendations over the next few months.
38. The Commission reports (March 4, 2022) that the BCEHA supports the recommendations, and the new approach is seen as instrumental to a cost-based system supporting hatcheries.
39. In its May 10, 2022 submission, the PPPABC argues that approving the Commission's pricing recommendations now – before the Chicken Board has completed its long-term pricing work – fails to meet the Review's mandate and is not sound marketing policy. It argues there is substantive industry risk to introducing a fundamental shift in pricing while the Chicken Board continues to use an interim pricing formula. This is of particular concern given that the Commission has not analyzed the impact of the new formula on the Chicken Board's interim formula, including the guardrails, grower returns and processor competitiveness. Its position is that a full analysis on grower returns and processor competitiveness is not possible until the Chicken Board completes its long-term pricing formula.
40. PPPABC points to turbulent times with rising feed prices, avian influenza, chick shortages and the Russia/Ukraine war. These events are impacting pricing, making it difficult to forecast formula change impacts. Sound marketing policy requires pricing changes be introduced during a time of relative stability to allow price change impacts to be monitored and evaluated. As a result, it argues, the Commission's pricing recommendations should be implemented at the same as the Chicken Board's final pricing recommendation.
41. In its May 13, 2022 final reply, the Commission states it fulfilled its legal and sound marketing policy responsibilities to the BC hatching egg stakeholders and as the first instance regulator under the BC Broiler Hatching Egg Scheme. It takes the position that it has laid a foundation for certainty and stability in the hatching egg sector which foundation the Chicken Board can build upon in developing its pricing formula as per the Review objective. As such, the Commission argues implementation of its pricing recommendations should not be delayed pending the Chicken Board achieving its final long-term pricing recommendation. Further delay would only serve to undermine the Commission's regulatory credibility and defer necessary efficiency improvements in the hatching egg sector to the detriment of the entire supply chain.
42. The Commission reports it has established safeguards for sound marketing policy. It commits to continuing to compare the new formula price with the price linkage price for two periods following implementation. Period by period implementation

British Columbia Farm Industry Review Board
Broiler Hatching Egg Commission Final Pricing Recommendations
June 3, 2022

will allow the Commission to review whether there is sufficient evidence for alternative pricing. The PPAC's also remain free to bring forward pricing issues at their own initiative. Under the recently signed Memorandum of Understanding, the Commission and Chicken Board agreed to engage regularly and constructively on pricing and other issues of concern.

43. The PPPABC opposition to BCFIRB proceeding to implement the Commission's pricing recommendations in advance of the Chicken Board's recommendations are based on generalized, unsupported concerns regarding potential negative impacts on Chicken Board interim pricing and - in turn - processor competitiveness. Significantly, the PPPABC does not identify any specific flaws or concerns with the Commission's pricing recommendations that signal the need for revision or delay.
44. The Panel agrees with the PPPABC that the sectors are operating in difficult and uncertain times, adding further challenges to an already complex and fraught pricing development process. However, the Panel does not agree that it is sound marketing policy to delay finalizing all long-term pricing until such time as there is "relative industry stability" and the Chicken Board has a final pricing recommendation.
45. PPPABC appears to forecast that once the Chicken Board makes its final pricing recommendation - a year or more down the road - that there will be fewer industry pressures and a comprehensive cross-sector impact analysis will be possible in some reasonable timeframe. The Panel is not as optimistic that this ideal or "quiet time" will ever occur. The PPPABC has clearly expressed its concern about the lack of industry stability during the Pricing Review. In the Panel's view, further extending the Review to allow for a cross-sector evaluation incorporating the Chicken Board's final pricing recommendation at some yet-to-be determined date will do little or nothing to contribute to industry stability over the time needed to complete this work.
46. Departing from the price linkage agreement is a significant change from how pricing is done in the hatching egg sector and it is understandable why supply chain members would be very concerned about such a change. This is particularly so given that the linkage has been in place since the 1990's and has played a critical role in supply chain stability. However, the Commission has a clearly established a step wise implementation plan, provided analysis of price comparisons between the recommended cost of production formula and the price linkage, and considered impacts on the supply chain.
47. While the Panel also agrees with the PPPABC that the intent of the Pricing Review was to achieve final concurrent long-term pricing recommendations from both Boards, that is not the situation BCFIRB and the Boards find themselves in today. Despite two years of work, the Chicken Board is simply not in a position to make a recommendation. As such, BCFIRB, the two regulators and stakeholders must look at the current circumstances and decide what is the best decision now to promote industry stability and success going forward.

British Columbia Farm Industry Review Board
Broiler Hatching Egg Commission Final Pricing Recommendations
June 3, 2022

48. In previous submissions and correspondence, PPPABC expressed concern that unless BC chicken sector prices remain linked to the Ontario live price, BC processors would be at a competitive disadvantage. If the Commission sets its price using a cost of production formula, rather than through the current price linkage agreement with the Chicken Board, PPPABC fears that BC chicken sector prices will in part become “disconnected” from Ontario.
49. In its March 2022 final recommendations, the Commission acknowledged pricing’s critical connection to Ontario and the need for sustaining processor competitiveness. In the Commission’s view, continuing to lock the BC chicken industry into pricing off Ontario is no longer sound marketing policy. The Commission maintains that setting a regulatory price for the BC hatching sector based on an Ontario price through the price linkage agreement may not reflect actual costs in BC. Combined with the continued payment of premiums by processors to BC chicken growers over and above the Chicken Board minimum price - which premiums are not accounted for in any formula - the Commission no longer believes the current approach to pricing is sustainable.
50. The Panel agrees with the Commission. Currently, BC processor competitiveness is taken into account through the Chicken Board’s use of interim price formula guardrails. The Chicken Board’s proposed long-term cost-based pricing development plan includes development of processor competitiveness indicators. The Panel agrees in principle that the use of processor competitiveness indicators could be a more effective solution than the current price linkage agreement.

Findings

51. The Panel is satisfied that the Commission carried out a SAFETI-based analytical and stakeholder consultation process. Stakeholder input and concerns received directly and through comprehensive roundtable processes were considered and responded to by the Commission. The Commission strategically, and accountably, balanced significant competing interests. Development of the recommendations considered all segments of the regulated supply chain.
52. The Commission’s cost of production formula is based on structured producer surveys and third-party verification. It considers BC’s production context and the supply chain by building in producer efficiency incentives.
53. Immediate implementation of a hatchery margin increase followed by scheduled development of a cost-based pricing formula for chicks is effective and strategic.
54. The cost of production formula is transparent, replicable, and defensible. It was developed using an extensive stakeholder review and feedback process.
55. The Panel finds the Commission’s pricing recommendations are sound marketing policy.

British Columbia Farm Industry Review Board
Broiler Hatching Egg Commission Final Pricing Recommendations
June 3, 2022

56. The Panel is satisfied it is sound marketing policy for the Commission to implement its pricing recommendations prior to the Chicken Board making its own recommendations. The Commission's pricing recommendations represent a significant advancement in promoting industry stability. It is not consistent with sound marketing policy to delay implementation of the Commission's recommendations based on the Chicken Board's failure to concurrently reach a recommendation. Particularly when the reasons for the delay remain unclear to the Panel.
57. It remains critical for effective, strategic and accountable long-term pricing that measures of fair producer and grower returns and processor competitiveness are established and based on transparent, verifiable data.
58. The Panel continues to support in principle the Chicken Board's proposed cost-based approach to long-term pricing as it aligns with the Terms of Reference.

Decision

59. The Panel gives approval to the Commission to implement its long-term pricing recommendations on the following conditions:
 - a) The Commission give one production period implementation notice to the Chicken Board, stakeholders, and BCFIRB; and,
 - b) The Commission follow the graduated process for implementation established in the March 4, 2022 submission.
60. The Commission will provide an implementation progress report to BCFIRB by December 16, 2022.
61. On an on-going basis, the Commission will monitor implementation impacts on hatching egg producers and hatcheries; and, through the Chicken Board, implementation impacts on chicken growers and processors.
62. The Commission and Chicken Board are to collaborate as necessary to ensure any significant implementation impacts are duly considered and mitigated as appropriate.

British Columbia Farm Industry Review Board
Broiler Hatching Egg Commission Final Pricing Recommendations
June 3, 2022

Closing

63. The Panel will be closely monitoring the Chicken Board's development of a long-term pricing formula over the coming year. The importance of continued work and collaboration between all parties on an interim pricing formula cannot be overstated. Significant leadership, transparency and inclusion will be required from the Chicken Board to ensure stakeholder consultation is both ongoing and meaningful, providing sufficient opportunities for input.

Dated at Victoria, British Columbia, this 3rd day of June 2022.



Peter Donkers
Chair, Chicken Sector Pricing Review Panel



Al Sakalauskas
Member, Chicken Sector Pricing Review Panel