

Appendix C – List of Crowns, Agencies, Boards and Commissions

British Columbia Farm Industry Review Board

Purpose of the Board

The British Columbia Farm Industry Review Board (BCFIRB) is an independent administrative tribunal that operates at arm's-length from government. As the regulatory tribunal responsible for the general supervision of B.C. regulated marketing boards and commissions, BCFIRB provides oversight, policy direction and decisions to protect the public interest. In its adjudicative capacities, BCFIRB provides a less formal system than the court for resolving disputes in a timely and cost effective way. BCFIRB consists of a part-time board of up to ten members and nine full time equivalent staff positions, and is accountable to government for its administrative operations.

The Board's statutorily mandated responsibilities are established in the *Natural Products Marketing (B.C.) Act*, the *Farm Practices Protection (Right to Farm) Act*, the *Prevention of Cruelty to Animals Act*, and the *Agricultural Produce Grading Act* and are supported by the *Administrative Tribunals Act*. They include:

- supervising B.C.'s regulated marketing boards and commissions;
- being a signatory to formal federal-provincial cooperation agreements in regulated marketing;
- hearing appeals of regulated marketing board and commission orders, decisions and determinations;
- hearing appeals related to certain animal custody and cost decisions of the B.C. Society for the Prevention of Cruelty to Animals;
- hearing farm practices complaints from persons disturbed by odour, noise, dust or other disturbances arising from agriculture or certain aquaculture operations; and
- conducting farm practices studies.

The board has adjudicative independence in its decision-making, and through its annual service plan report, BCFIRB establishes the goals, objectives, strategies and performance measures it believes are necessary to achieve its administrative role as a public sector agency, including cost-consciousness, accountability, appropriate compensation, service, respect and integrity as outlined in the *Taxpayer Accountability Principles*.

The Minister and Chair of BCFIRB established a *Mandate Letter* in response to the *Taxpayer Accountability Principles* announced in June 2015. The first annual *Mandate Letter* was signed effective June 2016 and was reported on regularly throughout 2016/17.

Further information about the British Columbia Farm Industry Review Board may be found at <http://www2.gov.bc.ca/bcfarministryreviewboard>.

Goals, Objectives, Strategies and Performance Measures

Goal 1: A regulated marketing system with effective self-governance.

Objective 1.1: The British Columbia Farm Industry Review Board and marketing boards and commissions practice good governance in their external and internal operations.

Strategies

- Ensuring that marketing boards and commission activities and decisions are administratively fair, in compliance with legislation/regulations and in accord with sound marketing policy.
- Requiring boards to give consideration to the government policy framework and the public interest.
- Providing supervisory intervention when necessary.
- Working to achieve priorities within budget while continuing to place importance on board and staff development and training.
- While preserving its independence as a tribunal, continuing to work to ensure effective relations with the Ministry of Agriculture, regulatory agencies and stakeholders.

Performance Measure 1: BCFIRB and the boards and commissions it supervises exercise appropriate governance and fiscal procedures in exercising their mandates.

Performance Measure	2015/16 Actual	2016/17 Target	2016/17 Actual	2017/18 Target	2018/19 Target
BCFIRB & boards/commissions exercise appropriate governance & fiscal procedures.	Met	Met 2016/17 expectations	Met	Meet 2017/18 expectations	Meet 2018/19 expectations

Discussion

In 2016/17 BCFIRB administration and supervisory records demonstrated that expectations were met. BCFIRB expects itself and the boards and commissions it supervises under the *NPMA* to exercise appropriate governance and fiscal procedures. This includes meeting related legislative requirements (e.g. board/commission financial audits), addressing government financial accountability expectations (e.g. Tax Payer Accountability Principles); and continuing to implement and following sound governance practices.

While government recognizes BCFIRB's independence as an administrative tribunal in executing its statutory mandates, BCFIRB is accountable to the Minister concerning its budget, focusing on cost-consciousness, accountability, appropriate compensation, service, respect and integrity, as outlined in the Taxpayer Accountability Principles. Government's annual Mandate Letter was implemented between the Minister and BCFIRB Chair in June 2016. Highlights included regular reporting of cost-of-services for appeals and complaints, implementing Treasury Board direction for member compensation, updating BCFIRB's Code of Conduct and implementing several service improvements for citizens. (e.g., enabling fee payments through Service BC).

BCFIRB is satisfied that boards and commissions continue to make progress towards demonstrating best practices in their governance and fiscal procedures, including publication of governance documents, compliance with election rules and transparent fiscal management. All boards and commissions had annual reports, audited financial statements, current election rules and General Orders posted to their websites. The Egg and Chicken boards completed full reviews and updated and modernized their General Order.

Performance Measure 2: Boards and commissions demonstrate that their programs, policies and decisions reflect legislative intent, sound marketing policy and consider the public interest.

Performance Measure	2015/16 Actual	2016/17 Target	2016/17 Actual	2017/18 Target	2018/19 Target
Programs, policies and decisions reflect legislative intent, sound marketing policy and consider the public interest.	Met	Met 2016/17 expectations	Met	Meet 2017/18 expectations	Meet 2018/19 expectations

Discussion

BCFIRB 2016/17 supervisory records demonstrated that expectations were met. Under the *NPMA* BCFIRB is responsible for evaluating whether board and commission activities and decisions maintain orderly marketing in the public interest (legislative intent), and accord with “sound marketing policy”.

BCFIRB worked with boards and commissions throughout 2016/17 to ensure activities and decisions were administratively fair, in compliance with legislation/regulations and in accord with sound marketing policy. Highlights included completing a long-term review of vegetable regulation on Vancouver Island with the BC Vegetable Marketing Commission to resolve long-standing conflicts impacting orderly marketing, approving distribution of increased egg production opportunities by the BC Egg Marketing Board based on sound marketing policy, and working with the BC Chicken Marketing Board as part of a national process to update a federal-provincial agreement key to on-going orderly marketing and sound marketing policy for the BC chicken industry.

Performance Measure 3: BCFIRB demonstrates fiscal responsibility by operating within budget.

Performance Measure	2015/16 Actual	2016/17 Target	2016/17 Actual	2017/18 Target	2018/19 Target
BCFIRB expenditures are on budget.	Met	Expenditures are on budget	16% over-budget	Expenditures are on budget	Expenditures are on budget

Discussion

BCFIRB expended \$1.401 million in 2016/17, representing an over-expenditure of \$195,000 (16%). BCFIRB advised the Ministry of Agriculture early in the 2016/17 fiscal year of expected salary pressure due to a one-time staff overlap generated by retirement. The majority of the over-expenditure was due to legal services, resulting from high case volume and complexity in 2016/17. In addition to 66 appeals and complaints to BCFIRB, there were also 7 Judicial Reviews of BCFIRB decisions to the B.C. Supreme Court, necessitating preparation of significant documentation for court and the need to represent BCFIRB in court proceedings. Case volumes and complexities are challenging to predict

as they are driven by outside parties and must be managed in accordance with the law. Over the course of the year, increasing pressures on legal services were identified and forecast as early as possible.

Goal 2: A principles-based, outcomes-oriented approach to regulation.

Objective 2.1: BCFIRB and marketing boards and commissions use a principles-based approach to regulating.

Strategies

- Working with boards and commissions to develop, adopt, and employ a principles-based approach to regulation.
- Requiring all British Columbia Farm Industry Review Board, marketing board and commission orders, decisions and determinations to be made available to the public, except where privacy legislation and policies apply.
- Promoting policies that reflect B.C. interests at both the federal and provincial levels.

Performance Measure 4: The British Columbia Farm Industry Review Board and the boards and commissions it supervises demonstrate the application of the Strategic, Accountable, Fair, Effective, Transparent and Inclusive (SAFETI) principles in their programs, policies and decisions.

Performance Measure	2015/16 Actual	2016/17 Target	2016/17 Actual	2017/18 Target	2018/19 Target
BCFIRB & Boards and Commissions apply SAFETI principles.	Met	All meet 2016/17 expectations	Met	Meet 2017/18 expectations	Meet 2018/19 expectations

Discussion

BCFIRB 2016/17 supervisory records demonstrated that expectations were met. BCFIRB is satisfied with progress made on the implementation of the principles-based approach to regulation, including SAFETI. BCFIRB worked with the boards and commissions to finalize adoption of this approach in 2016/17, reinforced by an all board workshop in early 2016. Implementation of a principles-based approach was evident through various board and commission initiatives, such as new entrant program reviews, responses to BCFIRB’s quota tools evaluation project launched in November 2016 and various board and commission decisions.

Performance Measure 5: BCFIRB orders, decisions, determinations, practices and procedures and other information are published. Marketing board and commission orders, decisions and determinations are published promptly after being made in order to preserve rights of appeal under the Natural Products Marketing (B.C.) Act.

Performance Measure	2015/16 Actual	2016/17 Target	2016/17 Actual	2017/18 Target	2018/19 Target
Orders, decisions & determinations are published promptly.	Met	Meet 2016/17 expectations	Met	Meet 2017/18 expectations	Meet 2018/19 expectations

Discussion

BCFIRB 2016/17 administrative and supervisory records demonstrated expectations were met. In 2016/17, BCFIRB posted all of its complaints and appeals decisions to its web site after seven days following the decision being made, as specified in its Rules of Practice and Procedure. Supervisory decisions, all significant correspondence and all updates to policies and procedures were also published in a timely fashion. BCFIRB continues to be satisfied with the progress boards and commissions are making publishing orders, determinations, decisions and other information in a timely manner.

Performance Measure 6: BCFIRB and the boards and commissions it supervises work to maintain and where possible grow the market for B.C. produced product.

Performance Measure	2015/16 Actual	2016/17 Target	2016/17 Actual	2017/18 Target	2018/19 Target
No production or base allocation loss in supply-managed sectors.	Met	No Loss	Met	No loss	No loss

Discussion

Regulated marketing products contributed an estimated farm-gate value of just over \$1.6 billion in 2015. Regulated marketing sectors contributed more than one-half of the \$3.0 billion farm gate value of all agricultural output in the province, with a commensurate economic contribution from downstream processing and marketing sectors.

B.C.’s share of national production in milk, eggs and chicken increased in 2016/17. Production in hatching eggs also increased in response to increased chicken production. Commodity boards continued to work with the value chain to grow markets including, for example, grass fed milk and low-sugar cranberry products. B.C. continues to be the national leader in specialty production under the regulatory framework established by BCFIRB.

Goal 3: Effective, fair and independent resolution of inquiries and disputes.

Objective 3.1: Ensure issues and disputes arising within the British Columbia Farm Industry Review Board’s jurisdiction are resolved in a fair and timely manner.

Strategies

- Using farm practices studies to help prevent and resolve farm practices disputes.
- Using supervisory processes to help prevent and resolve regulated marketing disputes.
- Using timely, fair and accessible processes to help resolve complaints (under the *Farm Practices Protection (Right to Farm) Act*), and appeals (under the *Natural Products Marketing (B.C.) Act*, and the *Prevention of Cruelty to Animals Act*).

Performance Measure 7: BCFIRB reports annually on time from filing to resolution, cost per case, and user satisfaction for each of its appeals and complaints processes. Appeals and complaints to BCFIRB are routinely handled within usual time periods established in its Practice Directives.

Performance Measure	2015/16 Actual	2016/17 Target	2016/17 Actual	2017/18 Target	2018/19 Target
Appeals and complaints are routinely handled within usual time periods established in its Practice Directives	100%	100%	80%	100%	100%

Discussion

The table below summarizes BCFIRB’s appeals and complaints activities in 2016/17.

	Farm Practices Complaints (FPPA)	Regulated Marketing Appeals (NPMA)	Appeals under Prevention of Cruelty to Animals Act (PCAA)	Total
Carried forward from previous fiscal year	3	4	4	11
New appeals filed	17	26	12	55
Active appeals	20	30	16	66
Appeals resolved in fiscal year	5	16	15	36
Appeals carried forward to 2017/18	15	14	1	30

In total BCFIRB administered 66 cases in 2016/17. Of these, 36 were resolved in the fiscal year, with 15 decided following a hearing. The remaining 21 cases were either dismissed or withdrawn, including through settlement using Alternative Dispute Resolution.

Of the 15 cases decided following a hearing, 80% were heard and decided within the usual timelines set out in BCFIRB’s published Practice Directives. Case complexity can influence meeting usual timelines, which occurred in 20% of cases that proceeded to a hearing in 2016/17. Board members can require in-depth legal advice on various matters, additional time for analysis and decision-writing or, in rare circumstances, returning to the parties or subject matter experts for additional information, resulting in additional steps and time to ensure all principles of administrative justice are met.

Of the 16 total active animal custody appeals in 2016/17, twelve proceeded to a panel hearing with a decision rendered in the published usual time period, three were resolved without a hearing and one was carried over to 2017/18 fiscal for continued case management.

While there is considerable cost variability from case to case, approximate average cost-per-case estimates are \$11,200, \$1,700 and \$2,600, for *PCAA*, *NPMA* and *FPPA* mandates, respectively. The higher *PCAA* average cost reflects the fact that most appeals require a hearing. BCFIRB is currently refining its method to determine cost of service for its appeals and complaints and completing a new database to track and report on all appeal and complaint cases, status, costs and timelines.

In 2016/17, BCFIRB managed 7 Judicial Reviews to the B.C. Supreme Court. These cases can range significantly in cost, but in 2016/17 averaged about \$10,000 per Judicial Review case.

Lastly, a new electronic survey regarding case user experience was implemented in March 2017. The survey focuses on areas such as staff response times, transparency and ease of using the BCFIRB website. Confidential and aggregated survey information will be helpful to BCFIRB in making appropriate and warranted process improvements going forward.

Performance Measure 8: Demonstrated increased use of Alternative Dispute Resolution (ADR) by BCFIRB and the marketing boards and commissions.

Performance Measure	2015/16 Actual	2016/17 Target	2016/17 Actual	2017/18 Target	2018/19 Target
ADR is used whenever appropriate	Met	Whenever Appropriate	Met	Whenever Appropriate	Whenever Appropriate

Discussion

BCFIRB used an ADR process to resolve two farm practices complaints in 2016/17, resulting in an agreed on outcome most likely to have long-term success. BCFIRB will be continuing to explore all opportunities to use ADR methods to resolve disputes, saving costs and enhancing service and outcomes for citizens. BCFIRB is also generally satisfied that boards and commissions continue to routinely use dispute prevention and resolution options as appropriate in their decision-making processes.