

BRITISH COLUMBIA VEGETABLE MARKETING COMMISSION

Supervisory Review:

The Future of Regulated Marketing on

Vancouver Island

DECISIONS

&

RECOMMENDATION

EXECUTIVE SUMMARY

Objective

1. The request to launch a supervisory review was based on the need for the Commission, BCFIRB, and producers to take strategic action to resolve ongoing issues with regulated vegetable production on Vancouver Island. The objective for the review is to evaluate how Vancouver Island vegetable production should continue to be regulated and, if so, what that should look like.
2. A stakeholder consultation process was used to define a clear, shared vision for the regulated vegetable sector on Vancouver Island and explore the strategies available to achieve it. Strategic options for achieving this shared vision are evaluated and a recommendation is put forward to BCFIRB on a marketing structure that supports both the interests of Vancouver Island producers and those of the regulated vegetable industry.
3. The two questions to be answered by this review are:
 - a. Do Vancouver Island producers want to be regulated?
 - b. What type of marketing structure supports the strategic needs of the Van. Isl. market?

Methodology

4. A multi-phased consultative process was used and applied to a principles-based approach in reaching decisions and in providing a recommendation to BCFIRB. A brief description of each stage of the process and how each one was conducted is presented below¹. All documents issued as part of this review process have been posted on the Commission website.

Stage 1: Initial Input and Vision Building (August 31st to December 31st)

5. A discussion paper was published that provided background information about the issues, detail on the current regulated marketing system, and a set of questions to assist respondents in providing feedback. It was advertised and circulated with industry stakeholders and members of the value chain. It was also available to stakeholders on the Commission website.
6. A 'What We Heard' document was published that captured all the comments and opinions received by the Commission during Stage 1 of the Supervisory Review. It reflected the feedback and ideas brought forward from informal round table discussions² held with each agency on Vancouver Island and the Lower Mainland, and the written submissions received by the Commission. It presented an

¹ For a full descriptive please refer to the original documents that can be found on the Commission website at <http://www.bcveg.com/news.asp>.

² The Commission Chair and General Manager represented the Commission in these informal discussions to introduce the Supervisory Review process to key stakeholders.

overall picture of opinions from stakeholders on the vision for Vancouver Island, the vision for the BC industry, and fundamental issues with the current regulatory environment. This document was not quantified. It gave all stakeholders an equal voice so that all feedback was given equal weight.

Stage 2: Joint Problem Solving (February 29th, March 1st, March 16th)

7. Moderated workshops were organized on Vancouver Island (Nanaimo) and in the Vancouver Regional District (Delta). The scheduled workshops were targeted towards agency and producer participation and open to all stakeholders.
8. The workshops were organized to provoke discussion. A case study approach was applied that outlined four alternative scenarios for debate and assessment. Attendees were challenged to argue points of view opposite to their apparent bias or opinion. The scenarios proposed changes to key elements of the Orderly Marketing System that are used to maintain orderly marketing.
9. The purpose of the workshops was to give all participants an equal opportunity to identify their support for a regulatory system, validate current challenges to the system, and explore avenues for consideration.
10. The workshop moderator submitted a workshop report and was asked by the Commission to include a set of recommendations to consider for moving forward.

Stage 3: Evaluation of Options and Commission Decision (April 2016)

11. To assist in the Commission's approach to principles based decision making to achieve responsive governance, a general guideline has been adopted in the form of assessment questions that are founded on the SAFETI (Strategic, Accountable, Fair, Effective, Transparent, and Inclusive) tool provided by BCFIRB. This guideline is to be applied systematically to all decisions required in the Commission's position of authority to regulate and enforce regulation based on the SAFETI principles.
12. The Commission also validated an Agency Accountability Framework. Performance of agencies and applicants are to be assessed against this accountability framework. This is consistent with the Commission fulfilling and recommitting to its role as first instance regulator.
13. Considerations addressed in discussion on strategic options included:
 - a. Purpose of the BC Vegetable Marketing Commission
 - b. Current Strategic Plan
 - c. Strategic Analysis of Vancouver Island
 - d. Agency Accountability Requirements

- e. Agency Accountability Framework
- f. Public Interest
- g. Independent Review

14. It is clearly evident from the strategic analysis that the market power lies with the buyers. There is no question that the strength of our organization's current competitive position in the Vancouver Island region is weak. Four agencies marketing to a region that represents less than 20% of the BC population³ with local production of 415 acres (2015) is not ideal; nor can it be argued to be the most efficient and effective way of representing the producer base in a market where power lies with the buyer. Marketing efforts clearly need to be consolidated to strengthen supplier efforts using the regulatory powers granted to producers in the orderly marketing system. It is in the public interest that we do not take this right for granted and that we self-regulate and represent our market interests in an efficient, effective, and organized manner. Regulation is a privilege. All producers, the Commission and agencies are accountable to the orderly marketing system and need to take ownership of this privilege.

Outcome

15. Accountability starts from the top down. The Commission has reviewed all the information that was attained through the engagement process, including the independent review and feedback from stakeholders. Upon discussion of the results and considerations that were outlined in this document, the Commission has decided to adopt recommendations based on the independent review. In addition, the Commission will also explore potential amendments to the Scheme to allow for the appointment of an independent Commission member. A letter was presented to BCFIRB January 4th, 2013 requesting that BCFIRB support the Commission in seeking Scheme amendments that would allow for persons other than commercial producers to be Commission members. This proposed change will be presented to stakeholders as part of this year's scheduled review of the Commission's Election Policy.

16. The Commission will proceed with immediate actions to reinforce its commitment to accountability.

These actions are as follows:

- Validate Vision & Values for the VMC (see para.114.1)
- Establish measures of industry performance (see para.114.2)
- The Commission will develop an updated strategic plan (see para.114.4)
- Board and Management actions will be consistent with the strategic plan(see para.114.5)
- Storage crop planting will be surveyed – intended crops and actual (see para.114.6)
- DA Orders will be overhauled (see para.114.7)

³ Reference: 2015 Sub-Provincial Population Estimates Report, BC Central Statistical Agency www.bcstats.gov.bc.ca

- Agency performance is to be reviewed against agency accountability framework. Storage crop agencies need to be audited (see para.114.9)
- Use Part XV of the General Orders to address current growth ambitions of BC agencies (see para.114.11)
- Enforce the regulations on a consistent basis (see para.114.12)

Recommendation – Vancouver Island Marketing Structure

17. All feedback received through this supervisory review did not contest the need or want for regulation on Vancouver Island. However, the privilege of having regulation demands responsibility. It is essential for the structure that supports the strategic demands of the Island market to hold all participants accountable. The Commission, therefore, supports the continued regulation of the Vancouver Island vegetable industry using an agency structure.
18. Our recommendation is that given the changes in the market environment on Vancouver Island and the collective interests of the industry, the agency accountability framework be used to examine each existing Vancouver Island agency. The Commission further recommends that this be accomplished by having each Island agency submit an application requesting agency status for the 2017 Crop Year. Therefore, each agency is to re-apply for an agency licence. The application process should also be made available to any group of producers wishing to submit an application for agency status. This will ensure the Commission can make an informed determination as to the exact number and identity of Vancouver Island agencies starting in the 2017 Crop Year.
19. The Commission is committed to a transparent, inclusive and fair application and review process. The process should be developed in consultation with BCFIRB and will support two concurrent decisions: 1) Determining the number of agencies (in light of sound marketing policy)
2) Determining the identity of those agency(s)
20. Following the application and review process, the Commission's recommendations with respect to the agency structure on Vancouver Island will be submitted to BCFIRB for supervisory approval by October 2016.
21. We request that BCFRIB approve the Commission's recommendations in respect to the continued regulation of the Vancouver Island vegetable industry and the process for confirming the Vancouver Island agency structure going forward.

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INTRODUCTION

1. At the September 11, 2014 BC Farm Industry Review Board (BCFIRB) meeting David Taylor, chair of the BC Vegetable Marketing Commission (the Commission) in 2014, requested that BCFIRB consider a supervisory review of Vancouver Island's regulated vegetable industry. The request was accepted by BCFIRB and notice of the approval was sent to the Commission on October 10th, 2014. BCFIRB directed the Commission to lead the review with BCFIRB support.
2. The request to launch a supervisory review was based on the need for the Commission, BCFIRB, and producers to take strategic action to resolve ongoing issues with regulated vegetable production on Vancouver Island. The objective for the review is to evaluate how Vancouver Island vegetable production should continue to be regulated and, if so, what that should look like.
3. On September 21, 2015, the supervisory review was launched by the Commission as a multi-stage consultative process. Feedback from stakeholders consisted of written submissions, discussion at moderated workshops, and informal round table discussions with agencies. The workshop Moderator also submitted a report on his finding as well as a set of recommendations that the Commission could implement. The entire process was transparent through the Commission website and regular notices.
4. The consultative process reaffirmed matters that go to the heart of regulated vegetable marketing and that apply to the entire orderly marketing system – (i.e.) accountability, enforcement, governance, market access rules. This submission considers these matters. It includes both a recommendation on regulated marketing on Vancouver Island and decisions by the Commission that address the concerns brought forward through the consultative process.

ISSUE

5. The objective of the stakeholder consultation is to define a clear, shared vision for the regulated vegetable sector on Vancouver Island and explore the strategies available to achieve it.
6. The vision that emerges from the stakeholder consultations will be integrated into a proactive approach that identifies and attempts to resolve emerging concerns within the industry and the orderly marketing system (including agencies).

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7. Strategic options for achieving this shared vision are evaluated against decision making criteria and considerations. A recommendation is put forward to BCFIRB on a marketing structure that supports both the interests of Vancouver Island producers and those of the regulated vegetable industry.
 8. The two questions to be answered by this review are:
 - a) Do Vancouver Island producers want to be regulated?
 - b) What type of marketing structure supports the strategic needs of the Vancouver Island market?

METHODOLOGY/APPROACH

9. A multi-phased consultative process was used and applied to a principles-based approach in reaching decisions and in providing a recommendation to BCFIRB. A brief description of each stage of the process and how each one was conducted is presented below⁴. All documents issued as part of this review process have been posted on the Commission website.

Stage 1: Initial Input and Vision Building
(August 31st to December 31st)

10. A discussion paper was published that provided background information about the issues, detail on the current regulated marketing system, and a set of questions to assist respondents in providing feedback. It was advertised and circulated with industry stakeholders and members of the value chain. It was also available to stakeholders on the Commission website.
11. The purpose of this stage in the process was for the Commission to gather opinions on what the vision for the Vancouver Island regulated vegetable industry should be and what role, if any, regulation should play in achieving that vision.
12. The questions asked of participants (in condensed form) were as follows:
 - 1) *Describe your vision for the Vancouver Island vegetable industry*
 - 2) *Are there major barriers to success for the commercial vegetable sector on Vancouver Island not identified in this paper? Does the current regulated system help reduce or manage these barriers? If yes, how? If no, do you think the regulatory system can be adapted to help reduce or manage these barriers? If so, how?*

⁴ For a full descriptive please refer to the original documents that can be found on the Commission website at <http://www.bcveg.com/news.asp>.

- 3) *What are the opportunities to strengthen the commercial production of vegetables on Vancouver Island? Does the regulated system contribute to these opportunities, or create barriers? Please explain how the regulated system helps or hinders commercial vegetable production.*
 - 4) *What are the opportunities to strengthen the marketing of Vancouver Island commercial vegetable production (e.g. 'buy local', niche, specialty)? Does the regulated system contribute to these opportunities or create barriers? Please explain how the regulated system helps or hinders the marketing of vegetable production.*
 - 5) *Does the current regulatory system provide predictability for producers and value-chain members, required to invest in Island vegetable production and purchasing? If yes, how? If no, how do you think the regulatory system can be adapted to provide predictability?*
 - 6) *Does the current regulatory system provide producers and value-chain members the flexibility to service an increasingly complex retail environment? If yes, how? If no, how do you think the regulatory system can be adapted to provide flexibility?*
 - 7) *Are agencies an effective marketing tool for Vancouver Island producers and value-chain members? If yes, how are they effective? And, How many agencies are effective and strategic for the Island for both producers and value-chain members? (There are currently five Agencies available for Vancouver Island producers to market their products. Three of these Agencies are located on Vancouver Island.) If no, what do you think are effective marketing tools? And, What, if any, adaptations to the regulatory system (including funding via levies) could support effective marketing tools?*
 - 8) *Does the current regulated system significantly hinder the future of commercial vegetable production and marketing on Vancouver Island? If yes, how? And, What would support the future of commercial vegetable production and marketing on the Island? If no, how does the current system need to be adapted to better support the future of commercial vegetable production and marketing on the Island?*
 - 9) *Please provide any further information in as much detail as possible that in your view will achieve positive outcomes for the Vancouver Island vegetable industry.*
13. We received written feedback from all Storage Crop agencies located on Vancouver Island and the Lower Mainland. Other industry stakeholders of the BC vegetable industry also provided individual written comments. All written submissions remained confidential and were summarized in a 'What We Heard' document that was circulated to stakeholders and posted to the Commission website.

14. The *'What We Heard'* document captured all the comments and opinions received by the Commission during Stage 1 of the Supervisory Review. It reflected the feedback and ideas brought forward from informal round table discussions⁵ held with each agency on Vancouver Island and the Lower Mainland, and the written submissions received by the Commission. It presented an overall picture of opinions from stakeholders on the vision for Vancouver Island, the vision for the BC industry, and fundamental issues with the current regulatory environment.
15. It should be noted that the *'What We Heard'* document was not quantified. It gave all stakeholders an equal voice so that all feedback was given equal weight. The Commission considered the feedback as a source of information that confirmed issues and helped to define them. The matters brought forward are nothing new to the industry or BCFIRB. These issues have been heavily documented over the past few years through the numerous appeals, hearings, and decisions that BCFIRB has been involved in.

Stage 2: Joint Problem Solving

(February 29th, March 1st, March 16th)

16. Moderated workshops were organized on Vancouver Island (Nanaimo) and in the Vancouver Regional District (Delta). The scheduled workshops were targeted towards agency and producer participation and open to all stakeholders. To ensure that the workshops would be a productive and a positive experience, Vancouver Island agencies and their producers were asked to only participate in the Nanaimo workshop. Lower Mainland / Fraser Valley / Interior agencies and their producers were asked to only attend the Delta workshop. The General Manager had also asked if certain stakeholders would not attend a workshop in instances where there was concern that an individual / stakeholder's participation may have a negative impact on the workshop session and stifle open discussion. The General Manager and or workshop Moderator would meet with these individuals separately after the workshops were completed. Participation in the workshops was structured in this manner in an attempt to assure that the collective interest of each group of producers was preserved.
17. A moderator was hired that we felt could bring out discussion from a tense environment. Going into the supervisory review, and consistent with the feedback received in the *'What We Heard'* document, a number of issues were brought up by certain stakeholders that questioned integrity in the administration and governance of the Orderly Marketing System. In addition, actions taken by certain individual producers and agencies are challenging the efficacy of the current delivery allocation system and have aggravated producers who have served the market over time.

⁵ The Commission Chair and General Manager represented the Commission in these informal discussions to introduce the Supervisory Review process to key stakeholders.

18. The workshops were organized to provoke discussion. A case study approach was applied that outlined four alternative scenarios for debate and assessment. Attendees were challenged to argue points of view opposite to their apparent bias or opinion. The scenarios proposed changes to key elements of the Orderly Marketing System that are used to maintain orderly marketing.

19. The scenarios presented at the workshop were as follows:

Scenario 1	Current Situation – leave rules & procedures as they are
Scenario 2	Eliminate DA (Delivery Allocation)
Scenario 3	Implement Provincial DA
Scenario 4	Provide Exemptions for Vancouver Island

20. The purpose of the workshops was to give all participants an equal opportunity to identify their support for a regulatory system, validate current challenges to the system, and explore avenues for consideration. The issues that were covered focused on vision, agencies, and DA. There were concerns brought forward in the written feedback that were not covered in the workshops. We focused the workshops to get participants to provide verification of the vision and strategic direction on Vancouver Island and for the industry to debate the fundamental workings of the system. Written feedback regarding the organizational behavior of the Commission and BCFIRB was considered sufficient for the purposes of this review and not discussed at the workshops. The Commission is cognizant of the many matters that were brought up in the *'What We Heard'* document. The workshops needed to be targeted to be productive. Debating all issues at this time would have required numerous workshops. More discussion will be required in the future as we work through the matters brought to the Commission's attention. Discussions at the workshops were meant to assist the Commission in scrutinizing the fundamental workings of the Orderly Marketing System in order to formulate a recommendation to BCFIRB that best satisfies the needs of Vancouver Island producers, stakeholders, the industry, and the public interest.

21. Several producers associated with Vancouver Island agencies attended both the Nanaimo and Delta meetings out of disrespect for the General Manager's intentions to keep the producer groups separated. This caused producers at the Delta meeting to remain silent and refrain from expressing their complete thoughts on the current situation. Numerous Delta producers requested another meeting with the Moderator. A third meeting was held on March 16th between the Moderator, General Manager and representatives of BCfresh.

22. To ensure transparency of the review process, representatives from BCFIRB were present at both workshops and at the meeting held with BCfresh producer representatives.

23. The Moderator submitted his report on key findings from the workshops. He was also asked by the Commission for his own set of recommendations for the Commission to consider. The report and his recommendations were presented to the Commission at the April 6th afternoon Commission

meeting and shared with industry at the Annual General Meeting held that evening. Stakeholders were given until May 6th to submit feedback on the Moderator's report.

24. The recommendation from the Moderator was considered by the Commission in the discussion and analysis of the issue and in its decisions and recommendation to be put forward to BCFIRB. The Moderator's qualifications⁶ and unique perspective of having worked in both the governance side and for companies operating within a regulatory environment were considered as adding value to the process and discussion. His opinion is independent of the Commission and is founded on observations and discussions in his role as the workshop Moderator, and his own activities and experiences. The provocative approach taken by the Moderator is realistic to the situation at hand; as viewed by the majority of producers; from an outsider's perspective.

Stage 3: Evaluation of Options and Commission Decision

(April 2016)

25. All learnings from the written feedback, workshop discussions, Moderator's recommendations, and feedback from the Moderator's report are given consideration by the Commission in evaluating options and formulating the decisions and the recommendation put forward in this paper.

FINDINGS

26. This section summarizes, by theme, the interpretation of the feedback received in total from the consultation process. It takes into consideration each of the interactions with stakeholders, including all written submissions, the Moderator's report, and feedback received on the Moderator's report and his recommendations. It is not intended to replace the content of the original documents that were submitted to the Commission over the entirety of this review or documents that were published. It is a synopsis of the significant matters acknowledged in the Commission's discussions when evaluating options. These matters form the foundation for the decisions and the recommendation to BCFIRB.
27. It is important to note that the findings on accountability and governance have been well documented with BCFIRB over the past few years through a number of hearings and appeals.

⁶ George Leroux was a consultant on the *Needs Assessment Review of the BC Vegetable Scheme* that was prepared in 2004 for the B.C. Ministry of Agriculture, Food & Fisheries, B.C. Farm Practices Board, and the Commission. He was also Chair of the Commission 2005 -2008, President, CEO & Director, Cold Springs Farm Limited 1994-2003, and involved with numerous industry boards. A full profile can be found on our website under regulatory review information www.bcveg.com/news.asp

28. THEME 1: Industry & Vancouver Island Vision

- Quotes on the vision were received through submissions from the discussion paper and confirmed by participants at the workshops. Central to these quotes is a vision of expanded production with increased market share for local producers. The established visions for both Vancouver Island and the BC Industry are stated below:

29. Vision for Vancouver Island

- *'Continued growth in all sectors of regulated vegetables for islanders to continue to move forward in their ability to feed themselves.'*
- *'All growers, both regulated and non-regulated, are a significant and essential part of strategic growth for the agriculture industry on Vancouver Island. The vision is that of a united group of growers committed to producing a variety of premium-quality products while receiving fair returns, allowing for re-investment in farms, infrastructure, and production capabilities. We want agriculture to continue to survive and flourish on Vancouver Island.'*

30. Vision for the BC Vegetable Industry

- *'Vision for the BC vegetable industry is one where growth is promoted and new growers are encouraged and provided assistance wherever possible.'*

31. THEME 2: Vancouver Island Production and Demand

- DA is a non-issue on Vancouver Island as demand for Island-grown product far exceeds supply for nearly all regulated product. Production has been in decline despite the advantages of a regulated system. There is an overabundance of land and a shortage of producers, and the younger generation is not farming (applicable to all of BC).
- The challenges to remain competitive are no different than in any other region across the country. Input costs may be higher due to transportation of goods through the ferry system but land costs are less expensive compared to the Lower Mainland. Current producers have functioned for decades on economies of scale and efficiencies in operations.
- Vancouver Island consumers are loyal to Island-grown product. Retailers are committed to local supply and work together with producers to relay trends and review their needs. Both independent and larger retail chains have local buying programs with Island buyers.

32. THEME 3: Support for Regulatory Framework

- The majority of stakeholders who participated in the review support a regulatory framework. However, many of these producers (producers located in the Lower Mainland) are frustrated with the situation that has arisen out of Vancouver Island agencies.

- All Vancouver Island producers support the regulatory framework and have expressed a desire to remain regulated. There was no expressed desire to de-regulate. However, they have deep-rooted concerns with the governance of the Commission.

33. THEME 4: How Many Agencies Do We Need on Vancouver Island?

- Based on the feedback from the question posed to stakeholders in the submissions and at the workshop, there was no clear answer and no firm support for why we need three agencies. There was suggestion that two agencies may be ideal. IVCA and VIFP (VIP?) were originally set up with different marketing strategies. North Island was a direct to store sales model while the south island focused on a direct to warehouse distribution center model.

34. THEME 5: Working Together to Grow the Industry

- The core purpose of the Commission is to be the fair arbiter of market access and collaboration across all producers, such that market failures are minimized.
- Producers support the orderly marketing system, but cohesion between producers of competing Agencies that are planting product in fields in the same region is tenuous at best. BC producers should be working together for the collective good of the industry.
- The source of these tensions is the assurance that a small group of producers is realizing a benefit or advantage in the utilization of DA that is not consistent with the principles and guidelines that the Commission uses to provide for orderly marketing. As stated in PART XVI of the General Orders, the purposes of DA are as follows:
 - a) The preservation of market access for producers who have served the market over time.
 - b) The provision of access for new entrants.
 - c) The desire to create and maintain long-term, sustainable, food safe, farming operations.
 - d) The provision of opportunity for industry growth.
 - e) The provision of an orderly marketing system.
- No one principal of DA can be applied without consideration of the others in totality. Market access needs to be managed and enforced at the industry level.
- Tensions amongst producers and issues about Commission governance and accountability (see themes 6 & 7 below) have resonated through to agency management. Agency collaboration in support of industry interests has been fractured amid the accusations by certain Vancouver Island agencies that the regulatory system is being manipulated to benefit the shareholders of the dominant storage crop agency (BCfresh) in the regulatory environment.

35. THEME 6: Commission Governance

- All Commissioners are held accountable for making decisions based on the best interests of the industry and independent of their personal biases.
- Certain agencies located on Vancouver Island and their producers have expressed a complete lack of confidence in the governance of the Commission and have accused the Commission of

being biased towards the agency that Commissioners market their product through. This particular accusation is directed towards the three of four Commissioners representing storage crop producers, who are shareholders of BCfresh.

36. THEME 7: Accountability

- A lack of effective enforcement and timely decision-making by the Commission and BCFIRB has led to inconsistency of regulatory action and fully transparent attempts to circumvent the rules.
- Weakness and inconsistency in enforcement has resulted in a lack of confidence by producers and agencies in the regulatory system and the ability of the Commission and its management staff to exercise its authority over the orderly marketing of storage crop vegetables.
- In the absence of effective enforcement, a natural disregard of accountability to regulation and orderly marketing has manifested amongst some stakeholders.

CONTEXT – REGULATORY ENVIRONMENT

Orderly Marketing of BC Vegetables

37. The BC regulated vegetable industry is organized under the [Natural Products Marketing \(BC\) Act \(NPMA\)](#) and the [British Columbia Vegetable Scheme](#) (the Scheme).
38. The Commission is the first instance regulator and is responsible for applying the Scheme, including coordinating producer activities, to ensure orderly marketing. Orderly marketing is achieved through managing the promotion, control, and regulation of production, transportation, packing, storage, and marketing of vegetables.
39. The Commission's [Consolidated General Order](#) sets out how the Commission manages the promotion, control, and regulation of production, transportation, packing, storage, and marketing of the vegetables it regulates.
40. In delivering its responsibilities, the Commission takes into account the economic stability of the industry, including producer price, and encourages growth of vegetable production in naturally strategic areas. To help support these actions, the Commission pulls together current production and marketing data. The Commission also represents the interests of the industry inter-provincially, as well as nationally and internationally (for example, the Potato Anti-Dumping Order).
41. Although the Commission has the authority to regulate all vegetables grown in the province, it currently chooses to only regulate storage, processing, and greenhouse vegetable production in the Fraser Valley, Interior, and Vancouver Island regions. The Commission administers the Scheme by way of a sub-delegation of powers to the various sales agencies.

42. Under the NPMA, BCFIRB is responsible for the general supervision of the Commission, including ensuring sound marketing policy. BCFIRB is also responsible for prior-approval in the designation of agencies by the Commission under the NPMA Regulations, as well as hearing appeals of any Commission decision, determination, or order.

Synopsis of Commission activities

A) Coordination & Oversight:

43. The Commission coordinates the collective activity of producers, with particular emphasis on profitable market access for producers. It does this through facilitation amongst producers and between producers and 1st receivers of regulated product.

B) Agency Designation:

44. The Commission designates agencies, which allows producers to organize into marketing groups, so they can compete against larger competitors. The designation of agencies is a critical component of industry regulation. It provides producers with the ability to organize themselves into marketing groups that can maximize the opportunities and investment options not normally available to smaller producers or commodity groups. The purpose of an agency is to ensure that these marketing groups have the critical mass to compete against regional competitors.
45. Agencies compete on quality, service, selection, and the ability to build trust and loyalty with purchasers. To this part, common to the degree of success of a sales function of an organization, relationships are of fundamental importance, especially in a commodity-based industry. It is in the interest of the Commission and Orderly Marketing to ensure agencies have the tools and flexibility that is required for them to remain competitive.
46. The Commission has established criteria that applicants must meet to insure that a marketing agency, once designated, has a reasonable level of expertise and financial resources to be able to carry out their business and marketing plan on behalf of the producers whose product they intend to market. (Refer to Part XIV of the General Order: Procedures for Designation of Agencies)
47. Once an agency has been designated, the Commission continues to provide a supervisory role. The level of supervision of an agency will depend on the size and activity of an agency. The monitoring of agencies by the Commission may include some or all of the following functions (The authorities can be found in Parts VII and XV of the General Order):
- Require the agency to file annual financial statements
 - Require the agency to conduct an audit
 - Require the agency to submit an annual budget
 - Attendance at the agency's annual general meeting

- Approval of any service fees the agency intends to charge its producers for the handling and marketing of the product
- Require the Agency to submit a business plan
- Require the Agency to file a marketing plan

48. If a producer (or any stakeholder) feels aggrieved with an agency, they may request the Commission to investigate the grievance and work towards the resolution of the grievance. The vast majority of grievances are resolved through dialogue and mediation services provided by the Commission office. Grievances which cannot be settled through dialogue and mediation can be forwarded to the Commission Board of Directors for adjudication.

C) Minimum Pricing:

49. The Commission establishes minimum pricing for the processing and storage crop sectors. This helps stabilize prices and creates a floor below which producers are not to sell or buyers may not buy. The Commission is given the authority to discuss prices by both Provincial and Federal legislation, which protects the Commission from the risk of prosecution under the *Canadian Competition Act*.

50. Pricing on all BC grown regulated vegetables is subject to what the market will bear. We do not set the market price at which product is sold and do not restrict market access of imported product. We are price takers and our pricing is dependent on the landed price of comparable product imported from competing growing regions throughout North America and the world.

D) Industry-wide Contract Negotiations:

51. The Commission assists the processing vegetable sector to collectively negotiate standard contract terms and minimum pricing provisions.

E) Dispute Resolution:

52. The Commission helps address disputes through information gathering and dialogue, mediation, and formal hearings. Hearings are held before the Board of Directors, which operates under the principles of administrative fairness and natural justice. These decisions may be appealed to BCFIRB.

F) Supervision:

53. The regulatory framework provides producers and 1st receivers with certain rights and obligations. The Commission is responsible to ensure that all producers and 1st receivers follow the rules and must enforce the rules on an equitable, impartial, and consistent basis. The rules or policies and procedures evolve with time as the Commission works to coordinate the needs of the participants in a changing market.

G) Food Safety:

54. Consistent delivery of safe food to the market is essential for the sustainability of the industry. The Commission works with all producers to assist them in meeting food safety requirements required by the market.

E) Coordinating Production Expansion:

55. A mechanism the vegetable industry uses that is critical to provide for an orderly marketing system is quota. The Commission refers to quota as delivery and production allocation. DA is used to manage expansion in storage crop production. Production Allocation (PA) is used to manage expansion in greenhouse crop production.

56. The Commission has developed two specific types of quota systems:

1. Delivery Allocation – a five-year production based system utilized by the storage crop sector
2. Production Allocation – a production area based system utilized by the greenhouse sector

57. Quotas (delivery and production allocations) are very different instruments than in the supply managed sectors. In the vegetable industry, it is not an asset with recognized financial value and it cannot be traded. It adjusts (increases or decreases) in relation to the performance of the holder of the quota. Additional volumes and quota holders can be added by the Commission based on a set of clearly established criteria. It is essentially a self-adjusting production license that is issued by the Commission to producers based on the industry's collective view of market growth and expansion opportunities.

58. Quotas are used as a tool to provide fair and equitable sharing of market access amongst all producers. It is used to coordinate the expansion and contraction of supply based on anticipated market demand and to coordinate the movement of product to market. The application of quota is also intended to reduce price and income volatility associated with periodic short-term shortages and surpluses of product.

59. The fundamental principles of the quota system include:

- Creating and maintaining long-term farming operations – maximizing returns to producers;
- Pro-rata sharing of market access amongst all producers;
- Providing the opportunity to share in industry growth – allocation of expansion based on demonstrated market need;
- Preserving market access to producers who have served the market over time – rights to established producers;
- Providing a mechanism for new entrants; and,
- Distributing costs and returns amongst all producers on a pro-rata basis.

Electoral Districts

60. For electoral purposes, the Commission divides the regulated region into three districts:

District I	Part of the province west of the 121 st meridian of west longitude and south of the 50 th parallel of north latitude, excluding Vancouver Island and the Gulf Islands
District II	Vancouver Island and the Gulf Islands
District III	Part of the province south of the 53 parallel of north latitude and not in the first and second districts

61. The Commission is composed of an appointed Chair and up to eight members who are “commercial producers” as defined by the Scheme who are elected by commercial producers. The Chair is appointed by the provincial government.

62. Members are elected to the following Commission positions:

Representation Category	District	Election Year
Greenhouse Tomatoes	Districts I & II & III	Even
Greenhouse Peppers	Districts I & II & III	Even
Greenhouse Cucumbers	Districts I & II & III	Odd
At Large – Greenhouse Vegetables	Districts I, II & III	Odd
Storage Crops	District I	Even
Storage Crops	Districts II & III	Even
At Large – Storage Crops	Districts I, II & III	Odd
Processing Crops	District I, II & III	Odd

63. Every three years, BCFIRB calls for a review of the Commission Election Policy. The Commission will also review Election Policy upon the passing of a motion requesting a review at an Annual General Meeting. Any changes to the Election Policy must be approved by BCFIRB.

64. The next scheduled review of the Commission’s Election Policy is 2016 (the current year). The Commission must submit any revisions to BCFIRB by the end of December 2016 (the entire review, including BCFIRB approval, should be completed by December 31, 2016).

65. Discussion around the composition of the Commission can be found on the ‘Supervisory Review of CVI agencies – 2012’ decision that was issued by BCFIRB January 7, 2013. An excerpt from this paper has been posted below. It provides background on regulated marketing, its dependence on

producer governance, and meeting the challenges of conflict of interest through the application of sound marketing policy.

47. Conflict of interest in Vegetable Commission decision-making was a serious issue raised in submissions. As BCFIRB has noted in the past, conflict of interest cannot be understood in regulated marketing in the same way as it applies in other contexts. The very structure of commodity boards, most of which still require a majority of elected producers, means that the legislation is prepared to accept a significant degree of “conflict” in the larger interest of producer governance in light of industry knowledge and expertise.

48. Producer governance undoubtedly raises special challenges for commodity board members seeking to identify those situations where there might still be a special or unique conflict that exists over and above the fact that a person is a producer. However, until the legislation or schemes are amended, these are challenges that must be met if commodity boards are to function effectively. Unless there is a true disqualifying conflict, commodity board members must respect election results and must do their jobs to ensure, to the best of their ability and in good faith, the proper governance of the industry. BCFIRB recognizes that this can be difficult, and as such is available to assist and advise commodity boards in respect of conflict management.

49. Although several parties suggested the Vegetable Commission form third party panels to make agency designation decisions, the legislation does not allow for such panels to make Commission decisions. The suggestion was also raised that this particular agency designation decision should have gone directly BCFIRB. As first instance regulator, it is the Vegetable Commission’s responsibility to make the initial agency designation decision. Although BCFIRB has the authority to intervene, this is not generally an effective or strategic approach to industry level decision-making.

50. The Commission continues to struggle with electing members from a shrinking pool of registered producers, and an even smaller pool of those interested in serving as a Commissioner. We are told that one result is continuous difficulty in achieving a quorum of members with manageable conflicts when making decisions. BCFIRB has had numerous conversations with the Commission regarding conflict of interest, quorum and independent members over the years. The Commission stated it is beyond its authority to amend the Scheme to allow for the appointment of independent Commission members. While Scheme amendments must be approved by Cabinet, the Commission can recommend a Scheme amendment through a process supported by BCFIRB. Scheme amendments take time, but are unlikely to happen if initiative is not taken. We note that the Commission has very recently taken that initiative in a letter to BCFIRB, which we will refer to at the end of these reasons.

51. This part of our reasons has been focused on Commission decision-making and governance, which was important to address both for purposes of this review and going forward. That said, our findings regarding the Commission's process does not by itself dictate whether the Commission made the proper decisions as a matter of sound marketing policy. It is to that key question that we turn next.

Consequences of the removal of Districts in the Orderly Marketing of Regulated Vegetables

66. Prior to April 2009, the use of districts constrained a producer to signing up with an agency located within the district where the producer produced the regulated product. The use of districts for this purpose was eliminated from the Commission Consolidated General Order in April 2009.⁷ The Commission still holds elections based on these district boundaries; however, the elimination of districts means that:
- a. All producers of vegetables in BC are licensed across the province rather than by district.
 - b. Agencies are no longer restricted to securing or representing producers on a district basis – they can compete for supply share province wide.
 - c. For Districts I & III, prior to April 2009, there was only one agency marketing conventionally grown regulated storage crop vegetables. After April 2009, there were five agencies competing for storage crop producers.
67. DA controls the flow of storage crop vegetables from all producers to the retail, foodservice, and industrial market channels through Agencies.
- a. In practice, DA is a tool used by agencies to manage the supply side of their businesses.
 - b. Previously, under the districts system, DA was administered geographically within the province. Each district was associated with a specific agency. Producers were directed to market through an agency in the district in which they produced vegetables.
 - c. Presently, an agency can sign up or contract with any producer in the province. Orderly marketing has shifted from 'single agency districts' to a multi-agency provincial situation.
 - d. Agencies compete for market share, yet DA has been "agency-specific." (managed at the agency level). The mechanisms by which DA has been earned, grown, and transferred may no longer work in a competitive multi-agency environment.
68. Current Example of DA system failure:
- a. IVCA has signed with Mainland producers. They are growing their business and nothing restricts them from offering their services to producers on the Mainland.
 - b. Let's examine how this looks in practice.

⁷ See VMC Website District Policy Decision March 2009

<http://www.bcveg.com/docs/District%20Policy%20Hearing%20-%20VMC%20Decisiion%20-%20March%2026%202009.pdf>

- i. Producer A has farmed on the Mainland for many years and has earned DA.
 - ii. Historically, Producer A shipped through a Mainland agency.
 - iii. Today, an Island agency enters into a contract with Producer A. This assumes Commission approves an inter-agency transfer.⁸
 - iv. The Island agency then asks for / contracts with Producer A to grow far in excess of their historic DA, which Producer A does.
 - v. The Island agency then draws from Producer A without concern for the producer's historic DA.
 - vi. The agency is free to sell to customers without any apparent restrictive controls or established rights recognition from the Commission (the DA is currently controlled at the agency level. In a one grower agency there is no need for DA because market access is not shared with any other grower)
- c. The outcome of this scenario is:
- i. Increased seller competition in the local market (i.e. market failure, too much supply, price drops) ; and,
 - ii. Increased supply without concern for DA, the tool by which producers have historically shared growth equitably (i.e. not equitable treatment, lack of fairness).
- d. These implications do not include other potential challenges such as:
- i. Producer A actually using direct channels to compete in the market of his / her previous agency (i.e. there is no real overall agency marketing plan involved); or,
 - ii. Producer A selling DA to another producer, and then growing without any or very little DA (i.e. realizing liquidity for the goodwill / intangible asset value of years of delivery in a controlled market and then continuing to deliver at the expense of others in the pool).

Industry Profile of Storage Crop Producers By Electoral District

67. Storage crop producer numbers and estimated acreages by storage crop vegetable type are illustrated in Table 1.

TABLE 1: 2015 REGULATED STORAGE CROP ACREAGE BY GROWING REGION

Vegetable	# of Producers*	Van Isle Volume	Mainland Volume	Okanagan Volume
Potatoes – all	61	334	3953	467
Carrots	13	26	422	3

⁸ This is a reasonable assumption since it is hard to envision the conditions for denying the transfer request that would stand up to an Appeal.

Cabbage	24	29	311	13
Beets	17	13	230	20
Rutabagas	10	0	63	0
Other	12	13	82	80
Total	77 Producers	415 Acres	5060 Acres	583 Aces

*Based on number of licenses issued. Does not group together multi-registration farms.

The Current Storage Crop Agency Situation

68. Agencies are licensed by the Commission to market and sell regulated vegetables.
- Producers enter into contracts with agencies to sell their vegetables.
 - Agencies pool returns to ensure all producers are treated fairly and equitably in sharing the net returns from the market.
 - Agencies are private for profit businesses legally structured as partnerships, co-operatives, or limited liability companies.
 - Commercially, all agencies market and sell vegetables to maximize profits to producers.
 - There are six agencies licensed to market regulated storage crop vegetables. The number of producers contracted with each agency and those producers exempt from marketing through an agency is provided in Table 2 below. This table also includes the percent of storage crop allocation represented by each group.

TABLE 2: Producers and DA Managed By Agency

Agency	Number of Storage Crop Producers	% of Total Storage Crop DA
BCfresh	57	78%
Okanagan Grown Produce Ltd.	5	9%
Island Vegetable Co-operative Association	7	5%
Fraserland Organic	3	4%
V.I.P. Produce Ltd.	2	2%
Vancouver Island Farm Products Inc.	2	1%
Non-Agency Producers*	15	0%
Total	91	100%

*Non-Agency Producers represent growers that have been exempted by the Commission from having to market through an Agency. Subject to PART VI of the General Orders, Non-Agency Producers sell through on-farm markets / road-side stands, and are not entitled to Delivery Allocation.

69. Vancouver Island agencies
- There are three agencies licensed by the Commission on Vancouver Island
 - Island Vegetable Co-operative Association (IVCA)

- ii. Vancouver Island Produce (VIP)
- iii. Vancouver Island Farm Products (VIFP)
- b. These three agencies represent, regionally, less than 5% of provincial production. For many years, there were two agencies on the Island – separated north/south at Duncan (or thereabouts). These were IVCA and VIP.
- c. The northern agency, VIP, evolved over time as production diminished and greenhouse marketing moved away from single-desk marketing (one seller with multiple suppliers). Agency governance was determined by shareholding linked to volumes marketed through the agency. This led to a change in control and pooling at the agency, accompanied by a falling out amongst the shareholders.
- d. The VIP minority shareholder group, unable to reconcile with the single majority shareholder, applied for an agency license and became VIFP.
- e. The VIFP agency application has led to more than three years of agency licensing confusion as the Commission has been unable to resolve Island inter- and intra-agency conflict.

Greenhouse Agencies

70. There are seven agencies in the province that are licenced to market greenhouse vegetables:
- i. BC Hot House Foods Inc.
 - ii. Country Fresh Produce Inc.
 - iii. Global Greenhouse Produce Inc.
 - iv. Greenhouse Grown Foods Inc.
 - v. Okanagan Grown Produce Ltd.
 - vi. Village Farms Operations Canada Inc.
 - vii. Vancouver Island Farm Products (VIFP)
71. Orderly marketing of regulated BC greenhouse product is administered quite differently than storage crops. BC is the second largest growing region in North America with Ontario being the largest. A significant portion, 50% to 70% of production, is grown to supply the Interstate-5 (West Coast of the United States) corridor. Minimum prices are not set and supply is monitored through the use of production allocation. Smaller producers who grow less than 5,000 m² in production area are exempt from having to market through an agency. Greenhouse producers on Vancouver Island have the option to market through six agencies in BC, one of which is located on Vancouver Island (VIFP).
72. Commission – greenhouse case study
- a. Until the early 2000's, greenhouse production and marketing in BC was tightly regulated in terms of producer and agency licensing. In broad terms, the industry operated a single desk seller and awarded licenses to produce (much like quota found in supply-managed sectors).

- b. In the early 2000's, several producers petitioned the Commission and BCFIRB to secure agency licenses and exit from single desk selling. These agencies were awarded licenses. Later, a 4th agency was established largely for the purpose of providing an umbrella for individual producers who wished to direct market.
- c. Shortly after the new agency licenses were awarded, regulatory pressure arose on the PA processes employed by the industry and the Commission. PA had historically controlled production with the intent to avoid over-supplying markets (which would have had a negative impact on selling prices and margins). In the 2000's, the industry evolved from single desk to multiple agencies (marketers) with the majority of production destined for export markets. PA became largely a licensing function by the mid-2000's as attempts to control new production were successfully challenged by people wishing to expand.

73. Most of the greenhouse production in the province is located within the Lower Mainland and Fraser Valley regional districts. There is a small number of producers located in the interior of BC and on Vancouver Island. Many of these producers are less than 5,000 m² in size. The Commission Consolidated General Order exempts smaller producers from having to market their product through one of the agencies in the regulated area. This exemption requires administrative approval by the Commission and may impose certain conditions on the applicant to ensure industry interests are preserved. A profile of the orderly marketing structure of greenhouse production by district is presented in Table 3 below.

TABLE 3: BC Greenhouse Production Area By Region

BC Greenhouse Production Area by Region (M2)					
Agency	Region FVRD	LMRD	INTERIOR	ISLAND	Grand Total
	974,202	1,972,676	56,725	57,939	3,061,542

CONTEXT – BC REGULATED VEGETABLE INDUSTRY

74. An account of the historical trend in BC production and the marketplace for BC-grown regulated products can be found on the 'Supervisory Review of CVI Agencies – 2012' decision that was issued by BCFIRB January 7, 2013. An excerpt from this paper has been posted below. It provides definitions on the crops being regulated and includes discussion around the industry realities and the observations from the Opportunities report issued in January 2012 that was prepared for the Commission.⁹

⁹ 'Opportunities Assessment of British Columbia's Vegetable Sector', published January 30, 2012, prepared in partnership by Value Chain Management Centre and George Morris Centre. Authors: Martin Gooch, Claudia Schmidt, Nicole Marenick, Larry Martin, Andreea Simo

BC regulated vegetable industry

16. *To provide proper context for our decision, it will be useful at the outset to review certain facts regarding the provincial and regional regulated vegetable industry.*

17. *First, some definitions. Under the British Columbia Vegetable Scheme (Scheme), “regulated product” is defined as meaning “vegetables, and includes potatoes...” In turn, the Consolidated General Order of the Vegetable Commission specifies “storage crops”, “processing crops” and “greenhouse crops” as being regulated:*

“Storage Crops” (formerly Root Crops) include beets (tops off), green cabbage, white (purple top) turnips, yellow onions, and potatoes (all types and varieties) when the end use is not for seed.

“Processing Crops” includes peas, beans, corn, broccoli, Brussels sprouts, cauliflower, potatoes (all types and varieties) and strawberries when the end use is manufacturing/processing.

“Greenhouse Crops” includes cucumbers (all types), tomatoes (all types), peppers (all types), and butter lettuce.

18. *As of 2008 there were over 10,000 ha of land producing about 169 million kg per year of regulated vegetables, resulting in \$73 million in income to BC producers. In 2010, the greenhouse sector saw about \$276 million in farm gate value, and employed more than 3,200 people, with exports making up about 65% of sales.*

19. *Overall, BC produces about 2.7% of the volume of all field vegetable crops, and 24% of greenhouse crops in Canada. The greenhouse sector saw rapid expansion starting in the early 1990s. Field vegetables saw more modest growth during the same time period, and suffered from vulnerability to weather.*

20. *BC is a high cost producer with a limited growing season. These are significant factors affecting the competitiveness of BC vegetables against imports of fresh field vegetables, 80% of which come from the US. The majority of fresh vegetables are imported between November and June from competing jurisdictions with lower production costs and longer growing season.*

21. *Over 40% of potatoes sold in BC are from the US. Neighbouring states have over 202,000 ha in potato production, while BC has approximately 2,600 ha. BC enjoys an anti-dumping duty on potatoes, but this duty expires in three years and it is open to question whether it will be renewed. There is also suggestion that federal packaging restrictions, which help moderate entry of US potatoes, may be removed by 2014.*

22. *The area planted for storage crops has varied since 1990. Potatoes, with the most area planted, saw a steady increase up to 2002, followed by a decline to a steady state of around*

2,600 ha today. Other storage crops show a fairly steady state or moderate increase (parsnips, rutabagas and turnips, beets). Carrots and cabbage have varied between 200 and 300 ha. Overall, BC does not have a significant portion of land in storage crop production, especially in comparison to other jurisdictions.

23. The area planted in processing crops has generally declined since 1990, except for Brussels sprouts and bush beans. Concurrently, BC's processing capacity continued to decline. Vegetable canning ended in BC many years ago. Some freezing remains (e.g. peas, bush beans, cauliflower, Brussels sprouts).

24. The Vegetable Commission has noted that these industry realities exist alongside certain commercial and consumer trends, including the increasing need for accountability and traceability of production, an increasing need for communication and cooperation throughout the value chain, a growing consumer linkage between food and health, and ongoing demand for sustainable local production (e.g. buy local). The Commission also pointed to a consolidation trend, with fewer, larger retailers driving growers to merge to capitalize on efficiencies and market share. Smaller growers may become limited to selling at farmers markets and the farm gate.

25. Risks identified by the Vegetable Commission include declining profit margins, on-going loss of processors and associated value-added opportunities, an aging farm population with few new entrants, labour shortages and reduced government research and development.

26. The Opportunities Report (January 30, 2012) stated that:

...five risks and challenges are perceived to be acutely impacting the competitiveness of BC's vegetable industry and the involved businesses. The first four are: increasing operational costs, inconsistent quality, inconsistent supply, and lack of industry cohesion/co-operation. In one form or another, all of these factors result in the fifth critical issue: financial risks.

27. The panel heard from the industry that there is a strong trend toward retailer consolidation and expansion (e.g. Walmart, Costco, Target). These retailers seek a reliable, consistent supply of quality produce at a competitive price. While these retailers capitalize on the "buy local" trend, they still require a sufficient supply of product that meets their business model. In general, buyers are exerting continuous pressure to lower prices both directly and through competition, along with supplying consistent volume.

28. The panel heard that while Vancouver Island is a distinct market with excellent customer loyalty, the overall volume of regulated potatoes and other vegetables grown and marketed is declining. Despite having some of the highest production costs in North America, Island growers

see better than average returns as compared to the BC industry as a whole. Returns were attributed to customer loyalty and the Island direct-to-store marketing approach. Presently there are 4 agencies marketing on the Island (VIP, VIFP, IVCA, BC Fresh). Thrifty Foods is the major buyer of Island regulated vegetable production. Thrifty Foods is now owned by Sobeys, one of only two national grocery retailers in Canada, and a wholly-owned subsidiary of Empire Company Limited. It is unknown whether Thrifty Foods will remain a loyal local customer or if the parent company will seek alternative supply and purchasing arrangements in the future.

29. Overall, the Opportunities Report observed that:

[a] lack of meaningful data exists on the nature, size and productivity of BC's vegetable industry, and the performance of value chains which together comprise the industry.

The panel sees the Vegetable Commission starting to address this concern in its 2010-2012 Strategic Plan, along with production of the Opportunities Report. However, continued work is needed in order to fully address questions regarding the future of BC's vegetable industry and what role the regulated system needs to play.

30. *At this time the panel observes a commercial industry facing considerable increasing competitive pressure, both provincially and on the Island, to meet market demand for a sufficient volume of quality local vegetables on a consistent basis. Competing on price and volume alone is not sufficient. **It is clearly in the industry's interest to make collaborative efforts to cultivate and expand, where possible, brand loyalty and associated customer satisfaction.***

31. *Although work has started in terms of the Vegetable Commission Strategic Plan and the Opportunities Report it is not clear what the industry trends and risks mean for the regulatory system, and how the system must adapt provincially and regionally to meet sound marketing policy in the public interest.'*

The Vancouver Island Market

75. Vancouver Island Regulated Vegetable Sector

- a. There are 10 +/- Producers on Vancouver Island producing and marketing Vegetables. Total Vancouver Island production (DA) represents ~5% of provincial production (DA).
- b. Historically, agencies located on Vancouver Island focused [almost] exclusively on marketing Vancouver Island production on Vancouver Island. With the elimination of districts, these agencies had the potential to become provincial in scope. One agency, IVCA, is contracting with Mainland producers and marketing volume on the Mainland.
- c. Vancouver Island producers and have identified strong local consumer support for Island-grown produce with demand exceeding supply and providing attractive pricing

- opportunities. Additionally, there is apparently suitable land available for expansion of production.
- d. Vancouver Island producers have identified challenges similar to agricultural commodity producers everywhere – input costs, retailer concentration, aging farmers, high investment capital costs, and inadequate operating returns.
 - e. Given the local market support, Island producers would appear to have growth opportunities and the ability to capture prices exceeding commodity market minimums.
 - f. The market environment has changed substantially over the past 20 years. Retail consolidation with warehouse distribution centers relocated on the mainland, the expansion of club stores and national chains, and the reduction in island based wholesalers have fractured the market. As a consequence, it is increasingly more difficult to get the volume commitments required of customers to make it cost effective for direct to store delivery programs. The market demands have also shifted to favor suppliers that can provide a year round service and a variety of produce items.

DECISION MAKING CRITERIA

76. The Commission is cognizant of principles (“outcomes”) based regulation and discussions around issues have historically proceeded to decisions with these intentions in mind. However, in recent years this intent has not been transparent in the application of decisions and therefore we find ourselves in the current situation.
77. Commissioners are committed to be pro-active risk managers and focus on priorities and strategic objectives for the BC regulated vegetable industry.
78. To assist in the Commission’s approach to principles based decision making to achieve responsive governance, a general guideline has been adopted in the form of assessment questions that are founded on the SAFETI (Strategic, Accountable, Fair, Effective, Transparent, and Inclusive) tool provided by BCFIRB. This guideline is to be applied systematically to all decisions required in the Commission’s position of authority to regulate and enforce regulation based on the SAFETI principles.

79. Assessment questions based on SAFETI principles. See Table 4.

TABLE 4: BCVMC Decision Making Assessment Criteria

PRINCIPLE	FOCUS	ASSESSMENT QUESTIONS	
Strategic	<ul style="list-style-type: none"> • Opportunities • Risks • Challenges 	<ul style="list-style-type: none"> • How does the option grow the [local market], improve returns? • Risks (mitigated/magnified) that are associated with this option? • What commercial challenges does this option create? 	
Accountable	<ul style="list-style-type: none"> • Authority of the VMC • Stakeholder Interests and Expectations 	<ul style="list-style-type: none"> • Does the option follow procedural policy? • How does this option serve the interests of: Producers / Agencies / Market Channels? • How will the decision ensure accountability of those involved? • Does it meet expectations of stakeholders / what is expected of the VMC? 	
Fair	<ul style="list-style-type: none"> • Procedural Fairness 	<ul style="list-style-type: none"> • To implement this option, what rules are necessary to ensure fairness “a fair process of interaction and decision-making” at each level? 	
		<u>Governance Level</u> <ul style="list-style-type: none"> • Representation • Rules • Agency Oversight 	<u>Administrative Level</u> <ul style="list-style-type: none"> • Implementation • Responsiveness
Effective	<ul style="list-style-type: none"> • Doing the Right Thing (at the right time?) 	<ul style="list-style-type: none"> • Does this Option lead to enforceable regulation that ensures fair and equitable market access for producers? • Producer Supported / Agency Supported? • The option takes into consideration of how future success will be determined and monitored? 	
Transparent	<ul style="list-style-type: none"> • Open & Accessible Processes 	<ul style="list-style-type: none"> • Does this option have the potential for clear rules and procedures? How? How not? • Is the decision process and final decision clear and fully communicated? • Are the governance practices and procedures (at producer / agency / Commission) levels open, accessible and fully informed? 	
Inclusive	<ul style="list-style-type: none"> • Ensure Stakeholder Involvement 	<ul style="list-style-type: none"> • What consultation process would be needed to finalize the details around this option? (Activities / Timelines / Who needs to be involved) • How will the parties impacted / subject to this decision ensure appropriate interests, including the ‘public interest’, are considered in their operations? 	

CONSIDERATIONS

BC Production in Scope of Total Market

80. The context portion of this document provides background on the BC regulated vegetable industry. All things considered, BC production is viewed as insignificant in the scope of the total North American market. If it were not for the Canadian International Trade Tribunal (CITT) Anti-dumping duty applied to US grown potatoes entering the BC market since the mid-1980's, the industry would be a fraction of what it is today, or may not even exist. We are fortunate and very appreciative of the CITT and Canada Border Services Agency's (CBSA) continued support for our industry.
81. Demand for BC product is local, driven by some degree of consumer preference for locally-grown food, and heavily dependent on a wholesaler and retailer's business and marketing plans. Retailers place preference on what will sell and are highly price-sensitive in the supply choices they make when procuring a mature commodity in a market saturated with numerous supplier options. Prices are set by the market in which BC producers are price takers. Purchasers demand quality product and high service levels. Competition for shelf space is fierce. This needs to be emphasized. Whether you look at the Vancouver Island, BC, or Canadian market for our regulated vegetables, the same situation applies. The only thing that sets markets apart is the preference of a particular brand of product. The brand may be based on regional consumer biases or may be company-dependent. In respect to the Vancouver Island consumer, there appears to be a bias towards Vancouver Island grown ('Island-grown') product. This is reflected in the price premiums retailers attain from consumers that translates into the offering of price premiums to suppliers of Island-grown product.
82. In the 2015/16 season, total storage crop acreage and production of BC's regulated storage crop vegetables amounted to 5,516 acres producing 80,000 tons of product. Of this production, approximately 75% is in potatoes with the balance in other regulated storage crop vegetables (Cabbage, Carrots, Beets, Parsnips, Rutabagas, Turnips, Yellow Onions). Comparing our potato production to just the supply of competing potato growing regions in North America, US production dwarfs the BC industry. In 2014/15, the four Western US states produced 263,995,000 hundredweight of potatoes (one hundredweight is equal to 100 lb or 45.36 kg), whereas BC produced 1,616,146 hundredweight of fresh potatoes during the same period¹⁰ – that amounts to less than 0.06%. To put this in perspective, the combined 2014/15 fall production of the Western United States is approximately 163 times greater than BC potato production.
83. The point to be made is that BC production of regulated vegetables represents a small group of producers in the bigger picture and it emphasizes the need for all producers and all agencies to work

¹⁰ This information was taken from the 2015 Injury Case Brief submitted by the Commission in the matter of the CITT Whole Potato Expiry Review No. RR-2014-004.

together and consolidate as much as possible at the marketing level to efficiently deliver quality product to the market place. It is also important to emphasize that it is essential for our survival as an industry to ensure interests representing the collective good of the community of producers always be placed in front of individual self-serving purpose.

Purpose of the BC Vegetable Marketing Commission

84. Before exploring and developing a Vision and Strategy, it is first necessary to be clear on the Purpose, or Mandate, of the VMC. The Mandate consists of at least three elements:

Element One

Why does the Commission exist? The NPMA states:

The purpose and intent of this Act is to provide for the promotion, control and regulation of the marketing of natural products, including;

(a) the prohibition of all or part of that marketing, and

(b) the establishment of biosecurity programs, and the imposition of requirements in relation to insurance, for those engaged in the production of natural products.

(3) A scheme may relate to all or part of British Columbia and may relate to one or more natural products or to a grade or class of product.

Element Two

What are the Commission's products and services? The Scheme states:

The scheme is for the promotion and regulation in the Province of the production, transportation, packing, storage and marketing of the regulated product.

Element Three

What are the Commission's customer markets? The Scheme states:

The scheme applies to persons who produce, transport, pack, store or market the regulated product, and to all kinds and grades of the regulated product.

85. The Commission is a producer-controlled entity. It is comprised of producers and it works for - producers. However, it is concerned with the collective good of the community of producers within a broader economic context rather than the good of particular individual producers. This points to the core purpose of the Commission, which is to be the fair arbiter of market access and collaboration across all producers such that market failures are minimized.

Commission Strategic Plan

86. The Commission provides for the orderly marketing of regulated BC grown vegetables. In 2013, the Commission validated its Vision as declared in 1998. Its Mission Statement and Operating Principles are focused on facilitating an orderly marketing system and providing services that create an environment for the benefit of its operators. The next review of the Strategic Plan is scheduled for 2016. The Vision, Mission, Operating Principles and Strategic Priorities are as follows:

Vision

87. *BC grown fruits and vegetables are recognized for the highest quality in the market place (1998)*

Mission Statement

88. *The BC Vegetable Marketing Commission is committed to creating an environment to enable its producers to provide high quality produce that will sustain viable and expanding B.C. Agri-business (2009)*

Operating Principles

89. *The BC Vegetable Marketing Commission is dedicated to providing leadership in the advancement of the province's vegetable industry through (2009):*

- *Promoting safe, high quality, nutritious vegetables that exceed the standards of the global market place;*
- *Committing to an orderly marketing scheme that encourages adequate supply, is efficiently bringing products to market and attracting industry wide support;*
- *Representing growers' interests to the consumer, the distributive trade and regulatory bodies;*
- *Operating at a high standard of transparent governance that fairly balances financial and administrative accountability with the confidential needs of individual stakeholders;*
- *Teamwork amongst the Commission, designated agencies, and growers working together to provide a planned approach in adjusting to competitive forces and changing market demands.*

Strategic Priorities

90. There are four strategic priorities identified for the 2014-2016 planning period:

Priority #1: Reinforce Confidence in an Orderly Marketing System

Priority #2: Facilitate Sustainable and Expanding BC Vegetable Agri-Business

Priority #3: Maintain a Food Safe "Standard of Excellence"

Priority #4: Strengthen Industry Relations

91. The Vision for the BC industry that was brought forward through the written submissions and reviewed in the workshop was not contested by those who participated in the supervisory review. It is consistent with the Commission's mission statement regarding creating an environment for '*viable and expanding B.C. Agri-business*'. However, the Commission stands by its commitment to an

'environment that enables its growers to provide high quality produce'. This commitment transcends all components of the orderly marketing system including to an agency's customers, retailers, and ultimately its consumers; the assurance that each stakeholder is receiving the best quality product possible.

92. The Vision for Vancouver Island was directly in line with the Commission's Vision and Mission statements. Those who participated in the supervisory review did not contest the Vision statement for Vancouver Island as presented below:

- *'Continued growth in all sectors of regulated vegetables for islanders to continue to move forward in their ability to feed themselves.'*
- *'All growers, both regulated and non-regulated, are a significant and essential part of strategic growth for the agriculture industry on Vancouver Island. The vision is that of a united group of growers committed to producing a variety of premium-quality products while receiving fair returns, allowing for re-investment in farms, infrastructure, and production capabilities. We want agriculture to continue to survive and flourish on Vancouver Island.'*

Strategic Analysis for Vancouver Island

93. Porter's Five Forces of competition analysis is a simple framework for assessing and evaluating the competitive strength and position of a business organization. In this case, we are applying it to evaluate sound marketing policy for orderly marketing on Vancouver Island.

94. The theory is based on the concept that there are five forces that determine the competitive intensity and attractiveness of a market. Applying this analysis helps the user identify where power lies in a business situation. The tool is useful for developing an understanding of the strength of an organization's current competitive position and the strength of a position that an organization may look to move towards.

95. A comparative analysis of the BC Regulated Area and Vancouver Island regional markets using the five forces framework leads to the results below:

1. Supplier Power

<p>An assessment of how easy it is for suppliers to drive up price. Factors to consider:</p> <ul style="list-style-type: none"> • The number of suppliers of each product. • The uniqueness of their product or service. • The relative size and strength of the supplier. <p>The cost of switching from one supplier to another.</p>	
<p><u>BC Regulated Area</u></p> <p>* Low supplier power</p> <ul style="list-style-type: none"> • Supplier concentration - There is an abundance of suppliers (large and small) in the market offering like products that are grown outside of the regulated area. • Supplier concentration - Five Agencies have the authority to market BC grown product. • Importance of volume to supplier – High, product can be stored but storage capacity is limited and adds cost to the product. • Cost relative to selling price – mark ups are minimal and depend on availability of supply from significantly larger competing regions and the degree of customer loyalty to BC grown product. 	<p><u>Vancouver Island Region</u></p> <p>*Marginal increase in supplier power for Island Grown</p> <p>Same as BC regulated area with the following additions:</p> <ul style="list-style-type: none"> • Quality BC product grown on Van. Island is in low supply relative to consumer demand for Van. Island grown product. • Suppliers of quality Van. Island grown product get a price premium above premiums received for BC grown product over imports. • Unique service – Agency use of Direct-to-store marketing approach

2. Buyer Power

<p>An assessment of how easy it is for buyers to drive prices down. Factors to consider:</p> <ul style="list-style-type: none"> • The number of buyers in the market. • The importance of each individual buyer to the organization. • The cost to the buyer of switching from one supplier to another. 	
<p><u>BC Regulated Area</u></p> <p>* High buyer power</p> <ul style="list-style-type: none"> • The primary market consists of a hand full of retail / club store / food service buyers that are able to dictate terms and move large volumes of product. • Buyer information – majority of buyers are larger companies and well informed of market conditions. • Buyer volume – A few buyers moving bulk of product to retail / food service. • Buyer price sensitivity – high • Buyer switching costs – low • Bargaining leverage - high 	<p><u>Vancouver Island Region</u></p> <p>* Marginal decrease in buyer power for independent retailers</p> <ul style="list-style-type: none"> • Retail market has a greater percentage of independent retailers vs market composition in the lower mainland. • Balance of the buyer power is same as BC regulated area

3. Competitive Rivalry

The main driver is the number and capability of competitors in the market. Many competitors offering identical products and services will reduce market attractiveness.

<p><u>BC Regulated Area</u></p> <p>* High Competitive Rivalry</p> <ul style="list-style-type: none"> • Number of competitors - Many • Size of competitors – Mostly large • Slow industry growth rate – Companies grow by capturing market share from each other. • Differentiation – Low, buyer choice driven by price and service. • Exit barriers (specialized assets) – High • Numerous equally balanced competitors. • Diverse competitors. 	<p><u>Vancouver Island Region</u></p> <p>* High Competitive Rivalry</p> <p>Same characteristics as BC Regulated Area</p>
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4. Threat of Substitution

When there are products that are closely substitutable in the market, it increases the customer's switching to alternatives in response to price increases. This reduces the power of suppliers and market attractiveness.

<p><u>BC Regulated Area</u></p> <p>* High Threat of Substitution</p> <ul style="list-style-type: none"> • Buyer switching cost - Low • Buyer propensity to substitute - High • Product differentiation - Low 	<p><u>Vancouver Island Region</u></p> <p>* High Threat of Substitution</p> <p>Same as in the BC regulated area</p>
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5. Threat of New Entry

Profitable markets attract new entrants, which then erodes profitability. Strong and durable barriers to entry (i.e.) economies of scale, capital requirements, government intervention / policies enhance profitability by limiting competition.

<p><u>BC Regulated Area</u></p> <p>* Low Threat of New Entry</p> <ul style="list-style-type: none"> • Switching costs – High • Economies of scale – Required to cover high land rents / capital costs. • Learning curve- High (to be a quality producer) • Capital requirements – High • Patents – Generally Low (but may acquire patents on seed varieties) • Anti-dumping – protects price drop below cost of production (long term not guaranteed) • Regulated marketing – provides price stability of BC grown product and orderly marketing 	<p><u>Vancouver Island Region</u></p> <p>* Low Threat of New Entry</p> <p>Same as BC regulated area with the following additions:</p> <ul style="list-style-type: none"> • Economies of scale requirement may be lower than in the lower mainland due to lower land costs.
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96. It is clearly evident from this competitive analysis that the power lies with the buyers. There is slightly more supplier strength marketing to the Vancouver Island region within the BC regulated area. There is no question that the strength of our organization’s current competitive position in the Vancouver Island region is weak. Four agencies marketing to a region that represents less than 20% of the BC population¹¹ with local production of 415 acres (2015) is not ideal; nor can it be argued to be the most efficient and effective way of representing the producer base in a market where power lies with the buyer. Marketing efforts clearly need to be consolidated to strengthen supplier efforts using the regulatory powers granted to producers in the orderly marketing system. It is in the public interest that we do not take this right for granted and that we self-regulate and represent our market interests in an efficient, effective, and organized manner. Regulation is a privilege. All producers, the Commission and agencies are accountable to the orderly marketing system and need to take ownership of this privilege

97. The S.W.O.T. (strengths, weaknesses, opportunities, and threats) analysis was also used to assist the Commission in taking a pro-active strategic approach in understanding the emerging issues and problems and creating a sound marketing framework that best serves the Vancouver Island market.

S.W.O.T. Analysis

<p><u>STRENGTHS:</u></p> <ul style="list-style-type: none"> • Strong consumer loyalty to Vancouver Island grown product. • Retailers are committed to local supply and have local buying programs. • Orderly Marketing system allows producers to work together to service the market. • Vancouver Island producers support the regulatory framework and regulation. 	<p><u>WEAKNESSES:</u></p> <ul style="list-style-type: none"> • There are three agencies marketing regulated storage crops that are located in a growing region that represents 7% (425 acres) of total BC regulated vegetable acreage. • Excessive disruption in the market place due to a disproportion of agency competition relative to market size. • Lack of accountability & confidence in the system.
<p><u>OPPORTUNITY:</u></p> <ul style="list-style-type: none"> • To make collaborative efforts to cultivate and expand band loyalty and customer satisfaction – a unified Vancouver Island identity. • To maintain and grow demand for Vancouver Island product through consistent, quality products marketed cooperatively, strategically and effectively. • Suitable agricultural land is available for growth in production of regulated vegetables and at a cheaper cost than on the Mainland. 	<p><u>THREATS:</u></p> <ul style="list-style-type: none"> • Lengthy history of dispute between Central Vancouver Island vegetable producers and agencies, producers not working together. • The number of producers and acreage grown in regulated vegetables on Vancouver Island continues to decline. This decline has been significant over the past 15 years. • Agencies fail to operate strategically, effectively, and inclusively in a transparent and accountable manner to achieve their intended purpose.

¹¹ Reference: 2015 Sub-Provincial Population Estimates Report, BC Central Statistical Agency www.bcstats.gov.bc.ca

98. The strategic direction taken by the Commission needs to move the industry to a position that enhances the opportunities, works off our strengths, minimizes the weaknesses, and incorporates pro-active risk management in dealing with threats.

Agency Accountability Requirements

99. The Commission delegates authority to market regulated vegetables to an agency. An “**Agency**” is defined in the General Order as a Person designated by the Commission as an agency licensed for the marketing of regulated products with retailers; licensed wholesalers and processors; other designated agencies; or all of them irrespective that the marketing is intra-provincial, inter-provincial or export trade in nature and is in accordance with the stipulation on which regulated crops the designated agencies are authorized to market. A “**Person**” includes an individual, firm, partnership, corporation, association, sole proprietorship, or any other entity specified by the Commission.

Purpose

100. The purpose of an agency is to ensure that producer-based marketing groups have the critical mass to compete against regional competitors.

Agency Mandate

101. The mandate of an agency is to represent a group of producers and carry out the marketing duties of the Commission’s regulated vegetables in compliance of the Consolidated General Order, in respect of the operating principles of the orderly marketing system, and for the benefit of its producers and that of the industry. The Commission has the authority to stipulate conditions on an agency’s mandate. Any changes require approval by FIRB.

Agency Accountability Framework

102. Agency accountability requirements are developed on a framework designed to support the Commission’s orderly marketing approach, whereby delegated responsibility, authority and accountability exist in a decentralized environment. Performance of agencies and applicants are to be assessed against this accountability framework. This is consistent with the Commission fulfilling and recommitting to its role as first instance regulator.

103. The Agency Accountability Framework is as follows:

a) Governance

- Compliance with an agency’s purpose and mandate
- Changes to Agency governance and shareholder structure are reported to the Commission

b) Results-Based Management

- Financial Viability
- Robust management functions to delivery on agreed-upon results and operational accountability to its stakeholders
- Agency operates in abeyance of the operating principles of orderly marketing and its components, and in support of industry interests
- Informed decision making for the benefit of the industry as a whole

c) Regulatory Compliance

- Agency reporting responsibilities in the General Order and as directed by the Commission

d) Assurance Mechanisms

- External audits – pooling, fees charged, minimum pricing compliance (storage crops)
- Storage Crops - Monitoring shipments to DA and approved business plan
- Review of financial statements
- Attending agency AGM
- Review of business and marketing plans that they are in compliance with agency licensing conditions and PART XV of the General Order
- Agency score card
- Enforcement of Risk Management protocols

Agency Accountability - Risk Management

104. Agency risks to achieving results and objectives are identified, assessed and used to inform Commission decision-making, to allow for the development of mitigation plans and actions, and to ensure that policies, procedures and internal controls applied to an agency are relevant and effective.

105. The Commission will apply a systematic approach to identifying, assessing and managing risks within an agency's operations and governance structure using a consistent process, providing managers and staff with a common understanding of organizational risk tolerance and risk management expectations. The intent is to have protocols applied that enhance desired behavior with minimal enforcement.

106. The Commission at any time can enforce risk management protocols on an agency if there is high a degree of risk that the actions, operations, or governance of an agency would place the agency in non-compliance with the principles of the orderly marketing system or its components.

New Agency Application Criteria

107. The Commission has established criteria that applicants must meet to insure that a marketing agency, once designated, has a reasonable level of expertise and financial resources to be able to

carry out their business and marketing plan on behalf of the producers whose product they intend to market. The criteria can be found in Part XIV of the General Order. Once an agency has been designated, the Commission continues to provide a supervisory role.

Public Interest

108. Acting in the public interest has two components:

- 1) Objective and Outcomes – Ensuring that the objectives and outcomes of the decision-making process are in the public interest
- 2) Process and Procedure – Ensuring that processes and procedures followed by decision-makers in exercising their discretionary powers are in the public interest. This includes the following:
 - Acting reasonably
 - Avoiding or properly managing situations where private interests conflict or might reasonably be perceived to conflict with the impartial fulfilment of their official duties
 - Ensure proper accountability and transparency
 - Complying with the principles of procedural fairness and natural justice
 - Complying with applicable law, regulation
 - Carrying out functions fairly and impartially, with integrity and professionalism.

109. It is important to draw a distinction between the question and its application between what “*is*” the “*public interest*”, and what is “*in*” the “*public interest*” in any particular circumstance. “*The public interest*” is best seen as the objective of, or the approach to be adopted, in decision making rather than a specific and absolute outcome to be achieved. The approach indicated by the use of the term is to direct consideration and action away from private, personal, narrow-minded, or opinionated interests towards matters of broader concern.

110. While the meaning of “the public interest” stays the same, the answer to the question what is “*in*” the public interest will depend entirely on the circumstances in which the question arises. Throughout this Supervisory Review process, all decisions were made in consideration of what is in the public interest under the circumstances presented at each stage and under each situation management was confronted with.

111. Throughout this Supervisory Review, particular agencies and the small group of producers that market through these agencies have continually scrutinized the fairness, transparency and integrity of the process. It is disappointing yet understandable given the history leading up to this review. However, it is also a reflection of refusal to act reasonably and fully participate in the supervisory review process with biases held at bay. “In the public interest” also applies to the actions of those

who participated in this review. This behavior is symbolic of the complete breakdown in trust and lack of honor felt towards the orderly marketing system that has consumed a substantial part of the industry's time over the past three years. It is also reflective of the discussions and accusations that are brought up in day-to-day interactions between agencies, producers and the Commission.

112. The supervisory review process allowed for all stakeholders who had a genuine interest in the industry the opportunity to provide their input. If stakeholders choose not to participate, that is their choice. The real issue: if orderly marketing of regulated vegetables was gone tomorrow, the only groups of people that would be affected are the producers and consumers. It's time to take ownership of the privilege. It's time for all participants involved in managing this orderly marketing system to be held accountable. So goes the saying we have heard time and time again, "it's a privilege, not a right, to have orderly marketing". By not acting together as a unified force, we lose respect for the system, of our customers, and of the public.

113. There are difficult decisions to be made that will affect the lives of certain individuals. In life, there are 'triumphs' and 'failures' and 'chance' is achieved at the crossroads of opportunity and preparedness. Orderly marketing provides legislative powers that afford producers the opportunity to work together. Agencies place growers in a better position to supply market demand. The system needs to be managed for the collective good of the industry. Not everyone will be happy with decisions that need to be made to protect the collective interests and prepare to move the industry forward. Long-term stability takes precedence over short-term gains.

Independent Review

114. The workshop moderator was asked by the Commission to provide a set of recommendations to consider for moving forward. These recommendations are stated below in the context that they were provided¹².

'What might VMC consider doing?

From the Workshops and a review of recent decisions by VMC and FIRB I have been asked to provide a set of recommendations for VMC to consider for moving forward.

114.1. Purpose, Vision and Strategy – *VMC needs to get clear on these foundation building blocks for an effective, rules based system. Purpose can be found clearly in the Act, Scheme and Orders. The strategy seems self-evident – to dominate premium fresh market segments in BC and immediately adjacent markets based on freshness, premium quality,*

¹² The moderator's recommendations are part of the workshop report that was submitted 'VMC Workshop Report – 033116'. The document is posted on the BCVMC website at <http://www.bcveg.com/news.asp>

product choice (range) and industry-leading responsiveness. What is missing to an outsider is a clear strategic plan process that incorporates a Vision and Values for the system. Developing this plan should be completed well before the next growing and marketing season (see #4 below).

- 114.2. **Industry Performance** – *The VMC should ensure it has a good measure of industry performance as the ultimate measure of the value of the regulatory framework. In the VMC context performance can be measured by market share and profitability, which are outcomes. From an input perspective elements such as product innovation, promotional programs, and logistics efficiency can be compared and contrasted with other competitors and other regions. Developing these metrics, if they do not already exist, should be a key part of the strategic planning and ongoing management processes.*
- 114.3. **Governance** – *I am not able to make a recommendation on Board structure as has been requested by some Producers. There were suggestions on Vancouver Island for changes to the Board composition. This was not examined at the Delta meeting. Any proposed representation changes should include targeted consultation with Producers that is beyond the scope of this work. In any event, from my perspective little will be gained by changing the Board structure unless there is a strategic plan that reinforces and supports the need for continued collective action.*
- 114.4. **Strategic Plan** – *It is clear that VMC needs an updated strategic plan for the Storage Crop sector. Developing this plan is not necessarily a broad based industry consultation where every disaffected individual gets a full hearing for their grievances and those seeking to break down or challenge the system have another forum to delay, frustrate and obstruct the process. This is a job for the Storage Crop Committee of VMC, and it needs to be pursued deliberately on a timely basis. It is recommended that this work be completed over the summer to be presented to the Industry in September-October 2016.*
- 114.5. **Management** – *Considerable comment, direct and indirect, was made on the effectiveness of VMC management, specifically the previous 2 managers. The GM needs to operate with the confidence of the Board and within a management framework that starts with the strategy which flows into the annual business plan and budget, semi-annual management reviews against initiatives in the plan and budget, and clear quarterly reporting against plan. It is also important that VMC establish clear guidelines, if they do not already exist, to separate governance from management / administration in the execution of plans and in the day to day administration of the system.*

- 114.6. **Storage Crop Planting Intentions** – *In the immediate (by the end of April) VMC needs to verify all storage crop planting intentions. This is critical and should be relatively easy since most seed is ordered and most crop planning will have been completed by growers. This will allow VMC to put substance to rumours of over-planting and deliberate attempts to circumvent the DA system. The planting intentions should be verified by a crop survey in May and then cross-referenced with deliveries in the fall and winter.*
- 114.7. **Delivery Allocation** – *A full update of the Allocation Orders is necessary as the rules are unchanged since Districts were abolished in 2009. This will require ensuring effective management of Delivery Allocation in a multi-agency environment. VMC has tools in its existing Orders to address some of the current challenges to the system although proposed changes would likely be appealed and thereby become bogged down in a morass of bureaucratic process. Nevertheless, a rewrite of the Allocation rules is warranted and should be completed well in advance of the next growing season.*
- 114.8. **Agency Licensing** – *The VMC needs to establish clear criteria on which it would deny an Agency application. This will help provide clarity on why VMC might support any particular application. The Orders provide a list of 20 criteria that must be covered in a business plan of a prospective Agency. These criteria should be applied to each Agency on Vancouver Island as if it were applying anew to be designated as an Agency.*
- 114.9. **Agency Performance** – *The VMC needs to audit all Agencies performance. Agency responsibilities are clearly set down in Part VII of the Orders. The audit process and results should be confidential and details of individual Agencies must not be shared with Directors. If an Agency balks at VMC staff performing the audit, VMC may consider contracting with an auditor to complete the work at the Agency's expense. This work should be completed by August 31/16 so that it can inform the Vancouver Island Agency decision process.*
- 114.10. **Vancouver Island Agencies** – *The ongoing dispute resolution process on Vancouver Island involving VIP and VIFP needs to be brought to conclusion, a conclusion that will likely aggrieve some if not all participants. No substantive market based need was identified for having 3 Agencies on Vancouver Island. Island Producers have, by their own admission, an attractive, under-served local market. Nevertheless, Island production has declined over the past 5+ years and there is suitable land available for production expansion. Currently there are 3 camps of producers and 3 sets of Agency staff all with vested interests. After completing audits of Agency performance the VMC should consider requiring each of the 3 Island Agencies to submit a business plan incorporating the criteria set down in Part XIV of the Orders as if they were applying anew for designation. This work should be completed well in advance of the next growing season.*

- 114.11. **Agency Growth** – *Agencies need a way to grow their businesses. This is provided under Part XV of the Orders – Marketing of “New” or Additional Regulated Product by Existing Agencies. This regulation provides Agencies the opportunity to market “additional” storage crop vegetables subject to the Agency submitting a business plan and the VMC considering the market requirements. The VMC should immediately require IVCA, or any other Agency wishing to grow beyond the established aggregate Allocation of its Producers, to seek authority to market additional regulated crop in accordance with Part XV of the Orders.*
- 114.12. **Enforcement** – *The VMC needs to establish and follow clear guidelines for enforcement with Producers and with Agencies. These guidelines should include triggers, steps (investigation, discussion, mediation, arbitration, seizure, etc.) and cost recovery. The Orders are silent on enforcement. The VMC may wish to establish a Part of the Orders specifically for Investigation and Enforcement. This work could be completed in parallel with the updated strategic plan.*
- 114.13. **FIRB – VMC Relations** – *It is clear from the Supervisory Review and recent appeal decisions that the relationship between FIRB, VMC and Producers needs work. A case in point is the Appeal Decision rendered by FIRB when IVCA appealed Amending Order 43. This decision has created further confusion and uncertainty among Producers and Agencies for which VMC and FIRB bear responsibility. This is a very serious issue that must be resolved between the Boards of VMC and FIRB on a priority basis.’*

CONCLUSIONS

Commission Commitment to Accountability

115. Accountability starts from the top down. The Commission has reviewed all the information that was attained through the engagement process, including the independent review and feedback from stakeholders. Upon discussion of the results and considerations that were outlined in this document, the Commission has decided to adopt recommendations based on the independent review. In addition, the Commission will also explore potential amendments to the Scheme to allow for the appointment of an independent Commission member. A letter was presented to BCFIRB January 4th, 2013 requesting that BCFIRB support the Commission in seeking Scheme amendments that would allow for persons other than commercial producers to be Commission members. This proposed change will be presented to stakeholders as part of this year’s scheduled review of the Commission’s Election Policy.

116. The Commission will proceed with immediate actions to reinforce its commitment to accountability. These actions are as follows:

- Validate Vision & Values for the VMC (see para.114.1)
- Establish measures of industry performance (see para.114.2)
- The Commission will develop an updated strategic plan (see para.114.4)
- Board and Management actions will be consistent with the strategic plan(see para.114.5)
- Storage crop planting will be surveyed – intended crops and actual (see para.114.6)
- DA Orders will be overhauled (see para.114.7)
- Agency performance is to be reviewed against agency accountability framework. Storage crop agencies need to be audited (see para.114.9)
- Use Part XV of the General Orders to address current growth ambitions of BC agencies (see para.114.11)
- Enforce the regulations on a consistent basis (see para.114.12)

Recommendation – Vancouver Island Marketing Structure

Do Vancouver Island producers want to be regulated?

117. The short answer is “Yes”. All feedback received through this supervisory review did not contest the need or want for regulation on Vancouver Island. However, the privilege of having regulation demands responsibility. It is essential for the structure that supports the strategic demands of the Island market to hold all participants accountable. The Commission, therefore, supports the continued regulation of the Vancouver Island vegetable industry using an agency structure.

What type of marketing structure supports the strategic needs of the Vancouver Island Market?

118. As stated by BCFIRB in its December 23rd, 2013 Decision, the best outcome for the Vancouver Island regulated industry is a (are) well governed agency(s) meeting market needs for the benefit of both producers and the public. The powers granted on the Commission in the *NPMA* and Scheme are sufficiently broad to allow agency designations with conditions, where those conditions can be demonstrated to be consistent with sound marketing policy.

119. The structure of the regulated vegetable industry for Vancouver Island needs to be most strategic and effective in the current circumstances and into the future. There have been substantial changes to the marketing environment and the regulated vegetable production situation on Vancouver Island since IVCA and VIP were each granted an agency license. VIFP was licensed within the past few years and therefore the change has not been as significant.

120. The Supervisory Review of Vancouver Island Regulated Vegetable Marketing is an opportunity for the Commission to take action and re-structure its marketing efforts to address the changing demands of the Vancouver Island market, in consideration of both industry trends and in the public interest. Ultimately, it comes down to what makes sense. The Commission agrees with BCFIRB that *'clearly it is in the industry's interest to make collaborative efforts to cultivate and expand, where possible, brand loyalty and associated customer satisfaction'* (pg.6, par 30.31, Jan-07-13 decision).
121. The most effective and efficient way of doing this is if all Vancouver Island Producers work together for the creation of a unified *'Vancouver Island'* brand. At its core, the fundamental purpose of the orderly marketing system is for producers to work together. In such a small market where demand for local is strong, yet supply is contracting and not able to fulfill market needs, there are clear benefits of applying a focused approach to supplying the market. Sound marketing objectives for Vancouver Island should be to maintain and grow brand loyalty and customer satisfaction through consistent, quality products marketed cooperatively, strategically, and effectively.
122. Reinforcing confidence in the Orderly Marketing System starts with the agencies¹³. Agencies are delegated marketing authority of regulated product by the Commission. In doing so, agencies are responsible for up-holding principles that support the Orderly Marketing System. These operating principles are listed under the section *'Purpose of the BC Vegetable Marketing Commission'*, (paragraph 84 of this paper). An agency is to operate in abeyance of the operating principles of orderly marketing, principles of its components, and in support of industry interests.
123. The Commission has reviewed and formalized its agency accountability requirements and developed an agency accountability framework (par. 100 to 107). Agency performance is to be monitored against this framework.

Recommendation

124. Given all the new information we have gathered through this Supervisory Review process, there is a strong argument to be made for having only one agency located on Vancouver Island. Though some participants have suggested there should only be one storage crop agency in the entire province, in consideration of the market environment on Vancouver Island and the need to provide growers with marketing options, having an agency located on the Island makes sense to the Commission. It is also consistent with the approach of having an agency located in each of the other two regulated growing regions in BC (Interior, Lower Mainland).

¹³ The General Orders definition of "Agency" means a Person designated by the Commission as an agency licensed for the marketing of regulated products with retailers; VMC licensed wholesalers and processors; other designated agencies; or all of them irrespective that the marketing is intra-provincial, inter-provincial or export trade in nature and is in accordance with the stipulations set out in Schedule 1.

125. The Orderly marketing system on Vancouver Island needs to be structured to place producers in the best position to collectively meet the market demands. The primary mandate of an agency on Vancouver Island should be focused on marketing production grown on Vancouver Island. There is a clearly defined need for increased supply of Island-grown product. The Commission strongly supports this objective. Consideration should be given to making New Entrants based on Vancouver Island a priority for the Commission.
126. This strategic direction taken by the Commission moves the industry to a position that enhances the opportunities, works off our strengths, minimizes the weaknesses, and incorporates pro-active risk management in dealing with threats.
127. Our recommendation is that given the changes in the market environment on Vancouver Island and the collective interests of the industry, the agency accountability framework be used to examine each existing Vancouver Island agency. The Commission further recommends that this be accomplished by having each Island agency submit an application requesting agency status for the 2017 Crop Year. Therefore, each agency is to re-apply for an agency licence. The application process should also be made available to any group of producers wishing to submit an application for agency status. This will ensure the Commission can make an informed determination as to the exact number and identity of Vancouver Island agencies starting in the 2017 Crop Year.
128. The Commission is committed to a transparent, inclusive and fair application and review process. The process should be developed in consultation with BCFIRB and will support two concurrent decisions: 1) Determining the number of agencies (in light of sound marketing policy)
2) Determining the identity of those agency(s)
129. Following the application and review process, the Commission's recommendations with respect to the agency structure on Vancouver Island will be submitted to BCFIRB for supervisory approval by October 2016.
130. We request that BCFRIB approve the Commission's recommendations in respect to the continued regulation of the Vancouver Island vegetable industry and the process for confirming the Vancouver Island agency structure going forward.

Respectfully submitted on behalf of the BC Vegetable Marketing Commission,



Alf Krause, BCVMC Chair

June 8, 2016