



November 15, 2019

ATTN: Shain Cameron
Farm Finance Branch
Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA)
1 Stone Road
Guelph, Ontario N1G 4Y2

RE: Proposed changes to Ontario's Financial Protection Programs, Proposal Number: 19-OMAFRA006

Dear Ms. Cameron,

Beef Farmers of Ontario (BFO) appreciates the opportunity to provide feedback on the proposed changes to the Beef Cattle Financial Protection Program (BCFPP). BFO represents the 19,000 beef farmers across Ontario by advocating in the areas of policy planning, industry development and research, environment, animal health and welfare, and domestic and export market development.

For over 35 years, the BCFPP has compensated sellers when a dealer defaults on one or more payments. BFO is largely supportive of the BCFPP and the risk management options it provides Ontario's beef producers. However, the BCFPP can be extremely difficult for end users to navigate due to the lack of transparency and consistency. Sellers continue to share concerns about the current dealer licencing process and the requirements to have a dealer's licence revoked.

As the BCFPP has remained largely unchanged despite the evolving agri-food industry, BFO supports the Ontario government's commitment to review the program and enhance the business risk management tools available to beef producers.

The priority concerns and themes outlined by industry during discussions with OMAFRA and the Financial Protection Boards are shared by the BFO board members. BFO agrees the processes for dealer licensing, responsibility and compliance need to be more transparent; the long-term viability of the program could be improved with the innovative use of security deposits; and Agricorp should be retained as the agent administering the dealer licensing.

To improve client experience and program transparency, BFO recommends OMAFRA make the following amendments to the program review **short-term action items**:

- The BCFPP should be accessible and user-friendly for all dealers and sellers. Information provided to the sellers should include the licensing, claims and appeal processes in plain text language. As part



of improving user accessibility, BFO supports the creation of an electronic submission option for claims and application forms.

- To ensure clarity in any dealer-seller transaction, BFO recommends that dealers be required to display their valid license in plain sight within the business premises, as well as provide their licensing number on invoices and sale-related documents. This would align Ontario with requirements in Manitoba and Saskatchewan outlined in the Manitoba Livestock Dealers Program and the *Saskatchewan Livestock Dealer Regulations*.
- BFO recommends a requirement be established for all dealers (packing plant operators, abattoir operators, auction market operators and country dealers) to acquire a license prior to carrying out any cattle sale-related business in Ontario. Examples of exceptions to this requirement include a dealer who maintains the livestock for greater than 30 days or an auctioneer who is vending assets as part of a farm liquidation. Such exemptions incorporate producer-to-producer sales. This requirement would align Ontario with rules established in both Saskatchewan and Alberta under the *Saskatchewan Livestock Dealer Regulations* and *Alberta's Livestock Identification and Commerce Act*, respectively.
- BFO recommends that additional licensing requirements be explored to prevent dealers with a history of payment default and bad business dealings from obtaining a license.
- BFO recommends that individuals operating under another license holder's name be vetted and approved before said individuals would be permitted to purchase cattle under the name of the license holder.
- On licensing transparency, BFO recommends full disclosure of the names of all new/current license holders, as well as details surrounding licenses that have been revoked and claims that have been made to sellers as a result of dealer default. Individuals operating under a license holder's license should also be disclosed.
- BFO does not recommend that each incident of late payment be disclosed, but rather that disclosure be made regarding the details of incidents where actual default (non-payment) occurred and a claim made back to the seller.
- BFO recommends that all active dealers' license history be made public.

BFO has drafted the following comments with regard to OMAFRA's suggested **long-term action items**:

1. Streamlining the Legislative and Regulatory Framework

Proposed change: *Consolidating all legislation governing the programs, currently spread across three separate Acts, into a single Act.*

- BFO supports the amalgamation of the three Acts (*LLPA, Grains Act* and *Farm Products Act*) into one Act. Housing the three Acts in one document will modernize the legislation and improve accessibility for users. However, BFO requests regulations and guidelines for the livestock and grains sectors to remain under separate subsections for ease in navigation and improved clarity.

2. Improving Licensing and Security Requirements

Proposed change: *Clarifying the use of consequential information such as late payments at renewal, clearly defining the roles and responsibilities of the Financial Responsibility Review Committee and reviewing the financial reporting requirements and ratios being used to determine financial viability to ensure that they continue to be adequate and proportionate to risks.*



The current lack of transparency within the licensing process remains a shortcoming of the current program.

- BFO supports the implementation of updated processes and easy-to-understand tools that clearly outline licensing requirements, better define the roles and responsibilities of the Financial Responsibility Review Committee, and improve transparency of financial reporting requirements and ratios used to determine financial viability to ensure that they continue to be adequate and proportionate to risks.

Proposed change: Clarifying acceptable security deposit requirements with the intent of providing more options around acceptable security and ensure consistency around how security is provided. The ministry is also exploring expanding how the security deposited is to be used (e.g. allowing the Boards to use the security to offset all costs incurred to adjudicate a claim and not just claim amount paid) and introducing requirements around how the security is to be invested, including how the interest is to be used.

- BFO supports the continued flexibility of acceptable security options that gives license applicants a variety of ways to demonstrate and post security.
- BFO encourages OMAFRA to clearly define how much security is collected, how the security is invested, and how the security's interest can be used.
- BFO strongly supports the Board's ability to collect on all administrative and legal costs associated with the adjudication of a claim. Currently, the Board does not have the ability to collect administrative and legal costs from a dealer that has defaulted on payment. In BFO's view, these costs can and should be rightly paid by the dealer in question. Specifically:
 - BFO supports the Board's ability to collect on all administrative and legal costs associated with the adjudication of a claim from dealers deemed to be viable.
 - BFO supports the Board's ability to collect on all administrative and legal costs associated with the adjudication of a claim directly from the posted security from non-viable dealers.
 - Further, BFO strongly recommends that OMAFRA continue to provide the Livestock Financial Protection Board with access to OMAFRA's legal services team, including all associated costs of such access.

3. Improving Inspection and Enforcement

Proposed change: Ensure that the necessary tools and powers are in place to respond to complaints in a measured way that is proportional to the risks; including removing the penalty for not reporting late payments by producers; reviewing communication material to better clarify the difference between inspections and investigations; review the regulatory powers with respect to inspections to ensure that they align with current best practices; exploring the use of administrative monetary penalties and order to pay to encourage compliance.

The reporting of late payments is a central function of the cattle program and should be maintained as it allows the adjudication board and the licencing authority to better assess a dealer's history. While the reporting of late payments is a central function of the cattle program, a better system of enforcement and compliance would incorporate enforcement agents to support compliance efforts, similar to what is done under the current grains program. In BFO's view, enforcement agents would support a more robust program to provide greater oversight of licenced dealers, which in turn would better support and protect sellers of cattle.



- BFO supports the elimination of the producer penalty for failure to report late payments.
- BFO supports the continued requirement of sellers to report late payment within the timeframes outlined under the program. OMAFRA and industry must continue to promote the need for sellers to promptly report incidents of late payment.
- BFO recommends that OMAFRA conduct an investigation into the feasibility and cost of creating livestock financial protection enforcement agents, similar to those used in the grains program, to support compliance efforts.

4. Supporting Effective Fund Management and Claim Adjudication

Proposed change: *Maintain the producer compensation funds but consider consolidating the four grain funds into one; limit coverage to only those that contribute to the Fund (i.e. out of province sellers not eligible); and provide the Boards with the authority to prorate claims if there is not enough money in the funds to pay all claims.*

BFO believes that sellers eligible for a claim under the program should receive full compensation. While extraordinary circumstances may warrant consideration of payment proration to protect the long-term health of the fund, a seller's loss should be prioritized for compensation. As such, BFO recommends the following:

- BFO agrees that only those contributing to the fund should be eligible to access the program.
- BFO does not support granting the Boards with discretion to prorate payments. Eligible claims should be paid out in full. In instances where fund claims would deplete the fund's balance, the government backstop would ensure claim amounts are paid to sellers in full.
- BFO requests that the province reaffirms its commitment to backstop the fund if payments were to exceed the fund's balance.

5. Enhancing Program Delivery Efficiencies

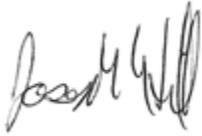
Proposed change: *Retain Agricorp as the delivery agent for the licensing component while exploring alternatives to the Boards being a provincial agency. The ministry will work with industry to explore the range of models to make current administration more efficient and this will include looking at models like a Delegated Administrative Authority and/or working within the current construct to make the agencies more cost effective (e.g., a single agency with one set of reporting requirements, with the specific members appointed the specific sectors).*

- BFO supports the retention of Agricorp to maintain responsibility for dealer licensing. With that said, the delivery agent must be held accountable to all parties that pay into the fund, including the full disclosure of licensing decisions and changes to a licence holder's status, and disclosure of a dealer's licence history.
- BFO supports maintaining the Livestock Financial Protection Board as an industry-led agency of the Crown responsible for program adjudication and financial oversight of the fund.



BFO would like to thank OMAFRA for the opportunity to provide feedback on the proposed changes to the BCFPP. We look forward to the modernization of the BCFPP, as well as the benefits offered to beef producers in the process. We would be pleased to answer any questions about our comments and we look forward to participating in future conversations with regard to the BCFPP.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Hill".

Joe Hill
President

cc: BFO Board of Directors

