

IN THE MATTER OF the *Farm Products Marketing Act*, R.S.O. 1990, c. F-9 and the *Ministry of Agriculture, Food and Rural Affairs Act*, R.S.O. 1990, c. M-16;

AND IN THE MATTER OF a request made to the Ontario Farm Products Marketing Commission pursuant to subsection 17(4) of the *Ministry of Agriculture, Food and Rural Affairs Act* to reconsider Regulation 419, Hogs – Marketing, made by the commission under the *Farm Products Marketing Act*;

AND IN THE MATTER OF Regulation 420, Hogs – Plan, made by the Lieutenant Governor in Council under section 5 of the *Farm Products Marketing Act*, which, in the commission’s opinion, may need to be reconsidered pursuant to section 5.1 of the *Farm Products Marketing Act*, to determine whether it should be amended in order to effectively implement Regulation 419.

Before:

Dave Hope, Chair; Elmer Buchanan, Vice Chair; Deborah Whale, Vice Chair; Anna Andres, Member; Bob Aumell, Member; Jim Clark, Member; Carolyn Fuerth, Member; Tom Richardson, Member

Appearances:

Sean G. Foran, Weir Foulds LLP, Solicitors for the Ontario Pork Producers’ Marketing Board (Ontario Pork or local board);

Larry Skinner;

Conestoga Meat Packers/Progressive Pork Producers Coop;

Synergy Swine Inc, Paragon Farms and Great Lakes Pork, and RFW Farms Ltd;

The Open Market Group; and

Nicholas A. Richter, Solicitor for Zantingh Direct Inc. and Zantingh Swine Inc.

DECISION

This matter was heard in Guelph, Ontario over four days commencing on July 22, 2008 and concluding on July 25, 2008. The Ontario Farm Products Marketing Commission (commission) heard evidence from three expert witnesses whose qualifications as experts were unopposed:

- John Groenewegen, who submitted a report, dated October 2006, titled “*Hog Marketing and Market Access: Review of Hog Marketing Channels in Ontario*” (Exhibit 2);
- Ken McEwen, who submitted a report, dated July 2008, titled “*A Review of the Functions and Service Fee Levies Applied to the Swine Sector by Province*” (Exhibit 9); and
- Kevin Grier, who submitted a report, dated July 2008, titled “*Hog Marketing and Processing Overview*” (Exhibit 18).

The commission heard evidence from 19 other witnesses, including representatives of all the parties as follows: Dennis McKerracher, Curtis Littlejohn, Andrew Marks, Lloyd Bauernhuber, Mary Ann Hendrikx, Larry Skinner, Bob Hunsberger and Arnold Drung (who were permitted to testify as a panel), James Reesor, Mark Yungblut and Rob McDougall (who were permitted to testify as a panel), Brian Simpson and Jim Van Nes (who were permitted to testify as a panel), Allan Van Ravenswaay, Jim Wilhelm and Ron Wouters (who were permitted to testify as a panel), Lou Thompson (who was permitted to testify by telephone), Eric Van Boekel and Brad Zantingh.

Background

The Ontario Pork Producers' Marketing Board was established in the 1946. The hog marketing system evolved from one dominated by sales through drovers to packers to one where hogs moved to board-organized assembly points and centralized selling. By regulation, the board was delegated broad authority over the marketing of hogs. In the 1960s, an auction system was developed by the local board which established both the price and the allocation of hogs to buyers. Prices were pooled weekly with all producers receiving the same price adjusted for quality. Market hogs were sold on a common pricing grid which accounted for weight and a measure of leanness. In the early 1990s, a limited number of hogs were sold to processors by direct contracts approved by the board. During the 1990s, the auction system was replaced by a formula price system.

In 1995, processors appealed to the commission following a local board decision to end formula pricing and return to an auction system. The commission held a hearing and directed the parties to negotiate a system for pricing and develop criteria for contracting within a specified timeline. When the parties were unable to negotiate a solution to these issues, the commission held a second hearing on pricing and criteria for contracting in 1996.

The decision of the commission was that the local board would retain the authority to determine the manner in which Ontario hogs would be sold. In the matter of contracting between Ontario hog producers and buyers of Ontario hogs, the local board would establish contracting protocols and procedures that would facilitate contracting between producers and processors, and specified principles would be incorporated in the board's contracting protocols and procedures. The commission also established that the board would work in conjunction with the processors and have regard to the submissions of the processors and other parties to the hearing in establishing contracting protocols and procedures.

Over the past 50 years considerable change has occurred in the hog industry as in many sectors of agriculture. Extensive consolidation has occurred in both hog production and processing. Changes in farm business structure have also occurred. While single-enterprise farrow to finish operations still exist, multiple site units have become increasingly common with the growth of arrangements involving many farm families. Similar changes have occurred in the hog industry in other regions of North America.

In the period since the commission hearing in 1996, the percentage of hogs sold through supply contracts has increased to 80 to 85 percent of Ontario market hog sales. In 1999, Ontario Pork introduced Pool Plus as a way for producers to participate in supply contracts through the board. Approximately 10 to 15 percent of hogs are sold in this manner. At the same time, the number of hogs sold through the pool has decreased to about five percent.

Globalization of hog markets has occurred. Exports of Canadian hogs and pork products have increased substantially over the last couple of decades.

Against this background, a request was made to the commission by several industry stakeholders to reconsider Regulation 419, Hogs – Marketing, made by the commission under the *Farm Products Marketing Act*. Other concerns beyond Regulation 419 were raised about the conduct and governance of Ontario Pork.

The commission held a pre-hearing meeting on May 28, 2008 to gather input from industry stakeholders on what issues should be examined within a hearing on hog marketing. A total of 23 industry stakeholders appeared before the commission and correspondence was received from another three. After considering the input, the commission called a hearing to receive evidence and submissions. The commission determined that it would address four issues.

Issues

1. What should be the scope of Ontario Pork’s regulatory authority with respect to all pig production segments (breeding stock and all classes of pigs raised for slaughter)? This question will include a review of the following:
 - a. What marketing issues or other issues that impact the production and marketing of pigs should be within the mandate of Ontario Pork? What type of authority does the board require to manage this mandate?
 - b. Should the exemption from regulation of some classes of pigs (breeding stock and immature market hogs) be revoked?
 - c. Should Ontario Pork have authority over the production of pigs, including the licensing of producers?
2. What role should Ontario Pork play in the selling/marketing of all types and classes of pigs? What type of regulatory authority does the local board require to manage this mandate? This question will include a review of the following issues:
 - a. Ontario Pork’s oversight and approval of producer-processor supply contracts;
 - b. Ontario Pork’s role in the logistics and scheduling of market hogs to processors;

- c. Ontario Pork's role in the settlement of payment between processor and producers;
 - d. Ontario Pork's role in the selling/marketing of classes of pigs other than market hogs; and
 - e. Ontario Pork's role in the receipt and dissemination of sales and marketing data.
3. What role should Ontario Pork play in serving the interests of the Ontario pork industry? This question will include a review of the following questions:
 - a. What additional issues impacting the production and marketing of pigs should fall within the mandate of Ontario Pork? What priority should be given to each issue? What should be the nature and scope of the mandate?
 - b. To enable Ontario Pork fulfill its mandate, what financial contribution is required and by whom?
 4. What representation model and board structure will best enable Ontario Pork to achieve its mandate?

The Regulation

Hogs Marketing Authority

In Regulation 419 under the *Farm Products Marketing Act*, local board, means The Ontario Pork Producers' Marketing Board.

Ontario Pork has the authority, as delegated by the commission, in Regulation 419 to control and regulate the producing and marketing of hogs within Ontario. The commission also delegates to the local board the power to make regulations providing for the licensing of any or all persons before commencing to engage in the assembling, processing, shipping, or transporting of hogs.

Section 3 of Regulation 419 provides:

3. The commission exempts from this Regulation,
 - (a) hogs marketed for any purpose except slaughter; and
 - (b) hogs produced in the County of Haliburton and the territorial districts other than Cochrane and Timiskaming.

Section 9 provides:

1. All hogs shall be marketed by or through the local board.
2. No person shall market hogs except by or through the local board.

Section 10 vests the following powers in the local board with regard to marketing:

1. to direct and control by order or direction either as principal or agent, the marketing of hogs, including the times and places at which hogs may be marketed;
2. to determine the quality of each class, variety, grade and size of hogs that shall be marketed by each producer;
3. to prohibit the marketing of any class, variety, grade or size of hogs;
4. to determine from time to time the price or prices that shall be paid to producers or to the local board, as the case may be, for hogs or for any grade of hogs and to determine different prices for different parts of Ontario;
5. to fix and impose service charges from time to time for the marketing of hogs;
6. to require the price or prices payable or owing to the producer for hogs to be paid to the local board;
7. to collect from any person by action in a court of competent jurisdiction the price or prices or any part thereof of hogs; and
8. to pay to the producers the price or prices for hogs less service charges imposed under paragraph 5, and to fix the times at which or within which such payments shall be made.

Section 11 details Ontario Pork's authority to sell hogs by auction or contract and its responsibilities for record keeping:

11. (1) The local board may sell hogs by auction or by contract under the powers vested in it under section 10.
 - (2) In a sale by auction,
 - (a) where the local board does not establish regular times and one or more regular places for auctions, it shall give notice of the time and place of an auction in such a way that every licensed processor may have a reasonable opportunity to bid as each lot of hogs is offered;
 - (b) the local board shall offer lots of hogs without discrimination and in such a way that the processors may bid competitively on the hogs;
 - (c) the buyer of the hogs shall be the processor who first bid the highest price; and
 - (d) the local board shall make and keep for at least one year a record showing:
 - (i) the number of hogs in the lot;
 - (ii) the location of the hogs at the time of the sale;
 - (iii) the name and address of the buyer; and
 - (iv) the price at which the hogs were sold O. Reg. 88/92, s. 1.
 - (3) In a sale by contract, the local board shall make and keep for at least one year a record showing:
 - (a) the number of hogs sold per delivery;
 - (b) the place from which the hogs were delivered;

- (c) the place to which the hogs were delivered; and
- (d) the price at which the hogs were sold.

Licensing Authority

The local board's licensing authority is contained in sections 5 and 6 of Regulation 419:

5. The commission delegates to the local board its powers to make regulations with respect to hogs:
 - (a) providing for the licensing of any or all persons before commencing or continuing to engage in the assembling, processing, shipping or transporting of hogs;
 - (b) prohibiting persons from engaging in the assembling, processing, shipping or transporting of hogs except under the authority of a licence;
 - (c) providing for the refusal to grant a licence where the applicant is not qualified by experience, financial responsibility and equipment to engage in properly the business for which the application was made, or for any other reason that the local board considers proper;
 - (d) providing for the suspension or revocation of, or the refusal to renew, a licence for failure to observe, perform or carry out the act, the regulations, the plan or any order or direction of the local board;
 - (e) providing for the fixing of license fees payable by any or all persons engaged in the assembling, processing, shipping or transporting of hogs;
 - (f) prescribing the forms of licences;
 - (g) requiring the furnishing of security or proof of financial responsibility by any person engaged in the marketing of hogs and providing for the administration and disposition of any money or securities so furnished;
 - (h) providing for the control and regulation of the marketing of hogs, including the times and places at which hogs may be marketed;
 - (i) requiring any person who produces and processes hogs to furnish to the local board statements of the amounts of hogs that the person produced in any year and used for processing;
 - (j) requiring any person who produces hogs to offer to sell and to sell hogs through the local board;
 - (k) prohibiting any person from processing, packing or packaging any hogs that have not been sold by or through the local board;
 - (l) subject to section 3, providing for the exemption from any or all of the regulations, orders or directions under the plan of any class, variety or grade of hogs, or any person or class of persons engaged in the producing or marketing of hogs or any class, variety or grade of hogs; and

(m) providing for the making of agreements relating to the marketing of hogs by or through the local board, and prescribing the forms and the terms and conditions of such agreements.

6. (1) The commission authorizes the local board to use any class of license fees, service charges and other money payable to it, for the purposes of paying the expenses of the local board, carrying out and enforcing the act and the regulations and carrying out the purposes of the plan.

(2) The commission authorizes the local board to establish a fund in connection with the plan for the payment of any money that may be required for the purposes mentioned in subsection (1).

Summary of Evidence

Ontario Pork

In their submissions to the commission, representatives of Ontario Pork outlined four requests:

1. that all of the powers it currently has in Regulation 419 be retained;
2. that the section 3 exemption - hogs marketed for any purpose except slaughter - be removed;
3. that Regulation 419 be amended to grant Ontario Pork authority over all domestic swine; and
4. that section 5 of Regulation 419 be expanded to include the licensing of all producers.

Ontario Pork called Dr. John Groenewegen to the stand and he was qualified as an expert witness. Dr. Groenewegen presented selections from his "*Hog Marketing and Market Access; Review of Hog Marketing Channels in Ontario*" report that he prepared in 2006 for Ontario Pork. He also presented a summary slide presentation (Exhibit 2a) of his report. He presented an overview of the evolution and changes experienced in the Ontario hog industry over the past 50 years, including marketing. He stated that Ontario Pork provides some flexibility in marketing options and outlined the options available to producers. Ontario has an excess supply of hogs and pork products, with 7.7 million hogs produced and only 5 million slaughtered in Ontario by processors. He stated that Ontario Pork facilitates the movement of the excess hogs to other markets outside Ontario. He also stated that US price equivalency was not an appropriate benchmark to measure the performance of Ontario Pork, given the supply-demand balance, and that US equivalent pricing would result in an uncompetitive Ontario processing sector. Further, he stated that Ontario producers are obtaining market prices that are, at least, comparable to neighbouring provinces, and that Ontario Pork provides market power for Ontario producers. He suggested that access to superior market information and the ability to direct supply were necessary to effectively utilize increased bargaining power through collective action. Data was presented that showed Pool and Pool Plus hogs were often shipped by Ontario Pork out of province, and that the pool was mostly used by smaller producers.

Dr. Groenewegen suggested that Ontario hog producers and processors are competing with producer-processor supply chains in Québec and in the US. He explained how supply contracts allow for supply chain coordination and provide more supply certainty than reliance on spot market sales.

Ontario Pork presented the summary of an IPSOS Reid survey suggesting that when a majority of producers were surveyed, they supported Ontario Pork's involvement in a variety of services offered, and that they were satisfied with the services received. The survey also showed that the level of support dropped as the size of operation increased. Dr. Groenewegen suggested that producer satisfaction is linked to the price of hogs and the price is linked to the exchange rate. Further, the survey suggested that only 49 percent of those surveyed who shipped over 3000 hogs per year were completely or somewhat satisfied with Ontario Pork's marketing services.

Dr. Groenewegen's report made a total of 18 suggestions for improvement of the marketing system that could be made within current regulatory authorities, including the following:

1. On the issue of market access, the report stated that Ontario Pork cannot provide access through contracts to all producers wanting a contract with an Ontario processor, and the report suggested communications to explain that the inability to enter into a supply agreement does not mean that market access has been denied.
2. The report identified dissatisfaction with the current booking and scheduling system, and that dissatisfaction can be linked to the lack of accountability of producers, truckers and processors. This issue needs to be addressed.
3. Several suggestions related to supply chain issues, including the need to facilitate innovation through contract design. Contract design should allow the business relationship to benefit from innovation. With respect to contracted hog volume, Ontario Pork should monitor volumes in relation to plant capacity and enforce contracts and apply remedies for contract default.
4. All processors are not providing letters of credit as previously was the case. Ontario Pork should require letters of credit to cover financial risk between the sale and payment of hogs. The report also recommended that the local board require the same payment terms for processors.

During cross examination, Dr. Groenewegen stated that he was provided with a terms of reference for his work by Ontario Pork. The scope of his options and recommendations was limited to the current regulatory framework of the local board.

Mr. Dennis McKerracher, former Chair of the National Traceability Committee of the Canadian Pork Council (CPC), presented information on the CPC's plans to establish a hog identification and traceability system for Canada. Mr. McKerracher outlined the role of the provincial boards and associations, including establishing a premise identification system. The national system has been under development since 2002 and continues to evolve. The national tattoo system is in place, and premise identification will move forward pending available resources.

Mr. McKerracher explained that he previously raised and marketed around 3,000 market hogs per year in Alberta, and he considered himself a small producer. He explained that he was involved in hog production when Alberta Pork moved to a dual marketing approach. He shared his problem of getting paid directly from a processor with whom he had a contract.

During cross examination, Mr. McKerracher indicated Alberta Pork was granted new authorities to implement traceability. He also acknowledged that

- Alberta Pork no longer has the sole marketing authority for pigs.
- Alberta Pork has the ability to license swine producers.
- Regulated marketing authorities are not required to implement a traceability system.

Mr. McKerracher further explained that there are four pieces of information that are required to implement a traceability system. They are: 1) a site or premise ID (registry); 2) an animal identification (national tattoo system); 3) destination; 4) conveyance (ie. livestock trailer license plate).

Mr. Curtiss Littlejohn, Chair of Ontario Pork, outlined the changes that have taken place in the hog production sector within Ontario, as it has moved from single-site farrow to finish operations to multiple-site systems consisting of sow, nursery, weaner and finisher.

Mr. Littlejohn also outlined the strategic planning process Ontario Pork has been following since 2005. An IPSOS Reid producer survey, completed in 2005 for Ontario Pork reported that the lowest level of producer satisfaction scores were in the areas of marketing, sales and logistics. He outlined a strategic approach (Exhibit 3) which had been presented to councillors at a policy day in June, 2008 and supported by 67 percent of councillors (Exhibit 30). This approach would expand the marketing choices offered within Ontario by licensing agents to take on the marketing roles currently provided by Ontario Pork for those who preferred to use an agent other than Ontario Pork.

Ontario Pork's board of directors identified eight "must have" elements in their strategic direction:

1. producer choice in marketing options;
2. mandatory price reporting and access to markets;
3. traceability, food safety and foreign animal disease preparedness;
4. code of conduct for any licensed selling agents;
5. maintenance and expansion of regulatory authority;
6. timeliness and security of payment;
7. Canadian Quality Assurance (CQA); and
8. an organizational focus of customer service.

Mr. Littlejohn suggested that further amendments to sections 3 and 5 of Regulation 419 are required to fully equip Ontario Pork to represent all domestic swine producers.

Mr. Littlejohn stated that licensing producers would enable Ontario Pork to standardize production practices and that licensing powers would allow Ontario Pork to implement measures regarding traceability, food safety and foreign animal disease preparedness.

Finally, Mr. Littlejohn stated that Ontario Pork has a significant number of programs and services that are providing benefit to all hog producers regardless of their production or marketing classification. An inequitable share of these industry services is being paid for by market hog producers only. Removing the exemption in section 3 of Regulation 419 would enable a fee to be collected from all producers.

During cross examination Mr. Littlejohn was asked a number of questions from various parties. He was asked if regulated marketing was required to implement programs such as Homegrown Ontario or the ethnic marketing program. He acknowledged that the existing regulations allow the service fee to be collected and used to pay for these programs. In response to questions concerning settlement and guarantee of payment, Mr. Littlejohn stated Ontario Pork does not guarantee payment to producers. Ontario Pork establishes credit worthiness and credit policies for processors. He indicated that an equivalent of the US *Packers and Stockyards Act* was identified in Ontario Pork's strategic direction as a "must have." He also indicated that the local board has neither reviewed options in any detail nor investigated options, such as the Ontario Beef Cattle Financial Protection Fund.

Mr. Littlejohn responded to a question concerning the Hog Industry Advisory Committee that last met in the summer of 2006. He indicated that Ontario Pork withdrew from discussions after Maple Leaf Foods restructuring announcement in the fall of 2006. He further noted that currently, the local board uses bilateral talks between itself and industry stakeholders.

Mr. Andrew Marks, Director of Sales and Logistics with Ontario Pork, provided information on the role of Ontario Pork in overseeing and approving supply contracts; logistics and scheduling; payment settlement; receipt and dissemination of sales; and marketing data. He described the protocols and procedures for developing supply agreements, including the number and types (Exhibit 6). He indicated that a component of this protocol was Ontario Pork's review for preliminary approval and response within seven days to proposed direct supply agreements.

In response to questions from other parties, Mr. Marks acknowledged that of the 35 different contracts (there are about ten listed on the board's secure website) four to five are currently open, and two to three would be available for standard hogs. He acknowledged that producers don't always receive kill sheet data from Ontario Pork. The number of producers who have hogs in a single load was cited as a determining factor. He also stated that Ontario Pork must sell all hogs that producers direct through the board and in some cases, the hogs are of lower quality, making them harder to sell, which can cause conflicts with processors.

Mr. Lloyd Bauernhuber, Director, Finance and Operational Services with Ontario Pork, presented the local board's 2008 fiscal year budget summary. Ontario Pork operates under a service fee of \$1.75 per market hog. The budget document (Exhibit 7) included a breakdown of the major sources of revenue and expenditures on a per hog basis. It was explained that the budget document, as presented, is a special report with a greater level of detail than what is traditionally produced. The budget presented a breakdown of expenses by department, but did not attempt to allocate costs by activity centre, nor did it attempt to allocate overhead expenses.

During cross examination, Mr. Bauernhuber responded to several questions concerning guarantee of payment to producers. He stated or confirmed that:

- Ontario Pork uses its working capital requirement of \$5 million per year to ensure producers are paid, however, the board does not guarantee payment.
- Ontario Pork's role is to assess the credit worthiness of processors using public and available company financial data and/or ratios.
- While the majority of the Ontario processors have provided a letter of credit, the three largest pork processors do not provide letters of credit.
- Québec processors provide letters of credit, and US processors are subject to the *US Packers and Stockyards Act*.

Ontario Pork called Mr. Ken McEwen to the stand who was qualified as an expert witness. Mr. McEwen reviewed a report he completed for Ontario Pork in July 2008. The report titled, "*A Review of the Functions and Service Fee Levies Applied to the Swine Sector by Province*" was entered as Exhibit 9. The report included a comparison of services and service fees of various hog marketing boards and associations across Canada.

During cross examination Mr. McEwen concurred with a statement by Mr. Hunsberger that the western Canadian provinces are the only provinces with a total open marketing system. Based on information in his report, Mr. McEwen also concurred that, on average, the cost of marketing a hog in Manitoba, Saskatchewan or Alberta is approximately one dollar. Mr. McEwen also clarified that he did not have discussions with independent sales agents in western Canada during his research for his report.

Ms. Mary-Ann Hendrikx, a director of Ontario Pork, presented information on a proposal to update the governance structure of Ontario Pork. Ms. Hendrikx is a member of Ontario Pork's Electoral Structural Review Committee, which developed the proposal. The proposal had not been approved by the local board. She explained that past attempts to update the governance structure were not successful, as Ontario Pork did not receive sufficient support from the councillors. The swine industry has seen a 50 percent drop in producers since 1996. The key features of the proposed governance model are listed below:

- ten provincial directors;

- three zones representing the existing twelve districts: District 1-3, District 4-7, and District 8-12;
- each zone elects three directors at large;
- the tenth director elected from large producers (greater than 10,000 hogs), who represents large producers and who does not have to be a councillor;
- directors elected to three year terms (like the Ontario Federation of Agriculture);
- maximum of 12 years (four terms) with some exceptions; and
- eighty councillors elected from the 12 districts.

Committee work continues, with a board discussion in July and a decision in August. Comments from producers are accepted until the policy conference. If changes are approved and supported, the committee would like to see them in place by March 2009.

Larry Skinner

Mr. Larry Skinner, a pork producer from Perth County, addressed two topics which he felt were the key issues for the hearing.

On the issue of Ontario Pork having third-party status in direct supply contracts, he stated that the current process, which was meant to be automatic, has at times become protracted and burdensome. He suggested there is a conflict between the marketing powers, which were granted in the era when hogs were predominately sold by auction. He stated that he agreed that it is not possible to permit fully functioning direct contracting with the existing marketing powers of Ontario Pork. He suggested the corollary is also true, that the marketing powers of Ontario Pork cannot be fully exercised with direct contracting in place. He suggested the principles for contracting protocols and procedures needed to be revised, and that the relevant sections of the regulations needed to be revised to more accurately reflect the current marketing environment. He suggested a greater role for the commission in implementation and enforcement of the resulting system.

In the area of the service fee, Mr. Skinner compared the Manitoba fee structure and amounts with Ontario Pork's fees. He indicated that under the open system in Manitoba, the producers pay an \$0.80 per hog fee to Manitoba Pork Council, and if they use the services of the Manitoba Pork Marketing Coop, they pay another \$0.70 per hog, for a total of \$1.50 per hog. He indicated that there will always be a transactional cost borne by producers regardless of the selling system, and that producers need to know exact costs. He suggested that a greater transparency of Ontario Pork's true costs with regard to various marketing services would address much of the producer dissatisfaction with the current system.

Conestoga Meat Packers/Progressive Pork Producers Coop (jointly Conestoga/3P)

Mr. Bob Hunsberger, Chair of Conestoga/3P, and Arnold Drung, General Manager of Conestoga Meat Packers Ltd. made a joint submission. Conestoga/3P suggested that the marketing powers given to Ontario Pork need to be revoked as they are in conflict with

Conestoga/3P operating model. They stated that to be successful, they need an open and flexible hog marketing system in Ontario, or at the very least an irrevocable exemption from the current marketing authorities of Ontario Pork. They outlined their business model which is to ensure slaughter space for the hogs produced by members, with members receiving compensation for their hogs based on the value of the meat.

They suggested that the ongoing conflicts with Ontario Pork arising from the legislated monopoly powers granted to the board, and the model of operating a producer-owned plant threaten the viability of their operation.

They suggested that the economics of the hog processing sector had resulted in reduced margins for pork processors. They outlined changes they had made and were making to increase the viability of their operation. They stated that they had to pay Ontario Pork for services that didn't add value for their members, and that requested exemptions have not been approved. They outlined the resulting conflicts between themselves and Ontario Pork, as they attempted to change the payment time, the method of price determination, payment settlement and the scheduling of hogs to be delivered by their members to their plant.

Synergy Swine Inc, Paragon Farms and Great Lakes Pork, and RFW Farms Ltd.

Mr. Mark Yungblut, Mr. Rob McDougall and Mr. James Reesor, representing the above three businesses, chose to make a joint submission at the hearing. They outlined that they collectively produce over 700,000 market hogs annually, involve over 220 Ontario farm families and contribute over \$1 million annually to the budget of Ontario Pork.

They stated that the sole marketing authority of Ontario Pork is the key issue to be addressed. They suggested it is not possible to fully permit direct contracting between producers and processors, while leaving in place the marketing powers of Ontario Pork, in particular Section 10 of Regulation 419. They suggested the marketing roles of Ontario Pork should become voluntary. They recommended that the board should have no authority over producer-processor contracts. They stated that the issue of marketing fees, while important, was secondary to the main issue of compulsory marketing powers. They stated that the existing marketing authorities could negatively impact the decision of processors to invest in Ontario.

Mr. Kevin Grier, Senior Market Analyst with the George Morris Centre, was called to the stand and was qualified as an expert witness. Mr Grier stated that in western Canada and the US, hog marketing is a business transaction between producer and processor. He also described the existence of private marketers in western Canada. He suggested that 85 to 90 percent of hogs in North America are on contract with packers or owned by packers. Hog transport is in most jurisdictions the producer's responsibility. Hog pricing is based on hog and pork supply and demand, and pricing is open and transparent. The Ontario price is the Chicago Mercantile Exchange price adjusted for exchange rate minus transportation costs. In other jurisdictions the producers are paid directly by the

processor. Producer and packer relationships are highly developed, and open marketing is the norm.

Mr. Grier suggested that Ontario Pork inserts itself in the relationship between producers and processors by being involved in approval of direct contracts, scheduling and settlement. He also stated that posting contract information for others to view is counter productive and a barrier to innovation. Additionally, he suggested that Ontario Pork's current marketing authorities are redundant. Further, he stated that Ontario Pork does not require marketing powers to provide producers with protection against a default in payment.

Mr Grier stated that a new pork processing plant costs upwards of \$200 million to build, plus another \$50 to \$100 million in operating capital. He raised the issue of Maple Leaf Foods announcing plans to sell or close its Burlington, Ontario plant as a major concern, as it is the largest buyer of Ontario market hogs.

The Open Market Group (The OMG)

Mr. Brian Simpson and Mr. Jim Van Nes spoke as representatives of The OMG.

They stated that Ontario Pork is often put in a difficult position representing all producers. The OMG group requested that Ontario Pork be split into two stand-alone organizations: an association; and a marketing/logistics arm. The association would be involved in all things except marketing, and The OMG supported a fee on all classes of swine. The fee must be competitive with other jurisdictions in North America.

They requested that producers be given the choice of whether or not to use the marketing services of Ontario Pork, and that the marketing services be funded on a user-pay system. They stated that separating marketing from the association provides a choice for producers. A report prepared by Serecon Management Consultants Inc. for Ontario Pork and titled "*Marketing Systems for Ontario Pork – A Working Document-*" was entered as Exhibit 21. They explained that the concept of creating a marketing/logistics arm separating the marketing functions was listed as an option in this report, but was never implemented in Ontario.

Mr. Allan Van Ravenswaay, Mr. Jim Wilhelm, Mr. Ron Wouters and Mr. Eric VanBoekel also spoke for The OMG. Mr. Van Ravenswaay, Mr. Wilhelm, Mr. Wouters and Mr. VanBoekel testified that they are not satisfied with the effectiveness of Ontario Pork as a marketer, and that producers could achieve a better price by marketing directly. Mr. Van Ravenswaay presented an example of a spot market sale to a US processor by Ontario Pork on his behalf that was significantly less competitive than another spot sale on the same day to the same US processor by a US producer. Mr. Wilhelm and Mr. Wouters explained that when their direct contract with an Ontario processor was terminated due to a plant fire, the only marketing option available through Ontario Pork was the pool program. They stated that they sought other options, and within a couple of weeks had negotiated a direct contract with a US packer that was comparable to their

previous direct contract. They also shared their experience in trying to resolve outstanding service fees and the subsequent legal conflicts between themselves and Ontario Pork.

Mr. Van Ravenswaay stated that he has 25 years experience as a commissioned order buyer of different livestock species, including hogs. In 2007, he was elected to Ontario Pork's Marketing Committee. He stated that the committee met once in 2007 and was subsequently terminated in the fall of 2007 due to budget cuts.

Mr. Van Ravenswaay further testified that Ontario Pork interferes with a producer's relationship with packers. He stated that in 2005, when he was attempting to negotiate a direct contract with a Québec processor, Ontario Pork became aware of the negotiations and became upset. He stated that the Québec processor was subsequently unwilling to discuss further or conclude a direct contract for risk of being shorted hogs by Ontario Pork.

Mr. Lou Thompson, a hog buyer for Cargill Meat Solutions, was called as a witness by conference call. Mr. Thompson worked for Tyson Foods for 14 years before joining Cargill. Mr. Thompson testified that he deals with Ontario hog producers and Ontario Pork. He has a good working relationship with Ontario independent producers through long-term supply contracts. He deals mainly with Ontario Pork on spot market sales. While at Tysons, he investigated the possibility of a long-term supply agreement with Ontario Pork, but the local board indicated that that it did not want to enter into long-term agreements at that time. Mr. Thompson stated that while hog volume is a factor in negotiating agreements, the most important factor is the relationship between processor and producer. He cited examples of Ontario producers that continued to honour their supply agreement throughout the last US trade challenge on Canadian hogs.

The OMG cited the importance of getting kill data records from processors on a timely basis so they can make future management and marketing decisions. They experienced ongoing difficulty in getting this information from Ontario Pork in a timely manner.

During cross examination, evidence was entered as Exhibits 23, 24, 25 and 27 by Ontario Pork about legal conflicts between the board and Mr. Van Ravensway, Mr. Wilhelm, Mr. Wouters and Mr. VanBoekel. Ontario Pork suggested that the evidence given by these producers was not reliable.¹

¹ It is important to remember that this is not an adjudicative proceeding. The purpose of this proceeding is to determine regulatory policy questions that are of importance to the pork industry as a whole. The evidence must be viewed in this light. The commission finds that, despite their disagreements and history of disputes, all of the parties are genuinely committed to the success of the pork industry and gave their evidence honestly and sincerely.

Zantingh Direct Inc. and Zantingh Swine Inc. (collectively Zantingh)

Mr. Brad Zantingh, Business Manager, testified about the Zantingh business model acting as a marketing agent for sellers of various classes of hogs. Some classes are regulated by Ontario Pork while other classes are not under the marketing authority of Regulation 419. Zantingh indicated that they were a pioneer in developing markets for “light market” or “off-sort” market hogs, and indicated they had invested significant resources to build these markets. Zantingh has developed relationships with 14 US speciality processors. Changes to regulatory structure should be flexible and allow parties other than Ontario Pork to be involved in the marketing of various classes of pigs in Ontario.

Zantingh believes Ontario Pork has an important role to play in representing the Ontario pork industry on a number of issues. Zantingh supports a swine traceability system in a way that protects and safeguards the business information of Zantingh. It suggests the commission should consider the role of the Hog Industry Advisory Committee or similar groups in advising Ontario Pork.

Zantingh requested that any regulation change be made in a way that does not threaten the business they have built.

Intervenors

A total of 18 intervenors filed written submissions with the commission. Eight of the 18 also made presentations at the hearing. There was a wide range of opinions expressed, from support for the status quo to requests for significant change in the area of Ontario Pork’s marketing authorities and governance structure.

Maple Leaf Foods and Quality Meat Packers outlined difficulties they experienced in attempting to get board approval of supply contract language. They suggested that issues were discussed for several years and sometimes were never resolved. They felt that the process of contract approval negatively affected their business. Quality Meats also suggested that the current system of Ontario Pork’s involvement in scheduling and logistics has disadvantages, such as a longer communications chain from supplier to purchaser; multiple accountabilities between the players; multiple communications paths and opportunities to create incongruities among the actions and needs of the parties; higher operating costs than a tighter supply chain would have; and additional levels of resistance to change due to the wide range of entities and organizations involved.

The Christian Farmers Federation of Ontario suggested that, while Ontario Pork has a role to play in positioning producers in a competitive North American market, producers should have the option to market their hogs without working through Ontario Pork; producers should have the option to arrange their own transportation; and producers should have the option to collect their payment directly from the packer.

Mr. Eric Schwindt proposed that Ontario Pork’s governance model undergo a significant change to better represent the different sectors in pig production but also reflect the scale

of production. He supports the need for a strong voice for pork producers and that the local board could play this role. He also noted that a clear delineation of roles is needed to eliminate the duplication of efforts between Ontario Pork and the Canadian Pork Council.

Ms. Ursula van den heuval-O'Neil, representing a group of beginning hog producers, supported an expanded role for Ontario Pork in the selling/marketing of all types and classes of pigs. Ontario Pork must serve the interests of all producers fairly and with emphasis on government support programs.

Mr. Rein Minnema supported Ontario Pork's current role in marketing hogs and suggested others should focus on other classes of hogs. The local board should maintain its role in settlement and that transportation costs should also remain pooled. He neither supports removing the exemption for other classes of swine nor allowing a fee to be assessed to other classes of swine.

Mr. Bruce Hudson, representing District 12 producers, expressed concern about proposed changes to the role and function of Ontario Pork during the current economic situation. He explained that many producers in eastern Ontario shipped to Québec processors, but changes to marketing agreements in Québec have had ramifications for these producers who are now shipping hogs west to Ontario processors.

Mr Greg Haskett, District 5, indicated that all producers representing all segments of the pork industry should contribute financially to support Ontario Pork's role in addressing a number of industry issues. A number of intervenors, including representatives from District 3, 7, 11, Perth County Pork Producers and Grey Bruce Pork Producers Association, also supported the principle that those who benefit should contribute financially.

Mr. Haskett stated that in regard to marketing powers Ontario Pork's role in marketing hogs should be a matter of choice for producers. In regard to Ontario Pork's governance model, he indicated the number of councillors and provincial directors needs to be reduced to be more representative.

Rulings made during the Hearing

Conestoga Meat Packers / Progressive Pork Producers Cooperative Inc. included in their disclosure package a draft proposal for a resolution of outstanding issues between them and the local board prepared by mediator, Frank Handy, dated June 12, 2006. Ontario Pork objected to the admission of this document on the ground of settlement privilege. Mr. Hunsberger acknowledged that the parties had agreed that the mediation would be confidential. Accordingly, the commission has disregarded this document.

Ontario Pork objected to the admissibility of the report, dated September 1998, prepared by Serecon Management Consulting Inc, titled "*Marketing Systems for Ontario Pork – A Working Document*", on the ground that it was not the final report. The commission was

satisfied that The Open Market Group had made reasonable efforts to obtain the final report, without success. By the end of the hearing, the local board produced copies of the final report. The local board also objected on the ground that the report is no longer accurate in its description of the pork industry, because there have been many changes in that industry since 1998. Given that The OMG sought to rely on it solely as a convenient means of presenting regulatory options and not as a source of factual information, the commission admitted it (Exhibit 21). They referred only to options III and IV on page 5 of Exhibit 21. Though the commission accepts that the report does not describe the current state of the pork industry, it does provide useful historical background.

The local board objected to some evidence on the ground of hearsay. For example, they objected to the evidence of Mr. Reesor regarding what an unidentified person said at a board Policy Day; of Mr. Van Ravensway regarding the price obtained by an unidentified producer; and of Mr. Van Boekel regarding a conversation with a representative of Meadowbrook Farms. The commission acknowledges that hearsay must be treated with caution because its accuracy cannot be tested, but also recognizes that the concerns regarding hearsay are of less significance in a hearing to determine questions of policy than in an adjudicative proceeding. In any event, the commission's findings do not turn on any of this hearsay evidence.

Analysis

The commission has considered the testimony and evidence presented at the hearing regarding the four issues cited above. In reviewing the evidence, it was clear that the issue of Ontario Pork's marketing authority was central, and required the commission's consideration. It was recognized by all that Ontario Pork had been delegated the authority to market Ontario hogs by the commission, however, several parties called for the removal of the powers that require the mandatory marketing of all hogs by or through the board.

All parties accepted that there is a role for Ontario Pork in representing the industry on a variety of issues. There is general support that all hog producers benefit from these industry services and therefore should contribute financially to pay for them. There were differences on the issue of giving Ontario Pork control over the licensing of producers including the authority over production practices. There is support for an update in the governance model, however, several parties suggested that the appropriate governance structure was an issue to be addressed after the future role of Ontario Pork in the selling/marketing of hogs was determined.

Role of Ontario Pork in the selling/marketing of all types and classes of pigs.

A major principle that was discussed throughout the hearing was producer choice in marketing options. Ontario Pork argued that it offers considerable choice to producers; that it has plans within its authority to increase the choices available; and that it is necessary to maintain all the powers it had previously been granted to meet its legitimate goals. Several parties argued that the local board's current marketing authorities were

delegated decades ago and are no longer relevant or appropriate to allow the industry to operate efficiently. Several parties argued that there is incongruence between the marketing authorities that were delegated to Ontario Pork and the operation of direct supply contracts. They also suggested that this incongruence has led to inefficiencies, conflicts, and poor relationships within the industry, in particular those between Ontario Pork and many of its producers and pork processors.

The commission heard no compelling evidence from Ontario Pork that all of the powers and authorities within Regulation 419, section 10 are necessary for the successful marketing of Ontario hogs now and in the future. In fact, in response to a question, Ontario Pork indicated that they had not done a review of the need for particular subsections of Regulation 419. The commission was not convinced that the current efforts of Ontario Pork to make changes to their marketing role would lead to a timely resolution that was satisfactory to producers and stakeholders. The commission heard evidence that the issues being addressed were long standing and that the current strategic planning process being undertaken by the local board has been underway since 2005.

The commission recognizes that Ontario Pork's current marketing authorities were delegated to it when the structure of the industry, the marketing methods used, and the access to market information were quite different. The marketplace is increasingly moving away from demanding commodities and to differentiated products. The number of hogs marketed through direct supply contracts has grown to approximately 85 percent. The commission heard from Mr. Grier that North American supply and demand were the primary determinants of the price paid for market hogs in Ontario and in other jurisdictions in North America. While there was mention that market power should be a benefit, no evidence was presented to quantify this benefit, and thus the commission was not convinced that the market power held by Ontario Pork resulted in increased returns for Ontario producers.

The commission was not convinced that Ontario Pork's involvement in all producer-processor supply contracts adds value for participants. In fact, there was evidence that Ontario Pork's involvement was becoming an impediment to building and sustaining good supply chain relationships. While their contracting protocols suggest that Ontario Pork would respond to requests for approval of supply contracts within seven days, the commission heard that this is often not the case. Based on the submissions from processors, the commission finds that issues take considerable time to resolve and in some cases no resolution appeared to occur. The commission heard no evidence that relations between Ontario producers and US processors were hindered by the lack of Ontario Pork's participation in the contract development.

The commission was told that full US equivalency was not an appropriate target for sales through the board, and heard no compelling evidence that the local board's marketing powers allowed Ontario producers to achieve prices superior to those in regions without a body with similar powers. The commission recognises that competitiveness is an important issue to the success of both producers and processors, and that there are considerable interdependencies within a supply chain. The commission believes that the

benefits of direct relationships between buyer and seller are important to competitiveness, and that business models, such as producer cooperatives, would be more efficient in a model where costs were not added unnecessarily by a third party.

Ontario Pork stated that timeliness and security of payments are key “must haves” in its strategic direction. Ontario Pork indicated that its mandatory powers and current level of working capital allowed it to provide producers with an assurance of payment. However, the commission heard that producers are not guaranteed payment by the current system.

The commission was not convinced that this provided sufficient reason to maintain the local board’s mandatory powers. The commission recognises there are programs in existence for other agriculture commodities, such as the Beef Cattle Financial Protection Program, that could serve as a model for the Ontario pork sector.

The commission heard evidence that jurisdictions in western Canada had moved to a dual marketing system. While there was some suggestion that investment and growth had occurred in the time period after these changes, it was not clear to the commission the extent to which the changes in regulation were the cause of investment and growth. The commission, however, heard no evidence to suggest that the financial position or competitiveness of producers in those regions were damaged by the move to a voluntary marketing system.

In addition, the commission heard testimony that there was significant dissatisfaction with Ontario Pork’s role in logistics and scheduling of hogs to processors. The report presented by Dr. Groenewegen recommended improvements to these processes. The commission heard that the local board was updating its computer system with the intent to make improvements in these areas. The commission also heard that some processors wished to take on these roles and felt that the duplication of activities added unnecessary costs. The commission also heard that in Manitoba, the voluntary marketing cooperative provided these services to at least one processor on a fee-for-service basis. The commission heard that in most jurisdictions producers are responsible for the transportation of hogs to market, and heard no evidence that the current system in Ontario provided cost savings to participants.

Further, the commission heard that for “off-sort” market hogs and cull breeding stock that settlement is handled between buyer and seller and appears to be functioning without issue. Conestoga/3P stated they have the technology to do settlement with its members and that the duplication in services by Ontario Pork is adding unnecessary costs. The commission finds that scheduling, logistics and settlement decisions should be decided between the buyer and seller. This approach would allow the buyers and sellers to choose the most cost effective alternative, which should contribute to the competitiveness of the whole industry.

The commission finds that Ontario Pork should continue to offer marketing services, including logistics, scheduling, and settlement of payment and to collect a service fee for those services, but that these services should not be mandatory. Service fees should only

be collected from those who choose to use Ontario Pork's services. Ontario producers may choose to continue to market their pigs through whatever methods Ontario Pork offers including pooled sales or board negotiated contracts. Producers shall have the option to enter into supply contracts with processors, make spot sales to buyers, sell through other agents or use any other method they wish to use to market their hogs. Accordingly, it is appropriate that Ontario Pork should develop an implementation plan to move from a mandatory marketing organization to one offering producers choices in marketing methods and report back to the Commission with its plan. Ontario Pork shall consult with all interested industry stakeholders in the establishment of this plan.

For these reasons, the commission will revoke section 5(j) in section 9 in Regulation 419 that stipulates all hogs shall be marketed by or through the local board, as well as revoke the prohibition that no person shall market hogs except by or through the local board. The commission may make any further consequential amendments. Stakeholders will be able to choose whether or not they wish to use Ontario Pork's selling, logistics, transportation and settlement services.

Role of Ontario Pork in serving the interests of the Ontario pork industry.

Ontario Pork listed the following activities as essential elements in their strategic direction: mandatory price reporting and access to markets; traceability, food safety and foreign animal disease preparedness; and Canadian Quality Assurance (CQA). Within its budget, Ontario Pork listed the resources used for research, promotion animal care and trade advocacy.

The commission heard from various parties to the hearing that there was broad support within the industry for Ontario Pork's continued involvement in many of these activities which provided benefits to all producers. Zantingh stated that they are supportive of a swine traceability system, and would be willing to cooperate with Ontario Pork in delivering traceability services if its clients or customers required them. The commission heard that those planning a national traceability system for hogs see an important role for provincial pork organizations in traceability.

Ontario Pork stated that an inordinate portion of the cost of providing these services is being borne by market hog producers. The local board requested that the exemption in Regulation 419 be removed to allow it to collect a license fee from all classes of domestic swine. The commission heard that under a revenue-neutral approach, the fees would be reduced on market hogs and re-distributed proportionally across weaners, breeding, and cull classes of domestic swine. Evidence was presented demonstrating producer support through Ontario Pork's annual resolution process for a redistribution of the service fee revenue. The commission heard that there was support among some producers of weaner pigs to contribute to the cost of these activities. Additionally, the commission was told that even producers who prefer to market their own hogs are willing to contribute financially to support these activities. Zantingh would not oppose a fee on cull sows and boars as long as it provided benefits to the industry, the fee was reasonable, and the fee

did not come with additional regulatory powers or interfere with Zantingh's ability to do business.

Accordingly, the commission finds that Ontario Pork should continue to provide industry services for the benefit of all producers, and that all classes of domestic swine should be subject to license fees to facilitate them.

The commission did not hear clear evidence on the amount of financial contribution that was required from each group of producers or on each class of domestic swine. Evidence was presented that producers in the western provinces paid \$0.80 to \$1.00 per market hog, and \$0.19 to \$0.25 per weaner exported toward the industry services.

The commission also heard that while the Hog Industry Advisory Committee did not adequately represent all sectors of the pork industry, it could have been a useful forum for parties to bring forth issues for discussion. Several parties supported re-establishing the committee with representation from the entire pork industry value chain.

The commission finds that this committee can play an important role during the near-term transition. In the long term, it can provide a forum for the industry to address issues in a proactive manner. Accordingly, the commission will appoint a new chair and will seek the appropriate representation from the industry.

For these reasons, the commission will revoke the exemptions in section 3 of Regulation 419 for hogs marketed for any purpose except slaughter, such that Ontario Pork will have authority to collect a fee on all classes of domestic swine produced in Ontario. All producers will financially support the delivery of industry services.

Ontario Pork's authority over the production of pigs, including the licensing of producers.

The commission heard testimony from Ontario Pork that it should have full power to regulate on-farm production practices to deal with critical issues, such as traceability, food safety and foreign animal disease preparedness. In order to help ensure that producers comply with these initiatives and regulations, the board suggested all producers should be licensed. Ontario Pork currently has authority to license persons engaged in assembling, processing, shipping or transporting of hogs, but has no authority to license producers.

While the commission heard broad support for the board's involvement in traceability, there were concerns expressed with Ontario Pork being given additional authority over producers. The board currently has broad authority to collect information under 4(a) and 4(b) of Regulation 419. The commission finds that these paragraphs, as well as paragraphs 4(d) and (e), would allow Ontario Pork to implement its part of a national traceability system consistent with the parameters established by the Canadian Pork Council. The local board should retain these powers in order to collect and disseminate price information on market hog sales in an aggregate manner;

For these reasons, the commission will amend Regulation 419 to permit Ontario Pork to license producers for the purpose of collecting a license fee to support the delivery of industry services.

The representation model and board structure that will best enable Ontario Pork to achieve its mandate.

The commission heard evidence on the extent of the changes that have occurred to the production sector in terms of numbers of producers since the governance model was last updated. It also heard testimony on the need and desire for change, and that the last two or three attempts at change have been unsuccessful. The commission was presented with a potential model for change, but understands that the proposal had not been approved by the local board, and producers have not had the opportunity to review and provide input on it.

The commission strongly supports efforts to update the board governance model to more appropriately reflect the current size and structure of the sector. In light of the proposed changes to Regulation 419 herein, the commission recognises the need for Ontario Pork to re-evaluate its proposed governance model and engage producers in this process. The commission, subject to the Minister of Agriculture, Food and Rural Affairs' approval, may amend Regulation 420 once the local board has completed its producer consultations and reported back to the commission by December 1, 2008.

Conclusion

Subject to any further analysis and consequential regulatory amendments that are necessary and prudent to give effect to this decision, the commission intends to implement the following measures:

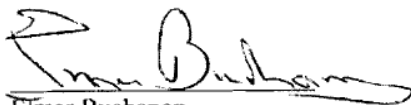
1. Effective immediately, the requirement for Ontario Pork to review and approve direct supply contracts negotiated between buyers and sellers is revoked. Ontario Pork may continue to review and approve direct supply contracts negotiated between buyers and sellers if requested by either party.
2. Ontario Pork will retain the authority to offer marketing services, including logistics, scheduling, and settlement of payment and to collect a service fee for those services, but these services shall not be mandatory and the service fee would be collected from those who choose to use the services.
3. Ontario Pork will retain the power to collect and disseminate price information on market hog sales in an aggregate manner.
4. Producers may choose to continue to market their pigs through whatever methods Ontario Pork offers including pooled sales or board negotiated contracts.

5. Producers shall have the option to enter into supply contracts with processors, make spot sales to buyers, sell through other agents or use any other method they wish to use to market their hogs.
6. The commission finds that scheduling, logistics and settlement decisions should be decided between the buyer and seller.
7. The commission will revoke paragraph 5(j) in section 5 in Regulation 419.
8. The commission will revoke section 9 in Regulation 419.
9. The commission will revoke the exemptions in section 3 in Regulation 419 for hogs marketed for any purpose except slaughter, such that Ontario Pork will have authority to collect a fee on all classes of domestic swine produced in Ontario. All producers will financially support the delivery of industry services.
10. The commission hereby orders Ontario Pork to develop an implementation plan to move from a mandatory marketing organization to one offering producers choices in marketing methods, and to return to the commission with a preliminary plan by January 15, 2009 and a completed plan by March 1, 2009. Ontario Pork shall consult with all interested industry stakeholders in the establishment of this plan.
11. The commission orders Ontario Pork to return to the commission with a plan on how it would collect appropriate charges for industry services and what it proposes to be the nature and scope of its mandate for industry services. Ontario Pork is to consult with its membership, and industry stakeholders in developing this plan.
12. The commission will appoint a new chair to the Hog Industry Advisory Committee and will seek the appropriate representation from the industry.
13. Ontario Pork is hereby ordered to complete consultations with its members and return to the commission with a proposal to align its governance model with the current industry size and structure by December 1, 2008.

Except where otherwise provided, the above changes will come into effect in or about April 2009.

This decision has been unanimously approved by the commission.

Dated at Guelph, Ontario, this 6th day of October, 2008.



Elmer Buchanan
A/Chair
Ontario Farm Products Marketing Commission



Gloria Marco Borys
Secretary
Ontario Farm Products Marketing Commission