

# Analysis, Process, and Progress in Regulated Marketing: The Case of Processing Vegetables in Ontario



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## The Issue

Regulation of markets has come to be treated with some ambivalence or apathy as a systematic approach to agricultural marketing issues by many. Some appear to have taken the view that excesses in terms of purchaser market power were past events that would not occur again in the contemporary era, due to improved market information and transparency. Others may view farm products marketing regulation as something that is tolerated on the margins, provided that it is not expanded. The trends are clear- the Canadian Wheat Board was eliminated, most provinces have phased out marketing boards for hogs and also for some other commodities, and trade agreements effectively circumscribe what is possible in terms of new supply management arrangements in regulated marketing.

At the same time, marketing boards are held tightly by many producers as a critical countervailing force against the prospect of processor market power abuses. Processors appear to have views toward marketing boards and regulation ranging between ambivalence or quiet acquiescence, to bitter enmity.

In this context, the Ontario Government recently announced a plan, put forward by the Ontario Farm Products Marketing Commission (OFPMC), to rescind negotiating authority for the Ontario Processing Vegetable Growers (OPVG- a marketing board)<sup>1</sup>. If implemented, the OPVG would become a type of industry advisory group.

The purpose of this policy note is to provide some analysis and observations of the OPVG case, and to consider the issues of farm products market regulation in Canada more broadly.

1

<http://www.ontariocanada.com/registry/view.do?postingId=22133&language=en>

## Context for Regulated Marketing in Processing Vegetables in Ontario

The OPVG negotiates terms of sale for 14 processing vegetable crops in Ontario<sup>2</sup> with processors. Within the scope of negotiated agreements, which cover a range of provisions including minimum prices, growers contract with processors directly. Table 1 below summarizes processing vegetable marketing statistics for 2015. The largest crops covered by the OPVG in terms of acreage are processing tomatoes, sweet corn, and green peas; these are also among the highest in value, with cucumbers also a relatively high value crop. In each case these crops are subject to about 100 or more producer-processor contracts. Other crops have a much smaller number of contracts. Data are not reported for many of the crops listed in the table as they are suppressed due to confidentiality- consistent with a small number of processors purchasing, a small number of growers contracting, or both.

**Table 1 Ontario Processing Vegetables  
Area, Production, Value, 2015**

	Acreage	Tons	Contracts	Contracted Value (\$million)
Beets	N/A	N/A	N/A	N/A
Cabbage	N/A	N/A	N/A	N/A
Carrots	N/A	49,450	16	5.9
Cauliflower	N/A	N/A	N/A	N/A
Cucumbers	N/A	26,680	124	11.1
Green & Wax Beans	6,536	28,562	78	5.25
Green Peas	15,590	32,088	182	9.9
Lima Beans	3,081	4,727	32	2.2
Peppers	N/A	N/A	N/A	N/A
Pumpkin and Squash	N/A	16,650	7	1.8
Sweet Corn	11,067	83,737	132	8.1
Tomatoes	10,639	447,300	95	50.6

Source: OPVG

N/A: Not available due to protection of confidentiality. Data on tons are a blend of actual and contracted tonnage

<sup>2</sup> Tomatoes, Cucumbers, Sweet Corn, Green Peas, Green & Wax Beans, Carrots, Cauliflower, Cabbage, Beets, Peppers, Pumpkin, Squash and Lima Beans

Table 2 below lists licensed vegetable processors in Ontario by product, with some omitted to protect confidentiality. Accounting for firms with multiple plant locations, OPVG reported a total of 15 independent licensed processors and one green shipper in 2015. The table shows that in several instances only one or two processors constitute the Ontario processor demand, consistent with Ontario as a small region in vegetable processing in comparison with others such as California, the US Midwest, or parts of southern Europe, Asia, and South America. In addition, although in some cases multiple processors are licensed to purchase a given vegetable, the volumes purchased and market shares of processors could be very different.

**Table 2 Ontario Licensed Vegetable Processors**

	Licensed Processors
Beets	Conagra
Cabbage	N/A
Carrots	Bonduelle, Campbell, Lakeview
Cauliflower	'N/A
Cucumbers	Lakeside, Tomek's, Hartung Bros
Green & Wax Beans	Bonduelle, Southcoast
Green Peas	Bonduelle, Southcoast
Lima Beans	Bonduelle
Peppers	'N/A
Pumpkin and Squash	Bonduelle, Harvest Pac
Sweet Corn	Bonduelle, Southcoast
Tomatoes	Highbury-Canco, Harvest Pac, Nation Wide, Conagra, Countryside, Sunbrite, Thomas Canning, Weil's

Source: OPVG

N/A: Not available due to protection of confidentiality

Available data suggest that the acreage contracted of major processing vegetable crops has been generally steady since 2011. Cucumber contracted acreage is up in 2016 following a small 2015 crop. Tomato acreage declined following the departure of Heinz from tomato processing in Ontario but has since rebounded somewhat. Sweet corn acreage has been steady, and the acreage of peas and beans are down slightly following large 2014 and 2015 crops. However, no dramatic changes in contracted acreage are evident.

Regulated marketing can be controversial, as some resent the restrictions on autonomy or seek exemptions and exceptions to rules implemented by marketing boards,

and disputes can be frequent. However, a scan of formal disputes heard by the Ontario Agriculture, Food & Rural Affairs Appeal Tribunal shows only one dispute involving the OPVG since 2012. In 2015 a dispute arose between OPVG and a tomato processor wishing to establish a closer relationship with producers<sup>3</sup>. The tribunal ruled against the OPVG, and subsequent to this the OPVG changed its general regulations to deny a licence to a producer applicant which is a joint venture with a processor<sup>4</sup>.

In February 2016 the OFPMC proposed changes requiring minimum requirements for active growers to be covered under OPVG negotiation; the comments to these proposed changes are still being reviewed.

In its June 2016 proposal to remove negotiating authority from OPVG, the notice posted on the Ontario Regulatory Registry states that "In support of the Premier's Agri-Food Challenge and the Minister's Mandate Letter, the Commission is also considering a number of options to enable the processing vegetable sector to remain viable and grow, including modernizing how prices between growers and processors are established or negotiated and the role of the industry and board in that, by moving to a free market system". No additional information is provided in terms of rationale.

## Concepts Framing Regulated Marketing

The regulation of agricultural markets developed to protect producers of farm products from prospective market power abuses by processors, as well as to protect the integrity of farm products themselves, to the benefit of processors and consumers. The context into which regulations are applied is especially sensitive in farm products that are perishable, lack a central market for price discovery and price reference, and are subject to

<sup>3</sup>Integrated Farming Ltd., v Ontario Processing Vegetable Growers 2015ONAFRAAT26

<http://www.canlii.org/en/on/onafraat/doc/2015/2015onafraat26/2015onafraat26.html>

<sup>4</sup><http://www.opvg.org/File.aspx?d84ba3c9-09fe-422d-98bd-8ccffc812dc6>

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rapid or sudden increases in supply that can swamp demand and sharply reduce price. In such situations, the alternative to market regulation in retaining stability has tended to be vertical integration of farm production with processing and sometimes with input supply segments<sup>5</sup>, a market structure that has not generally been supported by farmers and others in Canada.

At the same time, market regulation can become rooted in existing practice and standards, even as the market, technology, and the needs of customers are changing. Marketing boards can fall out of touch with markets, customers, and consumers and instead focus on servicing producers who are supportive of existing and past board activities. Marketing regulations themselves can create beneficiaries who are loathe to give up the benefits of regulation, even as the real demands and market opportunities have moved on, creating major inefficiencies. Marketing boards can also overreach in checking customer market power, to the point that its customers have difficulty operating profitably and will begin to disinvest.

Thus, effective and sustainable market regulation pitches a balance between protecting the market (especially producers) from its own excesses that can unintentionally drive down price and undermine quality, and adjusting to meet changes in demand, trade, technology, and customer profitability- even if these adjustments create some discomfort for producers.

Conversely, the situation can arise in which investment in farm and processing segments lag, product quality deviates from customer demands, and the level of innovation and competitiveness in an industry are low. In principle, this can arise from either chronic low farm prices associated with unchecked market power and/or erratic supply response, or from marketing board intermediaries falling out of touch with the market, promoting or tolerating inefficiencies, and choosing instead to placate their members.

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<sup>5</sup> The structure of much of the US poultry industry provide an example of this type of evolution

### Observations on Ontario Processing Vegetables

The above suggests that the issues arising in the suspension of marketing board authority are complex, and that a thorough analysis and discussion of these should be undertaken prior to any decision being made. Some of the issues that appear pertinent here are the following:

- By nature processing vegetables are not storable, and do not have a central market reference price (unlike wheat or soybeans, for example). In the absence of a negotiated price established by OPVG, what alternative pricing models will be available?
- OPVG has authority in 14 commodities. Surely the market conditions vary amongst these markets (for example, cucumbers and lima beans are not substitutes). How have the market conditions changed in each of these crops that make existing market regulations inappropriate or irrelevant? If changes are evident in some crops that the OPVG has not been effective in addressing, why isn't removal of authority in only these crops being considered?
- What are the views of stakeholders; in particular are there significant numbers of producers that would prefer that market authorities be removed from OPVG? What are the attitudes of processors toward this change? Can these effectively be evaluated through written submissions? In other cases, such as in supervisory reviews of regulated marketing in poultry in BC several years ago<sup>6</sup>, or the regulatory review of marketing authority for Ontario Pork in 2008, formal public hearings were conducted by the provincial supervisory agency to decide major changes.

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<sup>6</sup> [http://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/organizational-structure/boards-commissions-tribunals/bc-farm-industry-review-board/regulated-marketing/supervisory-reviews/supervisory-review-decisions/bc-chicken-marketing-board-decisions/10\\_jun\\_09\\_chicken\\_review\\_decision\\_final.pdf](http://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/organizational-structure/boards-commissions-tribunals/bc-farm-industry-review-board/regulated-marketing/supervisory-reviews/supervisory-review-decisions/bc-chicken-marketing-board-decisions/10_jun_09_chicken_review_decision_final.pdf)

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- If authority to negotiate on behalf of producers is removed, what other elements of existing OPVG activities will be affected- such as collection of levies, producer settlement protection, etc.?
- What will be the incentives of producers and processors if the authority to negotiate is rescinded? The data suggest that contracted acreage has been relatively steady, with the actual crop size mostly varying around contracted levels. Will processors and/or producers seek to significantly augment these levels? How will this impact farm product pricing and the long-term stability of supply? Price and volume are not the only dimensions involved (other factors such as agronomy and product specification/quality are factors), but clearly volumes and prices are important.

This suggests a process in which information and analysis are provided by OFPMC that documents gaps or deficiencies in OPVG marketing operations, and what is envisioned in terms of marketing in a freer market situation in which OPVG is not involved in negotiation. One would also expect a public forum in which this information and analysis could be discussed and debated. The types of major regulatory changes contemplated here are about markets and marketing, not organizations or institutions, and the process for considering regulatory changes should reflect this.

### Conclusion

There are generalizable aspects that influence marketing conditions for farm products- product perishability, availability central market reference prices, the level of concentration of purchasers and competition among them, the rate at which farm supply can be expanded, and more general market/demand conditions- such as niche preferences and consumption trends- and supply/demand conditions in competing jurisdictions. These influence the nature of market regulations, and help us understand why (for example) marketing boards are largely gone from grain markets, and have remained in others like milk, chicken, and grapes. At the same time, marketing

boards are under constant pressure to adjust to changing market conditions, and to resist the temptation to neglect markets and instead cater to their members who are content with or invested in the status quo. Sustainable marketing boards embrace this dynamic.

In the case of Ontario processing vegetables, the product is highly perishable, there exists no obvious transparent market reference price, the level of concentration among processors is high, and as annual crops the supply of product could be augmented significantly within a single crop year, leading to burdensome supplies and lowering prices. In such conditions, integrated farm production-processing systems tend to emerge, or marketing boards are established to negotiate price, crop size, and product specifications.

Moreover, the case that OPVG has performed badly is not immediately evident, as its contracted acreage levels have not declined precipitously and it appears not to have been subject to repeated disputes. Rather, contracted acreage has largely been maintained, in the face of major changes in some processing plants.

In pursuing its initiative for change, the OFPMC should be prepared to provide its analysis of these issues and provide a process which allows for discussion and debate. It should articulate why negotiating powers for all commodities are being withdrawn, when presumably the factors driving this decision differ according to each of the product markets. If the OPVG is seen as acting or having operated at variance from the market in favour of codling its members' short-term or financial interests, this should be identified in detail.

Alternatively, if the concerns relate to OPVG governance, then this is a different matter altogether and the specific governance concerns should be enunciated. Supervisory agencies like OFPMC have authority to address such issues directly, without emasculating the *raison d'être* for the marketing activities of the Board. Equally, if the concerns relate more generally to the government's policy toward regulated markets in agriculture, of which the OPVG decision is indicative, then this should also be clarified.

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The process of how this is handled is critical, clearly differentiating between concerns related to marketing versus any concerns relating to marketing board governance or broader policy change. The integrity of the process will impact the perceived legitimacy of whatever decision is ultimately made in processing vegetables, and will set a precedent for other marketing boards.

A vision of how the processing vegetable industry will operate- producers, processors, downstream customers, and service/input suppliers- needs to be articulated. The risk of failing to do so is that the uncertainty created in processing vegetable marketing will end up reducing or making more erratic crop acreage, which in turn influences the crop size, and ultimately influences plant operating returns and the willingness of processors to invest in a small production region in Ontario.

Finally, a more constructive approach would consider where the perceived gaps are in existing regulation and OPVG implementation and by whom, and how these could be addressed, specific to the conditions related to individual crops, markets, and interests of the various stakeholders. Perhaps there are changes in direction that OPVG could make to improve alignment between processors and producers, but these need to be identified, enunciated, analyzed, and discussed as part of the review process.