Canada Grain Act Review submission

Media discussion in the run–up to the current Canada Grain Act Review has focused on two issues: cost of Canadian Grain Commission operations and alleged duplication of services as grain companies push to replace independent CGC outward inspection with third-party inspectors.

Cost and efficiency are important, and concern would be warranted if justified by the facts – but it isn't. While Commission costs have risen marginally over the last decade the real issues are that farmers now pay all but $6M of the CGC's annual budget, including virtually all of the public good/quality assurance costs associated with the Act, and that the Commission is providing ever fewer direct services in support of its mandate to establish and maintain standards and regulate grain handing 'in the interests of producers'. Meanwhile, duplication of services complaints continue to rely on false equivalence between privately purchased third-party inspections and those of the independent public regulator.

There is another story – the farmer perspective – and it needs addressing. Like the media discussion it's focused on two key issues, but there the similarity ends. These issues – relevance of the CGC to individual farm operations, and recriminations, often bitter, over grade and non-grade values assigned at the elevator – are widespread and real. Presented more technically – as regulatory capture and loss of primary regulatory capacity - these concerns threaten the very legitimacy of the Commission and its ability to fulfil the mandate.

Regulatory capture? The CGC has exempted rail exports to the US and Mexico (5-15% of exports annually) from Commission outward inspection and certificate final requirements. This exemption, literally big enough to drive a train through, was quickly taken up by private inspections contracted by the grain companies. More recently, the CGC abandoned its inward inspection, conceding its last positional opportunity to assess overall grain quality before entering the terminal system. The CGC also quietly jettisoned its longstanding incremental ship loading protocol, in favour of less rigorous composite loading, the American system in which only an average of 2,000 MT increments must comply unless customers pay a premium. This change has prompted numerous complaints from Canada's customers in recent years. All of these developments are favourable to grain handlers who have successfully advanced or defended them at the Commission; none, certainly, is helpful to farmers or in keeping with the CGC's quality assurance and producer interest mandate.

Loss of primary regulatory capacity? Consider the dwindling audit trail. At one time the CGC inspected every single rail car for grade and dockage, giving farmers an independent assessment of each load. Inward inspection, the next stage in the audit trail, was lost in 2012, along with the assistant commissioners who, for almost a century, policed primary elevators and their equipment and investigated disputes between producers and elevators. Monitoring of elevator grading, dockage and weighing equipment – a key rationale for creation of the Canada Grain Act - has long since been privately contracted, as is supervision of instruments for establishing unregulated non-grade determinants, such as DON and falling number, though they play a growing role in how farmers are paid. True, farmers dissatisfied with elevator grading can appeal

under the Act's 'subject to inspector's grade and dockage' determination, but resort to this has plummeted to around 200 submissions a year, an average of perhaps one appeal for each 4-5,000 Super-B deliveries, hardly the stuff of rigorous oversight. Sadly, this loss of rigor has become the rule – but a one-sided rule: primary and inward inspection, assistant commissioners, CGC staff equipment monitoring all disappeared because they were considered expensive or impractical. Can anyone imagine probing at elevators being discontinued because it slows the line up?

These failings can be corrected but only if they're addressed. The current CGC commissioners are blameless, but they must act to restore the Commission's relevance and independence. Inward inspection, US/Mexico outward rail inspection and the Commission's respected incremental loading protocol must be restored. Privatisation of outward inspection, that would render the Commission a non-player its last significant audit location, violates the CGC mandate and should be rejected. Moreover, the CGC should create an independent, professional office of assistant commissioner in the three provinces, restore CGC-staff inspection of elevators, instruments and equipment, and recognize DON and falling number as official grade determinants so they can be adequately regulated. Finally, it's high time the Commission implemented a universal random testing regime, supplementing STIGD, to assure producers that CGC scrutiny of the trade is as rigorous, comprehensive and technologically sophisticated as trade scrutiny of farm deliveries.

Farmers don't expect the CGC to always take their side but they do expect a vigorous, independent regulator – an honest cop. This policing function must be seen to be effective. Only by restoring the Commission's presence on the beat – hands on, in the primary elevators and terminals - can producers be assured the CGC is truly regulating Canada's grain handling system in the 'interests of producers'.

Bruce Dodds

PO Box 274 Benito Man. R0L 0C0

306 201-8064

brucedodds@myhighspeed.ca