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Re: Canada Grain Act Review

Thank-you for the opportunity to provide comments on this very important issue for the Canadian grain sector and canola farmers. The *Canada Grain Act (Act)* and the Canadian Grain Commission (CGC) play a central role in domestic and international grain assurance, as well as provide for important producer protections. The review offers the opportunity to define the gold standard for grain quality, and to increase the relevancy of protections for canola farmers and ensure they reflect current selling and delivery practices.

Through its membership, Canadian Canola Growers Association (CCGA) represents 43,000 canola farmers on issues, programs and policies that enhance their success. CCGA's members include Ontario Canola Growers Association, Manitoba Canola Growers Association, Sask Canola, Alberta Canola, and the B.C. Grain Producers Association. Since its development in the late seventies, canola has become Canada's most widely seeded crop and the largest farm cash receipt of any agricultural commodity earning farmers over \$10.2 billion in 2020. **When the Act was last revised in 1985, canola was in its infancy in Canada and thus is not fully considered in the principal Act regulating the grain sector.** It was not grown when the last set of comprehensive reforms were made in 1971.

A comprehensive review provides the opportunity for alignment with and responsiveness to the current and future needs of the grains sector. Our marketing environment, grain handling system, and farm practices have changed dramatically in the last 35 years and the larger legislative and regulatory framework has not kept pace imposing higher costs on farms and a CGC that is increasingly out of touch with the needs of the grain sector. Elements of a modernized framework includes the following.

- An agile and responsive CGC.
- Increased farmers' confidence in the grain quality assurance framework.
- Modernized producer protections.
- High-quality grain for domestic and export markets.
- More transparency and accountability for grain farmers.

A timely conclusion of the current review of Canada Grain Act and subsequent legislative changes should be Government priorities. The review must ultimately lead to a roadmap for change and a comprehensive path forward to legislative reform.

Grain farmers need more than a What We Heard Report.

Government leadership is needed to move the review forward in a timely manner, to ensure farmers are central to the process, and to work with the grain sector to achieve the desired outcomes. The review must ultimately lead to a roadmap for change and a comprehensive path forward to legislative reform. The calls for modernization are not new. AAFC hired an independent consultant (Compass Inc.) to complete a holistic review of the *Act* in 2006 to no avail, and legislative attempts were made in 2007, 2009 and 2014. The 2018 targeted regulatory review and subsequent roadmap for agri-food and aquaculture again recognizes that the Canada's grain framework is outdated and that it does not accurately reflect current industry practices or farmers needs.

An agile and responsive CGC

An agile legislative framework would better respond to a constantly evolving grain sector and ensure the CGC is responsive and adaptable. The current version of the *Act* is prescriptive in nature and prevents the CGC from being flexible and responsive. The review should look to 'future proof' the *Act* to ensure it meets evolving customer requirements, new technologies such as blockchain and digitization, and new buyers and uses for Canadian grain.

- **Create a more agile, less prescriptive legislative framework.** The review should consider more agile legislation to drive consistency, to streamline legislative requirements and to enable better responsiveness.

Given rapid changes in the grain sector and the potential for structural transformations to the grain quality assurance system resulting from this review, CCGA recommends the inclusion of a 'review clause' in the *Act*. Such a clause would prevent our existing situation where a series of ad hoc changes have been made to the *Act and Regulations* without larger consideration to their implications, and where three prior attempts at legislative modernization have failed. This is not without precedent. The *Canada Transportation Act* contains a review clause every eight years and the *Pest Control Products Act* every seven years.

- **Legislate a review of the *Act* on a regular basis.** A review clause would provide an opportunity to revisit the *Act* to ensure it remains aligned with the requirements of the grain sector, and to make any necessary adjustments in a timely manner.

Famers' confidence in the grain quality assurance framework

Object and functions

The object of the CGC is to "work in the *interest of grain producers, [to] establish and maintain standards of quality for grain and regulate grain handling in Canada, to ensure a dependable commodity for domestic and export markets*" (*Canada Grain Act* R.S.C., 1985, at Part I, 13). Canola farmers support this object. Farmers are central to ensuring dependable domestic supplies

and to maintaining Canada's reputation for high-quality export grain. The *Act* plays an important role in enhancing the farmers' position in the larger market. It provides for grain grades and producer protections aimed at generating a fair return for farmers while also meeting the end-use requirements of our customers and ensuring an efficient grain handling and supply chain.

- **Protect the Act's object and Commission mandate.** The object of the CGC should not be diluted without a strong business case and agreement from farmers.

Canola farmers need to trust the object is being fulfilled meaning they need confidence in the quality assurance system and feel they are fully considered in CGC decisions. Generally speaking, it is unfortunate that farmers do not have a good understanding of the role of the Commission and the value it provides (or can provide). CGC's 2020-2021 Department Plan aptly recognizes the importance of "*strengthening effective communication*" and increasing the awareness of their mandate, programs, and services and how these provide value. The Commission should be encouraged to engage more directly and frequently with farmers and to promote the role it plays.

- **Incorporate farmer-focused service standards in CGC reporting requirements.** Such a standard could increase understanding of CGC's role and confidence in the quality assurance system. Current standards are centred on timeliness and the documentation related to inspections, tests, and licensing. Additionally, official reporting requirements are to the Minister and the Parliament of Canada and not to grain sector stakeholders (the *Act at Part I*, 15) despite farmers shouldering the cost of CGC operations. With cost-recovery, licensees largely pass CGC service fees on through grain prices.

Farmers' main interaction with the *Act* and CGC happens at the time they deliver grain to a licensed buyer – where ownership exchanges hands. CCGA and its members regularly hear farmer concerns with grading, inconsistencies, and the lack of enforcement of official standards, equipment, and process recommendations in-country (domestically). Farmers are unclear what role the CGC plays (if any) to maintain these, and whether the CGC's object is being fully recognized and its functions upheld (the *Act at Part I*, 15). The 2012 *Jobs and Growth Act* and the move to a full open market had the consequence of lessening the CGC's influence in-country. Since then, the CGC does little to exercise its authority and to ensure standards are respected other than to establish and recommend them, to provide guidance and to request samples for research. There is very little interaction between the CGC and those who are assessing grain and assigning a grade.

It needs to be stressed that the grading system exists to meet end-use requirements and to ensure farmers receive a fair grade. The lack of consistency impacts farmers' bottom line. For example, the process for assessing dockage in canola relies on the licensee choosing a representative sample, selecting the correct number of sieves, and visually identifying conspicuous admixture. Choosing the correct sieve sizes requires care and attention by the person doing the assessment and, if the process is not followed, can result in an incorrect dockage assessment. Using a price of \$800 per tonne of canola, every 1% increase in dockage costs a farmer roughly \$8 a tonne or \$800 for a 100-tonne delivery. The system also ensures common expectations among stakeholders from delivery to export, informs sales contracts (based on CGC grade), and supports efficient grain handling.

- **Clarify that the CGC has a role in the integrity of grain standards.** The review should explore how to increase farmers' confidence in the quality assurance system and to reduce the

subjectivity and variability between licensees. (*Subject to Inspectors Grade and Dockage* is not a proactive solution.) CCGA does not recommend a return to mandatory in-country inspections. Empowering the CGC in this role should be aimed at ensuring consistency, with larger goals of increasing farmers' trust and decreasing animosity among farmers and licensees. Potential solutions could include: a random audit process for representative sampling and grading to ensure grade/processes are followed; a formal process to respond directly to farmer issues; training requirements for grain graders; or a grain grader code of ethics.

- **Incorporate technology into grain standards and processes.** While not part of the Review per se, CCGA supports reducing the subjectivity in canola grading when possible and where it makes sense to do so. For canola, the top grading issues are dockage, green seed, and heated canola – all of which rely on visual grading and are susceptible to differences in opinion.

Governance

Over the years, there have been numerous calls by farmers and industry alike for changes to CGC governance. A governance model should increase accountability to farmers, enable agile decision-making and transparency, and generate better strategic direction for the Commission. Cost recovery and the subsequent accumulation of surplus funds have fueled the debate by transferring the cost to farmers with no corresponding change in governance or reporting structure.

The *Act* provides for a Chief Commissioner, an Assistant Commissioner, and a Commissioner model. While the *Act* is clear that the Chief Commissioner has “*supervision over and direction of the work and staff of the Commission*” (the *Act* at Part I, 4(2)), the roles and responsibilities of the Assistant Chief Commissioner and Commissioner are undefined other than to say the Assistant Commissioner assumes the position of the Chief Commissioner in their absence (the *Act* at Part I, 4(3)). The *Act* is also silent on their reporting relationship to the Chief Commissioner, and in our experience, they often have independent views and direction with respect to policy and priorities. Furthermore, each set of Commissioners have a different set of priorities and focus areas complicating long-term vision and accountability for the CGC and the ability to affect larger change.

- **Strengthen the CGC governance model to formalize the farmers' voice.** CCGA does not have a position on what model is best; only that whatever model is chosen needs to strengthen the above principles. That said, we do believe that any model must be accountable to farmers and should formalize the farmers' voice in decision-making. Historically, Ministerial appointments have reflected both industry and farmers, but this is not guaranteed.

Grain Standards Committees

Canola farmers support the role Grain Standards Committees play in setting grades and believe that farmer representation is integral to ensure the *Act's* object. The Committee is an important forum for farmer involvement in determining grain standards (and changes), as well as for bringing grade-related concerns forward to the Commission. The *Act* establishes membership, and

appointments to the Committees are currently made by the Minister based on suggestions from industry and farmer commodity associations. The *Act* requires “*actual producers of Western Grain*” (The *Act* at Part I, 20(2.g)) and a “*representative of producers of Eastern Grain*” (20(3.d)) for the respective Western and Eastern Committees.

- ***Empower farmers to choose their representatives to Standards Committees.*** CCGA supports amending *the Act* to transfer this authority to farmers (through their respective farmer commodity associations) and to allow them to self-organize and appoint a representative that best meets their objectives and maximizes participation in the Committee. Additionally, Western farmers should be given the same flexibility as their Eastern counterparts to appoint a representative. Moreover, the change will provide improved agility and efficiency in nominations.

There are significant opportunities to modernize meeting deliberations and enable more transparency for farmers overall. Whether in the *Act* or in corresponding *Regulations* or bylaws, CCGA asks that an alternate be allowed to attend meetings where the producer member cannot and that nominating associations be included in the distribution lists for Committee and Sub-Committee documents and outcomes. This would strengthen the link back to associations and ensure our representative is supported, and prepared and attuned to the discussion. As terms expire or individuals are replaced, allowing farmer commodity associations as an alternate would ensure better continuity.

Inline with *Open Government* and increasing confidence, meeting minutes (or a record of discussion) and agendas should be available online and/or automatically circulated to farmer associations involved in grain production. More open communication is important for ensuring farmers understand potential changes and the outcome of key grading decisions (i.e. decisions on falling number or changes to green seed).

- ***Enhance Standards Committee deliberations.*** Committee functions should be made more transparent, and inclusive, and deliberations enhanced to strengthen information exchange on quality issues and grading concerns.

Modernized producer protections

For the CGC to fully meet its Object, enhancements to the current suite of producer protections are needed. Modern farms are quite advanced from 1971, as is the grain marketing and handling environment. Many of the protections in the *Act* only apply to primary facilities and focus on farmers physically delivering grain to an elevator and their ability to view the weighing, sampling, and grading process. When the *Act* was last revised in 1985, farmers produced 3.5 million tonnes of canola. Production now averages 20 million and 14 crush facilities process oil at-home in Canada. Additionally, the handling system has changed substantially with older wooden elevators replaced with large streamlined, high-capacity bulk facilities and with new end-uses resulting in different forms of buying. According to CGC records, there were 29 process elevators (508,000 tonnes) and 443 (14.4 million tonnes) in 1985-1986 and in 2019-2020 respectively.

Access to Binding Determination

CCGA has been the main proponent of extending *Subject to inspector's grade and dockage* (*Subject to*) to process elevators. The *Act* currently limits this right to primary licenses (The *Act* at Part IV, 61(2)). The review provides the opportunity to address a significant inconsistency in producer protection coverage and to increase its relevancy for canola farmers. In 2019-2020, 56% of canola production was delivered to process licensees, which by law, canola farmers do not qualify for binding determination. The right to a second opinion provides an important element of accountability to the system and adherence to CGC processes and standards by licensees. It is particularly important with visual grading factors and the subjectivity of our grading system. Furthermore, physical barriers, in the name of security and safety, in place at many licensees prevent farmers from being part of the grading and dockage process.

Extending access to all licensees is not new and was sought in all three previous attempts to change the *Act*.

- **Extend binding determination to all CGC licensees.** The extension would increase the current value of *Subject to* to canola farmers, as well as capture any new value-added activities such as the emerging protein market.

CCGA also believes the process to access binding determination should be modernized to make the right more accessible. At present, it needs to be exercised at delivery by the person delivering the grain based on an agreed to representative sample (*Canada Grain Regulations*, Part 5, 36). Many farmers rely on family members, staff, or custom delivery and are not physically involved in the delivery of their grain. Additionally, multiple deliveries are often required to execute a contract complicating a request for one single delivery.

- **Increase relevancy of *Subject to Inspectors Grade and Dockage*.** The following enhancements are recommended.
 - *Extend the time to exercise the right to 5 business days.* An extension would account for changes in delivery practices and allow time for a farmer to receive the grain receipts, to compare with their farm samples, especially with multiple deliveries made from the same or different bins, and to request a second opinion. The extension would eliminate some of the pressure farmers feel around exercising the right at delivery and provide additional time to problem solve with the buyer. It could also provide a cooling off period and reduce the potential for conflict between buyers and sellers.
 - *Maintain the integrity of the representative sample.* As a representative sample is integral to *Subject to* and is determined upon delivery (*the Regulations*, Part 5, 34), added parameters are needed to ensure the representativeness and integrity of the sample. The CGC should be empowered to ensure its sampling guidance is followed and the prescribed equipment is in place and maintained (e.g. probes, collection systems) and to build farmer trust in the process.

To accommodate the 5-business day extension, a clear process to maintain and safeguard samples will be required. This requirement may create an extra resource burden should the right be extended to all licensees and, if so, it should be applied in a minimally burdensome manner. (Licensees should already be maintaining samples for quality control purposes.)

- *Deliver documentation in a timely manner.* To enable decision making, a paper grain receipt must be provided *upon delivery*. The receipt should clearly outline the weight, the grade, any down grading factors, and the dockage calculation. Technology, such as electronic grain tickets within *24 hours* or pictures, can also play a role in helping better communicate dockage and grade decisions to the farmer and, in turn, empower decision making. Documentation standards and timelines would also create a standard for all licensees to follow and set common expectations for farmers.
- *Extend to a broader range of quality factors.* As customer and market requirements evolve and become more precise, the CGC should be open to offering *Subject to* for non-grain grade quality issues such as seed oxidization experienced with over-wintered canola and/or new quality demands from the emerging protein market (oil vs. protein). At present, the assessment is limited to grade (including moisture) and dockage. In response to the Discussion questions, canola farmers also raised concerns relating to falling number and feed grain of which they also produce.

Rights at delivery

- **Maintain the requirement to receive grain.** The *Act* requires licensed primary elevators to receive all grain “*without discrimination and in order in which grain arrives and is lawfully offered*” (The *Act* at Part IV, 60) pending available storage of the type of grain and elevator hours of operation.
- **Protect and extend the right to observe sampling, grading, and dockage to all licensees.** CCGA also supports extending this right to all licensees and requiring technology to overcome physical barriers at delivery. Licensed *primary* elevators are required to accommodate farmers who ask to observe the dockage assessment and the drawn sample must be considered representative by both operator and farmer (*The Regulations* at Part 5, 34 & 35). As *Subject to*, this right is legally only available at primary elevators. This provides important elements of transparency and accountability and increases farmers’ ownership of the grading process and trust in the outcome.
- **Increase trust in representative sampling.** Canola farmers should have the option for each delivery to request a portion of the representative sample for their records. The sample would provide assurances should a disagreement arise with delivery either in accessing *Subject to* or for larger market access purposes. While ownership of the grain transfers at delivery, contracts and delivery declarations often contain provisions for unofficial grading factors, crop protection products, and biotech seed varieties which extend farmer-risk past delivery. The ability to retain a sample provides additional assurances should an issue ever

arise. The sample should be sealed, of adequate size, and be labeled accordingly by the licensee and farmer.

Enhancements to Producer Payment Security (PPS)

The Safeguards for Grain Farmers Program provides an important risk management tool. A public model addresses *one* of many risks farmers face by mitigating the risk of non-payment and providing confidence in the sale of their grain. Additionally, a public model plays a larger industry function in supporting crop rotations in Western Canada allowing farmers confidence in choosing between buyers and crops. Without, non-payment risk is fully transferred to farmers with no private options currently on the market or no guarantee that an appropriate tool would be developed. Private insurance would also depend on the farm and crops grown resulting in increased farm expenditures or, more likely, gaps in risk coverage. The lack of PPS would also put Western Canadian farmers at a disadvantage to U.S farmers, which require surety bonds as part of State licensing programs.

- **Maintain a mandatory producer payment security.** The program is widely supported by farmers. Without, they could be exposed to significant risk with no alternative or costly private insurance options.

While canola farmers support a mandatory program, enhancements to the delivery of producer protection should be pursued to augment confidence in the program, coverage predictability, cost effectiveness and overall transparency.

- **Security shortfalls** – Timing gaps in monthly liability reports and CGC security assessments and inaccurate information have the potential to create security shortfalls and expose farmers unknowingly to risk. Historical coverage has ranged between 50% to 100%, with the outlier being Naber Specialty Grains in 2015 with 14% coverage (\$150,000 of \$1 million in claims).
- **Coverage** – Protection is limited to buyers that fall under CGC licensing requirements. Sales to feed mills, feed lots and refiners/distillers are not covered creating a coverage gap that is not well understood or managed. There are limited tools available to assess the solvency and credit worthiness of unlicensed buyers and options to mitigate sales risk.
- **Cost-effectiveness** – The cost of the program is passed back through grain prices. CGC has reported that the program is expensive to administer due to its monthly reporting structure and high volume of duplication.
- **Transparency** – As a core producer protection, more information on the program is needed to better understand the potential for security shortfalls, risk exposure and limitations in coverage. Administration and system costs and program details are not available removing farmers' ability to independently assess the program's value, its effectiveness, and potential improvements.

The discussion on how to enhance the program has been ongoing for over 15 years. CCGA, along with other farmer associations, commissioned the 2010 Scott Wolfe Report identifying

enhancements and alternate delivery models. **This was the last and only PUBLIC report available and still forms the basis of farmers' discussions on the topic.** Attempts to move to an insurance model failed in 2014 and to create a fund in 2015. The insurance model proved unfeasible and was dropped by the Commission. Bill C-48 proposed the creation of a Producer Compensation Fund without any detail and a CGC promise to further consult with farmers.

CCGA believes a fund model has the potential to increase cost-efficiency, improve transparency and provide greater predictability to farmers; but, key information gaps prevent a full assessment and us from making recommendations on how to best pursue improvements. **To enable a real discussion, farmers need better information and program transparency.** The lack of information prevents farmers from fully responding to the Discussion Paper questions on how to improve the program, evaluating the alternative models, and if the Fund is again proposed, determining its feasibility and design.

To this end, CCGA engaged AIRM Consulting to perform a feasibility assessment of a Fund to deliver producer payment security and the potential role of insurance. The project is nearing its conclusion and has demonstrated that a Fund is feasible and a viable option. CCGA is happy to share the report and its conclusions and hopes it can be used to advance the discussion and that AAFC and CGC can build on its findings. With the lack of available information publicly on risk exposure and program details, this work needs to be continued by the Government including more robust actuarial modelling and farmer-focused design features.

- **Provide farmers information on alternative models.** A detailed business case and farmer-focused consultations are required before farmers can effectively determine a path forward.
- **Amend the Act to provide full flexibility in program delivery.** The prescriptive nature of the *Act* limits program delivery models to a security-based or an insurance model. The *Regulations* were amended in 2013 to allow the CGC to pursue an insurance-based model, but an *Act* change is required to institute a Fund. More agile legislation would ensure payment security is maintained but that its delivery can change should farmers support a new model in the future.

High-quality grain for domestic and export market

Outward Weighing and Inspection

CCGA values mandatory outward weighing and inspection and the role CGC plays in ensuring high-quality grain for export. The mandatory system underpins our quality assurance system and is core to ensuring a strong global reputation. Official quality standards facilitate the sale of grain internationally; standardized processes generate needed consistency, accuracy, and dependability for customers; and its centralized role supports larger quality and market access functions. Official representative samples and the Grain Research Laboratory (GRL) provide a critical service supporting our exports and the Government's ability to defend farmers interest using science and evidence (should a need arise).

CCGA believes alternative service delivery should be pursued as part of the review. Transitioning the CGC from a service provider to an oversight role would reduce duplication, better respond to

customer requirements, and provide competition while still maintaining mandatory outward weighing and inspection. According to the Western Grain Elevators Association roughly 70% of grain exported through a terminal licensee is inspected by both an CGC and a third-party inspector. It is our understanding that third parties are engaged to assess non-grade specifications and to tailor analysis to specific customer requirements. Alternative service delivery would reduce this duplication while increasing timeliness, responsiveness to individual customer requirements and generate cost-efficiencies for farmers and industry alike. Industry has indicated the cost to provide similar services would be roughly \$0.50 compared to \$1.48 charged by the Commission. Many canola buyers also use the same third-party inspection company in Canada and the export market to ensure consistency, as well as domestically for exports to the United States and Mexico (which currently do not require CGC inspection). More largely, increased competition would provide market pressure maintaining reasonable costs and ensuring CGC's role remains valued and aligned with industry and customer requirements.

The CCG is well-positioned and has the breadth of expertise to oversee outward inspection, by accrediting third-party inspectors, enacting regulatory parameters to maintain our quality assurance system and supporting sustainable market access. We are aware some customers (major canola markets) still prefer government inspection and recognize concerns related to Canada's brand, and believe a well-defined oversight model can continue to provide these assurances.

CCGA's ultimate support is therefore contingent on the resulting oversight system.

- **Transition the CGC from a service provider to an oversight role.** Alternative service delivery for outward weighing and inspection would align with the modern grain handling system practices and varying customer requirements. Third-party inspectors should be enabled to provide weighing and inspection services.
- **Create an oversight role.** Canola farmers view the following as important in any oversight role and to maintain the fundamental elements of Canada's grain quality assurance system:
 - **Accredit third party providers to ensure integrity and consistency in Canadian grain quality.** Accreditation of third-party inspectors would maintain CGC oversight over outward weighing inspection, uphold the quality of export grains and ensure fundamental elements are recognized. There is currently no system of oversight and little interaction between the CGC and third-party providers.
 - **Expand oversight to cover all exports.** The CGC does not weigh and inspect grain destined by rail or truck to the United States and Mexico; grain shipped by containers or grain moved on domestic vessels along the St. Lawrence Seaway. Accreditation should expand to cover these exports providing improved consistency and enhancements to data and market access functions.
 - **Enhance CGC's statistical functions.** Weekly reports by licensees provide critical information to the health of the grain handling system and an early indicator of exports. Additional information is required to enhance the open market and to measure the health of grain marketing. The CGC is well positioned to provide

weekly grain sales (similar to that in the United States) and/or vessel line up information (as previously published under the CWB). More largely, more data requirements will likely be needed to maintain effective oversight.

- **Larger quality control/market access function.** The CGC provides various quality control and market access functions that should be maintained. Examples include insight into export quality and end-use requirements, letters of analysis, relevant market access data (pesticide residue). Third-party providers should submit samples to the CGC to maintain records of grain quality, to monitor outward inspections and weighing and to ensuring ongoing research by the GRL.
- **Crop specific CGC activities.** The CGC provides various crop specific services that should be reviewed and revisited. For examples, they currently certify dockage to China and act as a conduit for CFIA Sanitary and Phytosanitary certificates.
- **Safeguards to maintain competition and cost-savings at Port.** Moving to alternative service delivery is expected to generate cost savings as private providers can deliver the service more economically/efficiently and as duplication in private and public inspection is eliminated. Safeguarding these cost-savings is an important element of competition in the new model.

Funding

Modernization, specifically transitioning to an oversight role on outward inspection and decoupling service fees from larger CGC operations, requires a new funding model for the Commission. CGC expenses are largely covered by revenue generated from outward inspection and weighing service fees apart from nominal public appropriation to support the Grains Research Laboratory. Service fees are set higher than the cost of delivery to cover Commission operations. A new model could result in more transparency and eliminate the need for cross subsidization.

Alternative service delivery aside, since the move to cost-recovery in 2013, CCGA has repeatedly expressed concerns with the funding model and the overall cost-transparency of Commission services and accountability. The shift to “full” cost recovery was a fundamental change, largely offloading the full cost of CGC operations to farmers– a fact acknowledged by grain companies and recognized by the Commission. The Regulatory Impact Analysis Assessment published in the Canada Gazette on May 31, 2013 instituting the model noted: *“it is expected that producers will ultimately pay for any fee increases as grain companies will pass their increased costs onto producers through lower grain prices or through higher elevator tariffs”*.

Under the current model, the CGC has accumulated surplus revenue of \$134 million as of March 2019. With strong 2020-2021 exports, it is expected that the surplus will have further grown. The surplus was accumulated with farmer dollars and, it is farmers that should determine how it is spent. CCGA continues to advocate that the surplus be returned to farmers through a reduction in service fees.

- **Determine an alternative funding model.** A new funding model is required to transition the CGC from service delivery to an oversight role, to address cross-subsidization, and to enable the return of surplus funds to farmers in a timely manner.
- **Increase public appropriation.** At a minimum, the government should cover the public good functions of the Commission. CCGA supports increasing funding to the equivalent of the Federal Grain Inspection Service, the U.S. equivalent of the CGC, or to cover one-third of CGC's expenses. In addition to the GRL, the CGC provides several public good functions. Examples include policy development related to grain safety, traceability and monitoring programs, and a quality assurance framework to ensure a consistent grain supply for domestic food production. Additionally, any appropriation should account for inflation, so its proportion is not eroded over time as is the practice with service fees.

Licensing

Licensing provides the framework for upholding the quality assurance system, ensuring producer protections, and collecting data requirements. It also provides a risk management function, as it provides farmers confidence in the buyers' financial sustainability. How grain is purchased from farmers and how it is used has changed (and will further change). The review provides the opportunity to tighten the exemptions and reduce grey areas of coverage. These create confusion and are not well understood by farmers.

CCGA supports removing the exemption for commercial feed mills and considering licensing all operations buying grain *directly* from farmers. The Act ties licensing to primary and process "elevators" and to grain dealers (the *Act* at Part III, 42), and the *Regulations* outlines types of elevators exempt from licensing (the *Regulations* at Part 3, 15). Feed mills, despite purchasing significant volumes of grain are exempt from licensee, and it is unclear how biofuel facilities will be treated. We recognize that sales to these facilities may not require an official grade or be deemed essential for quality control. But farmers see value in extending producer protections related to weights and measurements, binding determination, and payment security and in generating better sector data. To prevent barriers to growth and innovation, thresholds should be developed to account for size, volume, farmer-to-farmer sales and end-use.

- **Address inconsistencies in licensing.** Tightening exemptions to the licensing system and improving its application would provide better certainty, farmer confidence and sector consistency.

Part of maintaining consistency and the integrity of the quality assurance framework is providing the CGC the necessary authority to enforce its standards and licensing requirements. CGC's only recourse for non-compliance is to cancel a license and, in past modernization attempts, they have sought the authority to also impose monetary penalties. Any additional measures should be aimed at minor aggressions relating to the enforcement of grain standards, equipment requirements and larger grain handling processes, as well as ensuring producer protections are recognized. Additional compliance methods should only apply to areas of CGC authority, and not extend to contractual obligations or the non-legislated portion of delivery declarations.

More transparency and accountability for grain farmers

The move to cost-recovery led CCGA to begin asking more questions of the Commission's role and wanting more information on CGC operations and producer protections. The lack of information impedes the ability of farmers to fully understand and assess the value the CGC provides to farmers in quality assurance and the protections it provides.

- **Increase transparency and accountability of CGC operations and costs.** Increasing transparency around CGC services and costs and better accountability to farmers (and the larger value chain) should be considered in the review process. Financial reports require additional detail per CGC service or program area, and accumulation of surplus dollars needs to be more transparent.

A well-functioning open market relies on quality information. The licensee framework should be further leveraged and the existing CGC statistical expertise and data functions enhanced. Weekly CGC's grain handling and monthly export reports already provide invaluable information to the health of the grain handling system and assist in farmer understanding of market (price) demand. In January 2021, Sask Canola and Manitoba Canola Growers Associations both passed resolutions at their Annual General Meeting seeking mandatory weekly export sales by commodity and volume as the United States already does. Sales could be aggregated to address commercial concerns while still providing an additional market indicator. A better understanding of export sales would support farmers' marketing decisions, allow real-time analysis of the impact of market access issues and provide early indicator of transportation requirements.

- **Cement the CGC's mandate to collect statistics.** The *Act* should recognize CGC's function to collect and maintain data on the health of the grain handling sector, and enable the collection of export sales, vessel line-ups and exports by containers. This would provide more timely insight and complete export information and empower farmers to make better marketing decisions. The CGC is well-positioned to perform this role, as it already has reporting and staff infrastructure and the licensee framework.

In conclusion, the review should look to create a more agile and flexible legislative framework, to increase farmers' confidence in the grain quality assurance framework, to modernize producer protections to increase their relevancy and address inconsistencies, to maintain high quality grain for domestic and international markets, and to generate more transparency and accountability for canola farmers. A summary of our recommendations is included in the annex. CCGA sees significant opportunity for the Review to deliver these elements of a modernized system and ensure a strong CGC aligned with the needs of the grain sector and farmers. We look forward to working with AAFC and the CGC to advance the review and to secure larger legislative reforms.

Sincerely,

Original signed by

Rick White,
President and Chief Executive Officer
Canadian Canola Growers Association

Annex - Summary of recommendations

An agile and responsive CGC

- Create a more agile, less prescriptive legislative framework.
- Legislate a review of the *Act* on a regular basis.

Farmers' confidence in the grain quality assurance framework

- Protect the *Act's* object and Commission mandate.
- Incorporate farmer-focused service standards in CGC reporting requirements.
- Clarify that CGC has a role in the integrity of grain standards.
- Incorporate technology into grain standards and processes.
- Strengthen the CGC governance model to formalize the farmers' voice.
- Empower farmers to choose their representatives to the Western Standards Committee.
- Enhance Standards Committee deliberations.

Modernized producer protections

- Extend binding determination to all CGC licensees.
- Increase relevancy of *Subject to Inspectors Grade and Dockage*.
- Maintain the requirement to receive grain.
- Protect and extend the right to observe sampling and dockage to all licensees.
- Increase trust in representative sampling.
- Maintain a mandatory producer payment security.
- Provide farmers information on alternative payment security models.
- Amend the *Act* to provide full flexibility in program delivery.

High-quality grain for domestic and export market

- Transition the CGC from a service provider to an oversight role.
- Create an oversight role including an accreditation system for third-party inspectors; enhanced data requirements; systems to maintain quality assurance and market access functions; processes for managing crop specific requirement; and safeguards to maintain competition and cost-effectiveness.
- Determine an alternative funding model for the Commission.
- Increase public appropriation.
- Address inconsistencies in licensing.

More transparency and accountability for grain farmers

- Increase transparency and accountability of CGC operations and costs.
- Cement the CGC's mandate to collect statistics.