



Regulatory Affairs Sector
Treasury Board Secretariat

September 30, 2022

Submitted Via Email

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RE: *Consultation on the Competitiveness Assessment Tool (CAT)*

On behalf of the Canadian Produce Marketing Association (CPMA), we welcome the opportunity to provide comments to the Treasury Board of Canada Secretariat's Regulatory Affairs Sector seeking input from stakeholders on the development of the draft **Competitiveness Assessment Tool (CAT)** that will be piloted by federal regulators starting in fall 2022. We applaud efforts to assist federal regulators in assessing the impacts of their regulations on the competitiveness of Canadian businesses. This is a foundational element of our work with the government and can best be summarized as ensuring that government recognizes Food as a Priority in all efforts.

CPMA applauds the intent of the CAT to help consider and limit unintended impacts on the competitiveness of Canadian businesses. We also note that considering if regulations are innovation friendly and future-proof is a core component of the tool, which, again, is aligned with our recommended approach to regulation setting.

As background, CPMA was the industry co-lead on the Journey Mapping Working Group under the AAFC Agile Regulations Table and supported the recommendation to develop a toolkit to be integrated into the suite of Government of Canada regulatory policy tools to support:

- Understanding of the impact regulations have on business operations,
- Sharing of government objectives imbedded in regulatory requirement setting,
- Enhancing engagement and consultation throughout the regulatory process (i.e. improving the capacity to both provide and consider input after *Canada Gazette I*), and
- Providing a standardized means of consultation to ensure the regulatory process has clear objectives and information data points, thus supporting "whole of government" visibility.

We see these recommendations reflected in the draft CAT and ask that TBS also consider the following areas for action:

- Develop a mechanism to provide visibility and oversight to TBS of all simultaneous consultations occurring across departments. It is worth re-stating that attention must be given to the intensity of the consultation schedule – especially during the summer months when many agriculture industry experts and stakeholders are in the midst of their harvest and production season and are

therefore unavailable – which makes it extremely difficult for CPMA and our partner organizations to solicit and report on member input.

- Ensure that the CAT is mandatory for all government departments – the true value of a tool such as this one is in a harmonized, whole-of-government implementation that provides the assurance to industry that the rigor and value of the tool is ubiquitous.
- Consider guidance on flexibility of regulations as a standardized component/mechanism in regulation to enable quick responses to catastrophic events such as the pandemic and recent weather-related events. This could, perhaps, be imbedded in the tool by adding a data point in question **1. Regulatory context**, that asked: what are the potential risk factors that could impact the ability for stakeholders to comply with the regulation under consideration?
- Develop a mechanism in the CAT (or companion document) to ensure standardization in terminology and definitions used by government. For example, we were recently told that the definition for Genetically Modified Organism (GMO) used by Health Canada is not recognized/used by the Canadian Food Inspection Agency (CFIA). Perhaps to ensure visibility and consideration across government departments as new definitions or terminology are introduced in draft regulations, a section could be added to the CAT to ask for a list of definitions which will be included in the proposed regulation. It would then be incumbent on the regulators to determine whether there are existing definitions already used by other government departments and, if so, to imbed those definitions in proposed regulations. Ensuring this consistency is crucial for industry, as multiple government departments typically have jurisdiction over various components of their business.
- Develop a standardized Regulatory impact Analysis (RIA) that allows for clarity and transparency on what government considers good regulations and create an oversight body with sufficient resources and expertise to effectively review internal and external constraints, including elements such as government accountability and industry capacity to effectively function within the proposed regulatory environment. A clear and public RIA system (RIAS) should be implemented in the context of a strong regulatory governance model.

In addition to the above, please see the following responses to the two areas in which TBS is specifically seeking input.

- The competitiveness considerations that should be top of mind for regulators when they review regulations or design new ones:
 - CPMA strongly recommends that similar regulations in the countries that are our major trading partners are reviewed and considered in the development of Canadian regulations, and that Canadian regulations, while recognizing any uniqueness within Canada, do not exceed the trading partner regulations.
 - Industry-specific consideration must be a foundational element of regulation setting. Specific to fresh produce, the Government of Canada has previously recognized agriculture as a strategic sector for Canada. That recognition must include acknowledgement of the logistical realities of highly perishable fruit and vegetables, which mean that priority must be given across regulations to areas that ensure the smooth production and flow of these commodities, both domestically and across international borders. Multi-jurisdictional impacts can be significant and we are pleased to see question **2. Consider better alignment across jurisdictions** included in the CAT.
 - CPMA is encouraged to note that question 2 also **includes “To what extent are the regulatory requirements in alignment with international standards or other recognized best practice?”** It is imperative that standards and best practices developed through rigorous international standards-setting bodies be considered and, wherever possible,

imbedded in new Canadian regulations. Where business has developed international/global standards – standards tested by commercial application – government must ensure that, wherever possible, the standards it chooses to implement in services and solutions reflect those business-driven and tested standards. This approach includes outputs from bodies such as Codex in which Canadian government departments participate. If government representatives participate in these efforts, they must ensure that, wherever the determined outputs do not negatively impact Canada, that those outputs are foundational to Canadian regulatory development.


- Specifics included in question 3. **Consider whether regulations are innovation friendly and future-proof**, are welcomed and are critical when considering the intent behind regulatory language but, as with all regulations, the specifics of the intended language must be open for comments between *CG1* and *CG2*. This is critically important as we have seen examples in the *SFCR* process where new language was introduced in *CG2* that stood in opposition to industry competitiveness and innovation, but there was no available mechanism to change it and it is now enshrined in regulation.
- The CAT must also consider the resource implications of the new regulations for the government department responsible for enforcement and to the industry/businesses impacted. For example, an addition to question 5. **Consider whether regulations support competition** could include: Will the regulations require additional inspection/enforcement staff for government and/or additional implementation/compliance staff for industry? Especially in the current workforce climate, where labour across every organization is under considerable pressure, it is imperative that new regulations not impose additional labour requirements for industry to become compliant or, must be accompanied by the removal of existing regulations to enable compliance without additional resources.
- For consideration, perhaps an addition to question 5 could also ask whether new regulations might trigger retaliatory requirements from other trading partners, or if the new regulations will make Canada an undesirable export market for exporters/goods required to meet Canadians' needs. We acknowledge that this recommendation would require knowledge of other country requirements, but would offer that industry that are engaged in export will often have knowledge of those requirements and can assist regulators in understanding anticipated impacts.
- How you might see your organization or industry supporting regulators in completing a competitiveness assessment
 - In general, CPMA would enthusiastically support completion of the CAT with the understanding that inputs would be given serious consideration by those responsible for developing the regulations.
 - In addition, CPMA has various mechanisms to work with industry representatives to ensure comments reflect a comprehensive overview of the fresh fruit and vegetable supply chain in Canada.
 - CPMA also works closely with government departments that impact the fresh fruit and vegetable industry in Canada and would be pleased to work collaboratively with regulators to develop responses to the CAT.

To support a modernized regulatory environment which includes genuine consideration of information gleaned via the CAT, a monitoring and accountability mechanism should be established, with key objectives assessed in an annual public report. A collaborative approach to find workable solutions for industry and government is the backbone of success for regulatory and policy compliance. CPMA and

Canada's fresh produce industry are keen to partner with the government to ensure the success of its Regulatory Modernization agenda.

Thank you for taking the time to review our comments.

Regards,

A handwritten signature in black ink, appearing to be 'RL', followed by a horizontal line extending to the right.

Ron Lemaire
President
Canadian Produce Marketing Association

About CPMA

Based in Ottawa, the Canadian Produce Marketing Association (CPMA) is a not-for-profit organization representing companies active in the marketing of fresh fruit and vegetables in Canada, from the farm gate to the dinner plate, spanning the entire produce industry. The produce industry generates over \$17 billion annually in economic activity throughout the supply chain and supports over 249,000 jobs across Canada. The Association's members include major growers, shippers, packers and marketers; importers and exporters; transportation and logistics firms; brokers, distributors and wholesalers; retailers and foodservice distributors; and fresh cut operators and processors. Founded in 1925, CPMA is today proud to represent over 840 domestic and international members who are responsible for 90% of fresh fruit and vegetable sales in Canada.