



May 13, 2011

Honourable Blair Lekstrom
Minister of Transportation and Infrastructure
PO Box 9055
Stn Prov Govt
Victoria BC
V8W9E2

Dear Minister Lekstrom,

On May 1, 2011 I assumed the role of BC Ferry Commissioner, and look forward to taking on the challenges of such an important area of public policy. At this time of transition I have been taking the opportunity to have a fresh look at things, to ensure that the Coastal Ferry Act and the Commissioner's office continue to meet the evolving needs of ferry users and BC's coastal communities. I've had an opportunity over the last few months to observe the work of the Commissioners, and believe there are several areas where the legislation and the governance model could benefit from a critical review. Furthermore, passage of Bill 20 gave the Commissioner a new responsibility to consider the interests of ferry users. Those interests and the means to address them have not yet been well defined.

The preliminary price cap decision for performance term 3 was released at the end of March. I followed the ensuing public discussion with great interest. Considerable public concern is evident with the magnitude of proposed fare increases over the next performance term, and especially so in the northern and minor route areas. Those concerns center around affordability of fares in future, and sustainability of the coastal communities which are ferry dependent. Ferry users clearly expect fare increases to be reasonable, affordable and predictable, with a related expectation that the Ferry Commissioner's office will use its authority to achieve that outcome.

I understand that in other countries where the price cap regulatory model is employed, Australia, Sweden and the UK being examples, there is provision for routine policy reviews on 5 to 10 year intervals. The presumed intent is to ensure that the regulatory framework is successfully achieving the public policy intentions for which the legislation was created. At this time of transition, and if the province is agreeable, the Commissioner's office is prepared to take on a fulsome review of the Act, to assess how it has performed to date in achieving the original public policy objectives. Some of the specific topics which will be examined include, but are not limited to:

- the 6 principles underlying the Commissioner’s regulation of ferry operators, specifically:
 - that priority be placed on the financial sustainability of the ferry operators
 - that ferry operators be encouraged to adopt a commercial approach
 - that ferry operators be encouraged to seek alternate service providers
 - that ferry operators be encouraged to minimize expenses
 - that cross subsidization from major to other routes be eliminated
 - that ferry routes are to move towards a greater reliance on a user pay system
- the Bill 20 requirement that the Ferry Commissioner consider the interests of ferry users, with an assessment of how those “interests” are defined
- financial parameters used to determine “financial sustainability” of the ferry operator, including evaluation of the Pre-tax Return on Equity provisions
- provisions for, and oversight of, major capital expenditures
- adequacy of the methodology for forecasting ridership and demand elasticity
- complexity of the price cap calculation model and whether it is understandable to ferry users
- assessment of whether the Act enables opportunities for cost savings, or efficiencies in service levels
- ancillary revenue maximization
- regulation of unfair competitive advantage
- adequacy of the Commissioner’s compliance tools
- the Commissioner jurisdiction and mandate and its authority to investigate and make rulings

The review process will be conducted by the Commissioner's office, supported with expertise from of a qualified consulting firm, and will engage with the public and key stakeholders. There will be some extraordinary costs for such a review which are not provided for in the Commissioners funding model with BC Ferry Services Inc. Accordingly, the Commissioner’s office would need to look to the province for the necessary funding. Subject to your direction, we will work with officials in your Ministry to prepare a cost estimate in due course.

The result of this review will be a report from the Commissioner to you, with recommendations for consideration by government. The time required to conduct a review is expected to be about 6 months and will likely conclude after the final PT3 price cap decision at the end of September.

Thank you for giving this matter your consideration. I look forward to your response, and to working with you during my term as Commissioner.

Gordon Macatee
BC Ferry Commissioner