

- We're not there yet Price-setting Review Report understandably lacking

Barry Darby, November 30, 2023

As a long-term observer and analyst of the fishery, my initial comment on the Price-setting Review report was "underwhelming."

But that's not surprising. The task the Strategic Review Team undertook was well-nigh impossible to start with.

The Minister asked the Team "to assist with the development of a formula-based framework for fish price-setting and other potential mechanisms." The Team concluded that the current process (including final offer selection and the Fish Price-Setting Panel) is "flawed", that fish prices are "beyond any reasonable measure to predict with accuracy", and that the fact-finding and reporting leading up to negotiation in the existing model are deficient.

Few people with knowledge of the past two years would disagree with that assessment. Yet the Team was asked to devise a price-setting formula that could be used to set fish prices, presumably using this same Panel to carry out the process.

The Team has duly recommended that the government adopt formula-based pricing for all species, giving a working example for one species, crab, as "an option to the parties for their consideration". They propose this work be started immediately and completed by January 31, 2024. Given the six week extension the Team needed to finish its own report, it seems incongruous that they would impose such a tight timeline. Yet the formula would have to be operational before the start of the crab fishery, which must not be delayed again.

Crucially, though, whatever mechanism is adopted, the result will apply *only to the price paid to the harvester for the fresh product here in our province*. No mechanism devised by governments, corporations or unions can ever "set" the price of any commodity on the international market. To talk about "setting the price", without acknowledging that fact, leads nowhere. This is one of the striking lessons that all parties should have learned from the 2022 and 2023 crab disasters.

What can – and must – be worked out is a method or formula to ensure that the price the processor pays to the harvester is related in a fair and reliable way to the price the processor receives from the wider marketplace.

The report's Recommendation #3 calls for changes in "the legislation, regulations and rules of the Panel". It is simply not reasonable to suppose that any government or bureaucracy could achieve such changes within a few short months.

Recommendations 4 and 5 seem to assume a level of authority for the Fish Price Setting Panel that does not exist. The Panel is a creation of the Newfoundland and Labrador government, to whom it must report. It does not report to "the parties", and it cannot give any authority to either ASP or FFAW or to any of their members. The management authority for fish harvesting and processing lies with the federal and provincial Departments of Fisheries, and giving more authority to the Panel would require extensive and lengthy legislative processes.

Recommendation #9 re co-management is troublesome. The idea of federal-provincial co-management of our fishery was widely discussed prior to and following Vardy and Dunne's 2003 report, but was essentially abandoned as unworkable. Although the broader concept of co-management has evolved since then and some models put into practice, the constitutional and operational problems around federal-provincial fishery co-management remain unsolved. The Review Team's recommendation on this is misguided.

Finally, a few key points that the Team's report did not address.

The elephant in the room in our province's fishery is, of course, the Federal Department of Fisheries and Oceans. DFO sets the TACs, quotas, harvesting rules, and other factors that affect the buying and selling of fish. As one example, in 2022, DFO opened the entire crab fishery on the same day and allowed so many traps in the water that the catch greatly exceeded the capacity of the plants to handle it. The resulting glut caused a predictable drop in prices of historic proportions. The report fails to mention any of those effects.

Issues of corporate concentration are not brought up, though they continue to arise and were part of Vardy and Dunne's report 20 years ago. Vardy's 1998 report also offered a detailed suggestion of an auction system such as those that exist in other jurisdictions, but the Team fails to even mention that option. Nor does the Team's report mention controlling agreements and the role they may play in negatively distorting prices for some harvesters.

Dame Moya Green's 2021 report "*The Big Reset*" noted that the current collective bargaining structure "is anti-competitive by nature and requires an exemption in the federal Competition Act." The FFAW has long called for greater competition, and removing this waiver might increase the role of market forces in achieving higher fish prices.

In conclusion, it seems clear that neither the unrestricted application of market forces nor the current system for setting prices can solve the inherent problems of inequities and unsustainability in our fisheries. For that, more fundamental change is needed.