

MISC - Decision Note

November 3, 2017

Decisions Required:

Poultry boards and commission agree to:

- Based on sound marketing policy, commence action to establish an Infected Premise Cleaning and Disinfection (C&D) Cost Recovery Fund (the “Fund”) to cover the extraordinary C&D of infected premises for future Notifiable Avian Influenza (NAI) disease discoveries that will enable the timely return to a system of orderly marketing following a NAI outbreak.
- Retain Agri-Saki Consulting Inc. to continue to provide support to
 - Create the Poultry Disease Group Funded Deductible and related governance principles and operational mechanics.
 - Collaborate with the Province to support an AgriRisk Initiative Administrative Capacity Building for start-up administrative and initial capital funding.
 - Develop the questions for a legal opinion on whether or not the boards and commission have enabling authorities to own and operate an insurance company.
- Request the BCPA to recommend the basis for cost sharing the Fund.
- Commit to share any Infected Premises C&D costs for 2017/18 in accordance with the cost share recommended by BCPA.
- Not secure enabling authorities under the *Natural Products Marketing (BC) Act* (the “NPMA”) to require producers to maintain disease insurance.

Background:

- The passing of the amendments to the *NPMA* in May 2015 made explicit the authority of boards and commissions to require producers to maintain insurance against losses resulting from the interruption or termination of production for any reason or for a notifiable or reportable disease.
- The regulated poultry boards and commission have given due consideration to the enabling authority and collectively agreed in January 2016 to initiate the Mandatory Notifiable Avian Influenza Insurance Review (the “Review”).
- The purpose of the Review is to conduct the requisite due diligence in accordance with the SAFETI¹ principles for each board and commission to make a decision on whether or not to implement mandatory insurance requirements to address the financial consequences of NAI discoveries in British Columbia.
- A steering committee with representation of the regulated poultry boards and commission, along with the BC Poultry Association was established to oversee the work and to make recommendations to the boards and commission.
- The boards and commission were required to determine whether or not requiring licenced producers to maintain insurance against losses resulting from NAI was in accord with sound marketing policy.
- A workplan with five distinct but linked phases guided the Review and concluded:
 - Past experience with NAI discoveries required a financial intervention to address the extraordinary costs of C&D of infected premises in order to enable the boards and commission to return the BC poultry industry to a system of orderly marketing.
 - A gap was created by the federal and provincial government policy position to not support future use of AgriRecovery to address the extraordinary costs of infected premise C&D.
 - The cost of infected premise C&D meets the test of insurability and it is cost effective for the boards and commission to pursue risk transfer options to ensure that the required funds are available to address any level of NAI discovery.
 - The cost to establish and operate the Fund can be internalized by the boards and commission within current levy structures and not impair the competitiveness of the BC poultry industry.

¹ SAFETI stands for the British Columbia Farm Industry Review Board governance principles; Strategic, Accountable, Fair, Equitable, Transparent and Inclusive.

- Given the limited availability of poultry disease insurance providers and their products being more costly due to coverage extending beyond infected premise C&D it is not in the best interest of sound marketing policy to require BC licence poultry producers to maintain insurance to cover disease losses.
- To ensure availability to cover the most extreme loss scenario, a group funded deductible approach should be initiated immediately following board decisions to establish the Fund.
- Recognition of the strategic value that a BC industry owned captive can provide, continue to pursue the option subject to legal advice regarding the authorities of the boards and commission to own and operate an insurance company. The legal advice should also test the strength of the existing authorities of the BCCMB and BCTMB with respect to the use of levies to pay for costs and losses incurred in marketing a regulated product.

Discussion

- The use of authorities under the *NPMA* to require licenced producers to maintain insurance against losses resulting from NAI at this time is not in keeping with sound marketing policy.
- Other policy options whereby the boards and commission internalize the cost through the use of levies to establish and maintain an Infected Premises C&D Cost Recovery Fund can provide the mechanism by which the boards and commission can facilitate a prompt recovery by addressing the extraordinary costs of infected premises C&D.
- Pursuing risk transfer options to ensure that the financial resources are committed and available will enable requisite C&D of infected premises in a timely manner and serve to minimize the disruption and overall costs and losses incurred by the entire poultry value chain.
- Sharing the cost burden by the industry as a whole and not leaving it entirely to the individual may be open to challenge given the express omission of the power to use levies to pay costs and losses in marketing a regulated product in the Chicken and Turkey Marketing Schemes.
- The MISC created a shared website to post all Review materials that went live in May, 2017.
 - Feedback has been received from the BC Chicken Growers Association, a Fraser Valley egg producer and a small turkey grower on Vancouver Island. The recommendations below are consistent with the feedback provided.

Recommendation

The Steering Committee recommends that the boards and commission:

1. Accept the reports for all 5 Phases of the Review.
2. Not proceed to secure enabling authorities under the *NPMA* to require producers to maintain insurance against disease losses.
3. Based on sound marketing policy, commence action to establish an Infected Premise Cleaning and Disinfection (C&D) Cost Recovery Fund to cover the extraordinary C&D of infected premises for future Notifiable Avian Influenza (NAI) disease discoveries using existing contingencies and levy structures.
4. Retain Agri-Saki Consulting Inc. to provide support to
 - a. Create the Poultry Disease Group Funded Deductible and related governance principles and operational mechanics.
 - b. Collaborate with the Province to support an AgriRisk Initiative Administrative Capacity Building for start-up administrative and initial capital funding.
 - c. Develop the questions for a legal opinion on whether or not the boards and commission have enabling authorities to own and operate an insurance company.
5. Notify industry associations and stakeholders of the decisions.
6. Forward a copy of the decisions to BC FIRB.
7. Post the decision for industry and stakeholder review and comment for a period of 30 days.
8. Direct any and all comment received to the Steering Committee for review and comment.
9. Request BCPA to recommend a cost sharing formula for the Fund.
10. Commit to share any Infected Premises C&D costs for 2017/18 in accordance with an agreed upon cost share model.
11. Confirm the decision by all boards regarding the establishment of an Infected Premises C&D Cost Recovery Fund, by January 31, 2018 after giving due consideration to any and all comments received.