

November 4, 2020

VIA EMAIL

Peter Donkers, Chair  
BC Farm Industry Review Board  
PO Box 9129 Stn Prov Govt  
Victoria, BC V8W 9B5

Dear Mr. Donkers,

### **PROCESSING AGE AND STATUS OF THE LINKAGE**

The following is in response to the October 30, 2020 decision of the BC Farm Industry Review Board (BCFIRB) regarding a decision of the BC Broiler Hatching Egg Commission about a change to the breeder processing age.

First, the BCFIRB statement that the “Panel and other stakeholders received the Decision from the Commission following BCFIRB’s request on October 23, 2020” must be corrected for the record. As already communicated to BCFIRB, the Commission’s decision on October 21 was issued principally because of the immediate requirement to adjust complicated processing schedules to accommodate the necessary reduction in processing age. As also already communicated to BCFIRB, and which stakeholders should know, there was no urgency with respect to pricing as the actual effect on chick pricing would not occur until approximately three weeks after the commencement of Period A-166 on October 25, 2020.

The October 21 decision was communicated to all hatching egg producers and hatcheries as soon as it was finalized. In addition, as instructed, the chair of the Commission’s Pricing and Production Advisory Committee (PPAC) immediately relayed the decision to the individual members of the PPAC and the BC Chicken Marketing Board’s PPAC. Representatives of the Primary Poultry Processors Association of BC and the BC Chicken Growers’ Association are members of the Chicken Board PPAC. These and other stakeholders knew of the decision on October 21 and that it was to be followed by a “detailed rationale”. That same distribution process, in which BCFIRB had no role, was followed for the release of the October 23 rationale as soon as it was finalized.

Further, the Commission had earlier instructed its PPAC chair (also chair of the Chicken Board PPAC) to notify the latter’s PPAC members of the upcoming processing age issue. The Chicken Board (a director of which is also a member of the Commission PPAC), hatching egg sector and chicken sector stakeholders were all aware of the processing age issue before the Commission and had opportunity to raise their concerns directly. All were aware that given the ongoing reductions to Chicken Farmers of Canada

allocations due to COVID-19 that an increase in imports by the hatcheries likely would replace domestic production. Without a reduction in the processing age and a linkage adjustment, the cost of removing domestic production would be at the further and sole cost of the Commission and hatching egg producers; who have already experienced significant product removal costs due to COVID-19. Again, all stakeholders were aware of these matters as they applied here and through Commission reporting during COVID-19. These stakeholders were provided with the Commission's decision and rationale as soon as each was finalized.

Second, the Commission was unaware that it was a requirement for "all parties" to agree with a decision of a regulatory agency. The Commission's decision was made in accordance with section 9 of the British Columbia Broiler Hatching Egg Scheme and "all parties" had an opportunity to provide input; contrary to what seems to be BCFIRB's impression. It would have been an abrogation of the Commission's statutory decision-making responsibility to, as suggested by BCFIRB, present the Panel with a prior approval request following the October 14, 2020 hatchery request to reduce the processing age without due diligence and consultation with all stakeholders by the Commission. Nor could BCFIRB have reached a decision of its own without due process.

As will be discussed below, even though this decision – supported by reasons – was focused on determining the appropriate processing age, the Commission did turn its mind to the question of pricing and determined that it was entirely in accordance with the linkage (i.e., the current "pricing structure"). Consequently, the price change which followed from the application of the linkage formula was compliant with BCFIRB's direction of July 3, 2020. To be clear, without the pricing implication involved through the linkage (unless the decision was to increase the age and reduce the chick price), most other stakeholders would have been less concerned about the Commission's processing age decision. The exceptions would be hatching egg producers and hatcheries facing an oversupply situation, with the latter triggering that oversupply by increasing its imports even though penalties had been waived.

Third, as the Commission has not been copied on all the stakeholder submissions referenced in the BCFIRB decision it is not able to address those submissions and issues arising. The Commission is prepared to do so if and as required once it is in receipt of the information upon which BCFIRB has relied.

Fourth, and most critically, the BCFIRB decision amounts to a complete rejection of the existing linkage between the Commission and Chicken Board. In a February 11, 2020 letter to BCFIRB and stakeholders involved in the processing age appeal, counsel for the Commission advised that it was the expert opinion of Serecon Inc. – which manages the linkage on behalf of the boards – that the processing age was an input factor in the linkage calculation.

Attached is a letter from Serecon provided to the Commission on October 30, 2020 reiterating that this is the case. It is also important to note that the Chicken Board's July 15, 2015 letter expressly confirmed in writing that it agreed to the inclusion of the processing age as a factor in the linkage calculation. It was after that letter that Serecon began "formally requesting information" on the processing age in support of its linkage calculations.

By way of illustration, BCFIRB's direction that the Commission provide a "statement of economic impact" demonstrates a fundamental misunderstanding of the linkage. The Commission's due process outlined

above was for the purposes of determining whether a reduction to the processing age was required. The Commission determined that one was required as outlined in its October 3, 2020 reasons. It was not a pricing decision as the resulting input change to the linkage was automatic, as is the case for other changes to input costs such as feed pricing and breeder chick pricing by hatcheries. This standard operation of the linkage notwithstanding, the Commission did turn its mind to the July 3, 2020 direction of BCFIRB and determined that the processing age decision was in compliance and that no exceptional circumstances were present.

In a January 27, 2020 appeal submission to BCFIRB, and in reference to linkage-related issues including the processing age, counsel for the Commission advised that “(t)hese issues speak to the futility of a linkage agreement in circumstances where the (Chicken Board) and other stakeholders engage in conduct that has the effect of frustrating and subverting the agreement’s original intent and purpose.” The effect of BCFIRB’s October 30, 2020 decision is to provide formal recognition that pricing is no longer linkage based.

The Commission remains fully supportive of BCFIRB’s overall objective of resolving chicken sector pricing in BC. Similarly, the Commission will continue to work closely with the Chicken Board in the regulation of our respective sectors. However, given the demonstrated futility of working within a linkage, which has now been followed by BCFIRB’s decision to depart entirely from the existing linkage system, the Commission has determined that it is in the best interests of the BC hatching egg sector to ensure that in the current supervisory review, the pricing concerns of the sector are separate and distinct from pricing issues between the Chicken Board, chicken growers and processors.

1. As communicated since April 2018, the Commission is of the view that pricing for supply management producers should be based on a cost of production formula (COPF). This is the case for hatching egg producers in other Canadian jurisdictions and the Commission has been working with its Alberta and Saskatchewan counterparts in establishing a joint COPF in support of a consistent approach to hatching egg pricing across western Canada. (Manitoba has been included in these discussions but presently prefers to continue pricing off its own COPF.)

As a result of the ongoing problems with the linkage and a lack of transparency and accountability in chicken sector pricing, the Commission has now determined that its primary focus during the review will be hatching egg sector pricing.

One component will be establishing a western-based COPF for BC hatching egg producers. This will be accomplished in the following stages (detailed work plan to follow):

- a. a full updated survey of BC hatching egg producers currently being conducted by Serecon;
- b. the publishing of a draft COPF for BC hatching egg producers for comment by stakeholders;

- c. submission of the draft COPF and stakeholder comments to a third-party for verification; and,
- d. submission of the new COPF to BCFIRB for approval.

This will ensure BC hatching egg producers are treated the same as hatching egg producers in other Canadian jurisdictions, provide clarity and consistency to hatching egg pricing and remove current pricing pressure points such as the processing age and spent fowl as they will be automatically factored into the COPF.

- 2. In October 2019, a committee comprised of Commission and BC Egg Hatchery Association representatives concluded negotiations – conducted in good faith by both parties – regarding the establishment of hatchery margin, breeder chick pricing and vaccine pricing formulae. The Commission released those formulae to stakeholders but deferred establishing an implementation process due to issues arising from the linkage and the current live price formula of the Chicken Board.

The Commission will be establishing a distinct workplan within the review to confirm this second component of hatching egg sector pricing with stakeholders. Following which these formulae will be submitted to BCFIRB for approval. This will again provide clarity and certainty in pricing and by using formulae, further reduce current pricing pressure points in the system.

The Commission will continue to work with the Chicken Board in attempting to establish conditions for a three-way linkage. However, that discussion will now be based on the hatching egg COPF and the October 2019 hatchery margin, breeder chick and vaccine pricing formulae.

In conclusion, the Commission again notes corrections were needed to the BCFIRB October 30, 2020 letter and that BCFIRB's direction that prior approval of the processing age is required conflicts with, and indeed, decisively breaks the current linkage.

As laid out in the Commission's October 23, 2020 reasons, not changing the processing age will result in additional costs (removing domestic eggs from the market) borne solely by hatching egg producers. Not respecting the current linkage – intended to balance costs of production between hatching egg producers and growers – negatively impacts BC hatching egg producers to the benefit of chicken growers (who seem to be again receiving premiums) and processors (which corporately benefit economically from their hatcheries increased use of imports). Again, it is unlikely that those parties would have objected to a decision by the Commission to maintain the processing age at 56 weeks (with hatching egg producers bearing any removal costs) or an increase the processing age that would have reduced the chick price.

This and other issues have proven the Commission was correct in saying that it should withdraw from the linkage. It is flawed in several ways, including with respect to premiums and in forestalling the hatcheries receiving a margin increase. Pricing through the linkage has proven untenable for the BC hatching egg sector. The Commission's focus now is on establishing separate and distinct pricing formulae for that sector that provides for consistency and clarity in pricing while reducing pricing pressure points.

The Commission has developed a pricing framework for its sector that supports the structural complexity and long-term planning requirements of its stakeholders. It also supports a larger, strategic approach to hatching egg pricing in the west and, potentially, nationally. We leave to the Chicken Board the issues of a reasonable return for chicken growers and determining processor competitiveness. Other matters such as addressing assurance of supply, premiums (pricing transparency) and processor ownership of broiler quota are not at issue in the hatching egg sector. The Commission appreciates that the scope of issues facing the Chicken Board is far greater than determining a live price. Resolving these complicated issues, combined with the clarity and certainty of hatching egg sector pricing formulae, will enable the Chicken Board to establish an appropriate pricing framework for BC chicken growers and processors.

In the meantime, the Commission respectfully requests that BCFIRB recognize that the processing age production decision was made by the Commission following due process and supported by reasons. It remains the Commission's view that the existing pricing linkage should continue to operate in accordance with its "original intent and purpose" until COPF pricing is brought into effect.

Yours truly,



Jim Collins, Chair  
BC Broiler Hatching Egg Commission

Attachment

cc: Stephanie Nelson, Executive Director BC Broiler Hatching Egg Commission	Wendy Holm BCFIRB Pricing Liaison
Harvey Sasaki, Chair BC Chicken Marketing Board	Art DeRuijter, Director BCBHEC PPAC
Bill Vanderspek, Executive Director BC Chicken Marketing Board	Ernie Silveri, BC Egg Hatchery Association
Bryan Brandsma, President BC Broiler Hatching Egg Producers' Association	Craig Evans Primary Poultry Producers Association
Ryan Whitmore, President BC Egg Hatchery Association	Jennifer Curtis, Executive Director BC Chicken Growers' Association
Dale Krahn, President BC Chicken Growers' Association	Commission website
Blair Shier, President Primary Poultry Processors Association of BC	