

April 19, 2024

**VIA EMAIL**

Maryse Dubé  
Complaint Committee Chair  
Farm Products Council of Canada  
960 Carling Ave  
Building 59  
Ottawa, ON K1A 0C6

Dear Ms. Dubé:

**RE: COMPLAINT FROM SIMPLE PATH FARMS AND POULTRY AGAINST CHICKEN FARMERS OF CANADA  
OUR MATTER ID: 1380-013**

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We are counsel to Chicken Farmers of Canada (“CFC”) in respect of the above-captioned complaint brought by Simple Path Farms (“SPF”) regarding a market development program levy assessment for chicken received by SPF in periods for A-174 and A-175 and not marketed in accordance with the CFC Market Development Policy and applicable regulations. We write to respond to the following questions posed by Council at the end of the hearing on April 17, 2024:

- 1. When did SPF first notify CFC of a *force majeure* event, and if so, did SPF notify CFC in writing or verbally? If in writing, to provide a copy of this document to Council.**

SPF first raised the issue of *force majeure* with CFC in a letter from its counsel dated May 26, 2023, addressed to counsel for CFC, providing notice of its appeal of the April 26, 2023 notice of assessment. In the letter, Ms. Tomkins advised that “SPF will argue that it was unable to meet its market development commitments as a result of one or more force majeure events”. Ms. Tomkins did not provide particulars of any such alleged events. This letter can be found in CFC’s Book of Documents, Volume 1, at Tab R-6.

Prior to this counsel letter, Mr. Hobbs advised CFC that SPF intended to appeal the notice of assessment for the first time by e-mail on April 26, 2023. Mr. Hobbs did not raise the issue of *force majeure*. Attached as **Tab 1** is the e-mail exchange between Mr. Christopher Hobbs and Lori Piché of CFC.

**2. Did CFC provide any extensions of time for licensees to fulfill their marketing commitments for periods other than A-174 and A-175? If so, who requested the extensions, how long were the extensions, and why did CFC grant the extensions?**

CFC provided one-period extensions to all market development (“MD”) licensees to fulfill their MD commitments for periods A-174, A-175, A-176, A-177, A-178, A-179, and A-180 at the request of the Canadian Poultry and Egg Processors Council (now called “CPEP”). The CFC Board decided to provide such extensions to address import restrictions imposed by many countries as a result of the growing avian influenza outbreak in Canada. We are providing the following details of the extensions for clarity:

- **Periods A-174 and A-175.** By letter dated March 1, 2022, CPEP requested a one-period extension for MD commitments for A-174 and A-175. On March 24, 2022, the CFC Board of Directors approved this request. A copy of the March 29, 2022 Memo from CFC staff to MD licensees informing them of this extension can be found at CFC Book of Documents, Vol. II, Tab R-10H.
- **Periods A-176 and A-177.** By letter dated July 5, 2022, CPEP requested a one-period extension for MD commitments for A-176 and A-177. On July 12, 2022, the CFC Board of Directors approved this request. Attached as **Tab 2** is a copy of the July 19, 2022 Memo from CFC Staff to MD licensees informing them of this extension.
- **Periods A-178, A-179, and A-180.** By letter dated November 4, 2022 Sofina Foods Inc. requested a one-period extension for periods A-178 and A-179. By letter dated November 9, 2022, CPEP requested a one-period extension for MD commitments for periods A-178, A-179, and A-180. On November 17, 2022, the CFC Board of Directors approved this request. Attached as **Tab 3** is a copy of the November 24, 2022 Memo from CFC Staff to MD licensees informing them of this extension.

We trust that the above information and documents respond to your questions. Should you require additional information or clarification, please do not hesitate to contact us.

Yours very truly,



David K. Wilson

/mt

cc Alyssa Tomkins and John Wilson, Gowling WLG (Canada) LLP

**From:** Chris Hobbs  
**To:** [Lori Piche](#)  
**Cc:** [Augo Pinho](#); [Michael Laliberte](#); [Maria Elena Baisas](#); [Tomkins, Alyssa](#)  
**Subject:** RE: MD Notice of Assessment for periods A-174 and A-175  
**Date:** April 26, 2023 1:23:17 PM

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Last email on this issue I promise. This hit the newswire 2 hours ago:

<https://www.msn.com/en-ca/money/topstories/what-s-behind-the-cost-of-milk-eggs-and-chicken-in-canada/ar-AA1an5LH?ocid=msedgdhp&pc=U531&cvid=ac02b0cbe63c42fbad1f24c75a4b941c&ei=50>

In the middle of this article the author says supply management raises consumer prices, and he clearly isn't aware of MDP. These fines and the actions they encourage directly speak to his criticism of SM. Had he known that the CFC forces chicken out of the country during market shortage and increase already high prices, it certainly would have been included in the article.

CFC has made a mistake, and we ask that it please be corrected.

Chris

Sent from my phone. Please excuse any autocorrect creativity.

----- Original message -----

**From:** Chris Hobbs <[chris911@directpoultry.ca](mailto:chris911@directpoultry.ca)>  
**Date:** 2023-04-26 1:02 p.m. (GMT-05:00)  
**To:** Lori Piche <[lpiche@chicken.ca](mailto:lpiche@chicken.ca)>  
**Cc:** Augo Pinho <[augo911@directpoultry.ca](mailto:augo911@directpoultry.ca)>, Michael Laliberte <[mlaliberte@chicken.ca](mailto:mlaliberte@chicken.ca)>, Maria Elena Baisas <[mebaisas@chicken.ca](mailto:mebaisas@chicken.ca)>, "Tomkins, Alyssa" <[Alyssa.Tomkins@gowlingwlg.com](mailto:Alyssa.Tomkins@gowlingwlg.com)>  
**Subject:** RE: MD Notice of Assessment for periods A-174 and A-175

Hi Lori

I'd like to clarify my comments below. The MDP was created to balance the bird because consumers naturally demand more white meat than dark. But as a market shortfall develops, consumption naturally switches to a balanced bird as some choose dark because of price or lack of availability with white. What this means is that in a market short, the free market eliminates the need for MDP - the whole market needs more supply. Export requirements do not make any sense at this point.

Therefore, in a long market and a balanced market the existing MDP fines are just and fair. However in a market shortage those same penalties produce increased consumer harm. To then fine a company for reducing consumer harm... it's not a good stance for the CFC to take.

We agreed to the previous fine, however we still do not believe the decision to be just for the reasons above and below.

Chris

Sent from my phone. Please excuse any autocorrect creativity.

----- Original message -----

From: Chris Hobbs <chris911@directpoultry.ca>

Date: 2023-04-26 11:42 a.m. (GMT-05:00)

To: Lori Piche <lpiche@chicken.ca>

Cc: Augo Pinho <augo911@directpoultry.ca>, Michael Laliberte <mlaliberte@chicken.ca>, Maria Elena Baisas <mebaisas@chicken.ca>

Subject: RE: MD Notice of Assessment for periods A-174 and A-175

Hello Lori

I'm moving into a new house today and am out of the office, but want to confirm receipt of this document. ADP Simple Path will appeal this ruling as a matter of policy. We will show that CFC actively creates consumer harm through the application of market development program fines when market shortages occur, as they make a bad situation worse.

The Farm Products Agencies Act was put in place to protect the family farm. It also calls for a competitive market to protect consumers from excessive prices and consumer harm from market rents earned by primary processors. CFC MDP rules force product out of the country during market shortage conditions, and in doing so deepen the market short and increase consumer prices. Not only is this a fundamental failure to protect consumers, it actively creates additional consumer harm by deepening a market short. This is therefore a violation of the very Act that created the CFC in the first place.

We understand the rules, and have made best efforts to comply. If you check today you'll see that exported product not only covers past requirements but we're ahead on our future commitments. Fundamentally we believe the rules to be unjust, and just as with the past fine we believe the CFC has made an error of policy. We formally appeal.

Chris

Sent from my phone. Please excuse any autocorrect creativity.

----- Original message -----

From: Lori Piche <lpiche@chicken.ca>

Date: 2023-04-26 10:48 a.m. (GMT-05:00)

To: Chris Hobbs <chris911@directpoultry.ca>

Cc: Augo Pinho <augo911@directpoultry.ca>, Michael Laliberte <mlaliberte@chicken.ca>, Maria Elena Baisas <mebaisas@chicken.ca>

Subject: MD Notice of Assessment for periods A-174 and A-175

Good morning Chris,

Please find attached Simple Path's market development Notice of Assessment for periods A-174 and A-175.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Lori

**LORI PICHÉ, MBA, BMath**

Director of Finance | Directrice des finances

Chicken Farmers of Canada | Les Producteurs de poulet du Canada

1610 - 50 rue O'Connor Street | Ottawa, ON | K1P 6L2 | T: 613 566 5907

[chicken.ca](http://chicken.ca) | [poulet.ca](http://poulet.ca) | [chickenfarmers.ca](http://chickenfarmers.ca) | [producteursdepoulet.ca](http://producteursdepoulet.ca)



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## MEMORANDUM

**TO:** Market Development Licensees  
Provincial Board Managers, CPEPC

**FROM:** CFC Staff

**DATE:** July 19, 2022

**SUBJECT:** Market Development Commitments for periods A-176 and A-177

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As a result of the avian influenza (AI) outbreak and import restrictions put in place, we previously informed you that CFC Directors agreed, in March 2022, to provide a one-period extension to all market development (MD) licensees to fulfill their MD commitments for periods A-174 and A-175. The Board decision at that time was based on AI in both Newfoundland and Labrador and Nova Scotia.

Since March 2022, infected premises were found in nine provinces, the latest being in Quebec on July 3, 2022. The current list of countries placing import restrictions is extensive and applies to several primary control zones (PCZ), provinces, or Canada.

In light of the current import restrictions, the CFC Board of Directors approved on July 12, 2022, a request made by CPEPC to provide a one-period extension to all market development licensees to meet their commitments for periods A-176 and A-177. This means that MD licensees will have to the end of period A-178 (October 22, 2022) to meet their commitments for period A-176 and will have to the end of period A-179 (December 17, 2022) to meet their commitments for period A-177.

CFC Directors expressed concerns in providing future extensions given the uncertainty of countries lifting import restrictions and that there is not a significant decrease in periodic market development allocation requests.

We ask that MD licensees continue to closely monitor their market development activities and consider the flexibilities provided within the CFC and Provincial MD Policies such as to reduce or cancel your commitment before the start of the period.

Should you have any questions, please do not hesitate to contact Lori Piché at [lpiche@chicken.ca](mailto:lpiche@chicken.ca) or by phone at 613-566-5907.

Sincerely,



## MEMORANDUM

**TO:** Market Development Licensees  
Provincial Board Managers, CPEPC

**FROM:** CFC Staff

**DATE:** November 24, 2022

**SUBJECT:** Market Development Commitments for periods A-178, A-179 and A-180

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As a result of the avian influenza (AI) outbreak and import restrictions put in place, we previously informed you that CFC Directors agreed, in March and July 2022, to provide a one-period extension to all market development (MD) licensees to fulfill their MD commitments for periods A-174 to A-177. The last Board decision in July was based on the growing number of infected premises across the country and expanding list of countries placing import restrictions in several primary control zones (PCZ), provinces or Canada as a whole.

Since July 2022, another wave of infected premises occurred in Central and Western Canada, late September into October. As a result, a more extensive list of countries placed import restrictions on poultry meat that apply to control zones, provinces or Canada as a whole, which are expected to remain in place for some time.

In light of the current import restrictions as well as the increased number of primary processing plants in or near PCZ's, the CFC Board of Directors approved on November 17, 2022, a request made by CPEPC to provide a one-period extension to all market development licensees to meet their commitments for periods A-178, A-179 and A-180. This means that MD licensees will have to the end of period A-180 (February 11, 2023) to meet their commitments for period A-178, will have to the end of period A-181 (April 8, 2023) to meet their commitments for period A-179, and will have to the end of period A-182 (June 3, 2023) to meet their commitments for period A-180.

We ask that MD licensees continue to closely monitor their market development activities and consider the flexibilities provided within the CFC and Provincial MD Policies such as to reduce or cancel your commitment before the start of the period.

In light of the avian influenza pandemic that started in March, and the possibility of ongoing outbreaks in the future, CFC Directors expressed concerns in providing future extensions. On that note, the Board of Directors determined that it will be assessing the long-term impact of the Market Development Program in the near future.



Should you have any questions, please do not hesitate to contact Lori Piché at [lpiche@chicken.ca](mailto:lpiche@chicken.ca) or by phone at 613-566-5907.

Sincerely.