

## Industry Calls - April 21, 2020

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The following is a digest of the questions asked in the conference calls hosted by TIAO. We've done our best to find the answers you need, provided links where we can, and commit to taking your concerns forward in our discussions with government officials.

### Key Messages/Updates from TIAO:

- The Ministry has unveiled a list of **15 advisory committees/panels** (not yet public) divided into sectors – such as film & TV, hotels, air travel, amateur sport and recreation, professional sport, music, museums, interactive digital, libraries, festivals & events, a multi-sector panel, a tourism leaders panel and a big 10 (attractions / marquee events). The purpose is to provide the Ministry with an assessment of the impact of COVID-19 on the sector that they represent as well as provide approaches that the sector can use as it emerges from the pandemic. All of these approaches should be cost neutral to government and the outcome of the work of the panel should not be used to secure government funding. The panels are supported by Ministry staff and they have 4 weeks to make their submission and each panel can create as many sub-committees as they see fit. This information will be provided to the Ministry and Province's Job and Recovery committee (which Minister McLeod is a member of).
- **Boating Ontario** has delivered the first of two [protocols](#) for workers in marinas once they go back to work (but still remain closed for business); working on a 2<sup>nd</sup> on how to interact with customers. TIAO will work with sector associations to use this template for protocols for festivals and events, resorts, campgrounds, attractions, etc. Reach out to David McLaughlin with any ideas.
- TIAO has been interviewing a number of operators across the province so we can tell the story of the impact of COVID-19 which supports our policy asks.
- **Indigenous Tourism Ontario, NOTO** and TIAO released a joint press release speaking to the impact of COVID-19 on seasonal and indigenous businesses. See [here](#).
- **TIAO's 4<sup>th</sup> survey** - released on Wednesday, April 22<sup>nd</sup>. Closes Monday, April 27<sup>th</sup>. This information will help us provide proof of the impact of the pandemic on businesses. Courtesy of RTO6, we are looking at the results from a regional and sectorial perspective.

- **Destination Canada** engaged McKinsey & Company to do a report on what does sustaining Canada's tourism sector look like during COVID-19. Also a report with Tourism Economics, looking at the impact nationally. Click [here](#) for the full reports.
- TIAC released a dashboard created by Twenty31 about the state of tourism in Canada during COVID-19. Read the full report [here](#).
- TIAO is working nationally with all tourism industry associations and TIAC in putting together a policy document that speaks to educating the insurance industry about tourism as well as getting them to fix some of the issues such as business interruption insurance.

### Guest Speaker:

Insurance specialist **John Chippindale**, Vice Chairman, National Chief Marketing Officer of Hub International Limited.

**Key Message:** 5 areas discussed

1. What kind of coverage exists for COVID-19?

From a coverage standpoint, most property policies require that business interruption (loss of revenue/profit/gross earnings) would be triggered from a direct physical damage on the premises. Most insurers suggest that COVID-19 is not that because in fact you've been asked not to be on the premises.

Some policy holders have an extension that would be framed as an outbreak for extra expense associated with something that happens with the premises. For areas of hospitality, some businesses have an extension for infectious disease (very few have it and is more clear cut).

Debate going on as most insurance companies are taking the position that COVID-19 and the closure of premises is not a direct physical damage to the property. There was some case law going back 10 years that this may or may be true in terms of the definition – if you can't have access to your premises is it under the policy a direct physical loss or not? Generally the insurance industry is saying no and the public and government is saying it needs to relook at this.

Class action suits already taking place in challenging the industry's interpretation of coverage.

Some brokers, such as Hub, have been advocating for their clients to submit claims to ensure their position is laid out if the landscape changes.

2. The claims management process. How is your broker advocating on your behalf to submit claims?

At the end of the day, a claim can only be settled if you complete a proof of loss.

May be too early to quantify what the actual loss is but you can reach out to your broker on how to calculate this. All comes down to the type of coverage you have.

3. Protection of the premises while unoccupied /vacant  
What are my responsibilities and requirements to oversee my premises when I've been

asked to exit my premises?

Most insurance policies have a clause that addresses vacancy/unoccupied premises but many insurers are showing some flexibility- they would like to see that there are weekly visits/inspections and making sure systems are in place (fire, sprinkler, and burglar) and are operational. Businesses should clarify with your broker but there is good support for this.

4. Premium adjustments – What is the industry doing to help businesses that face the challenge of paying their premiums?

There is a statement called Declaration of Emergency that some policies have. If your renewal comes up over a 120 day period during this emergency, insurers can't cancel a policy due to reasons like an NSF cheque or if they can't get a hold of you. Important to *laissez* with your broker.

Can I have my premiums adjusted to reflect my reduced operations? (Such as reduced fleet exposure).

There is a variability of some insurers, showing more flexibility than others. On a case by case basis. Must be laid out in writing.

We suggest clients to transition, if necessary, to a premium financing structure that spreads the premium over multiple months. Some insurers are agreeing to defer any premium payment during this state of emergency.

5. Overall availability of the cost of insurance (as it relates to the tourism profile)

Businesses would purchase two macro kinds of insurances: Commercial (property, liability, crime and auto) and employee benefits. From a commercial standpoint, there have been challenges within tourism because it's quite fragmented.

There is some proactive work that can be done with the tourism industry to better educate and profile the business to insurers. Help you take control of your own destiny.

### **Insurance questions from all calls:**

- 1) Do you have further info on the pending class action suit? IE where to join?

You could contact the Merchant Law Group based in Regina or whoever the law firm is representing a class of applicants. Generally speaking, you would have to be able to prove you are a part of the class of claimants and are entitled to join.

<https://www.merchantlaw.com/class-actions/business-interruption-insurance-class-action/>

- 2) Unlike a localized event (fire, flood etc.), does the industry even have the liquidity to pay out across an entire sector, industry, province or country?

As an industry on the whole, things will be ok. The industry is financially strong.

- 3) What kind of liability do operators face if they do open at some point and a guest or staff member contracts COVID-19 via transmission? I.e. someone unknowingly comes into camp and transmits.

Operators would be named in a suit. Liability policies cover bodily injury and property damages from a 3<sup>rd</sup> property. The insurance industry is clarifying that the liability coverage that owners have would respond.

One protocol should be to document everything you do to limit your liability and work with your broker to show you are managing the risk the best way you can.

- 4) Will there be some coverage for contagion down the road?

Two phase process: In the USA they currently have TRIA (Terrorism Risk Insurance Act) and Canada has NIAC (nuclear). Looking at the acronym PRIA for pandemic coverage. All insurers would be required to participate with their net lines so it's stable and across the board.

There are conversations now but waiting to get through this challenging period.

Insurance Bureau of Canada (IBC) is the body working with government, the various brokers association and industry associations and it is on the agenda.

Two insurers (Zurich and AIG) are coming out with a product that is part of an employee benefit that if an employee contracts COVID\_19 they would get coverage for hospital expenses and loss revenue.

- 5) How does business interruption coverage work?

Need to outline your proof of loss that meet the definition of what is covered.

In terms of statute of limitations, you have two years to report a claim.

- 6) You touched on Fleet Insurance. Will the insurers be approached to provide rate consideration for fleet business without clients having to reduce coverage?

The claims are a lot less because the driving is a lot less. So premiums will be based upon the experience.

A fleet has what is called a 21B (fleet endorsement) - Some insurers are accepting midterm changes in premium (for instance using only 1 car in your fleet); there will be more pressure that all will accept changes.

- 7) So if the liability is real as you suggest, and operators knowingly accept this risk by opening, will coverage apply in the event of a claim?  
They also paid 1.5 million per year for the coverage

(see 4)

- 8) Do you recommend having guests sign a waiver describing the potential risks of contracting COVID-19? Would that help?

A lot depends on what the Government (Federal and Provincial) says and mandates in its re-opening orders, and also insurance coverage you may have. In general, waivers may hold some value depending on what they are used for and become stronger if used in certain ways, including **giving sufficient advance notice to customers** of the requirement of waivers. They can also act as a deterrent to lawsuits.

- 9) Once we go back to work and an employee contracts COVID-19, are they covered under their general health benefits or is this a WSIB claim?

It can be either.

An employee could make a WSIB claim if they contracted COVID-19 at work but claims seem to be reviewed on a case by case basis. Here is a link with additional information:

<https://www.wsib.ca/en/covid-19-faqs-about-wsib-claims>

"If **you contracted COVID-19 while at work** (you have a diagnosis or symptoms of COVID-19), you may **file a claim** to determine if you are eligible for WSIB coverage."

Employee benefit claim in terms of medical and hospital attention (but not everyone has this coverage).

- 10) Is there a conversation happening between the RTOs and insurance industry (coordinated effort)?

TIAO is looking at a coordinated approach to fill in gaps about the tourism industry.

- 11) John, can you forward the case law you mentioned?

<https://cassels.com/insights/covid-19-impact-business-interruption-insurance-issues/>

**Comment:**

Hotels in Kingston are wanting to be covered under the interruption insurance

- 12) Is there any message that we should be delivering to government that might assist operators?

There has been a lot of work in that regard. One was around the issue of clarifying that the policy should not be deemed vacant t/unoccupied relative to the definition of insurance given that it was shutdown. The government has put it back on the IBC to deal with the industry.

Some medical groups (dentists) have created a petition that have confirmed coverage under infectious disease.

- 13) If we find out that in the months and years ahead that the decision made by the provincial government to close businesses down was inappropriate, is there a chance there will be a class action suit against the government by these operators that loss their businesses or revenue (done through their insurance)?

Assumption is that there will be some suits but not aware of whether the government in

terms of its mandate is held harmless relative to the actions that it takes.

- 14) Not necessarily business insurance question, but seasonal residences are being asked to stay home and not go to the cottage. Many are stating that they must visit the cottage to ensure that they are in compliance with their insurance.

Not a requirement like a business. Insurers have waived this condition.

- 15) Can John provide us a sample waiver form to use for guests, going forward?

Not designed yet. Next step is to have some dialogue with some key insurers to see if they have one.

- 16) How does business interruption insurance aid a seasonal business who, depending on when the state of emergency is over and they are allowed to reopen, stays shuttered for the 2020 season because it doesn't make sense to open this year.

They will need to show their losses depending on the type of coverage.

If they decided not to open, insurers may suggest that they net it out in the calculation of the loss.

- 17) For current hotel clientele has changed from leisure/corporate/delegate to isolation customers/emergency shelter (and now looking at accommodations for the homeless community with an expected outbreak for that community). How likely is an insurance company to be receptive to increasing the risk levels? (potential for staff contracting COVID, property damage, COVID infected guests)

Best to be transparent (better safe than sorry). Hotels are considered an essential service. There may be a change in rate. Will have to look at the reality of the future.

- 18) If and when we do open up, going forward, are we liable if COVID-19 is contracted from their stay at camp?

You are covered if you are liable. (See response to question 3)

- 19) What are the steps a business should take once they receive notice that their claim has been rejected?

If rejected, the role of the broker is to advocate on your behalf.

Most claims will be rejected on the definition of direct physical loss so we will have to watch the case law to see if some of these class action suits add value.

Other than suing the insurer (costly option), tourism industry can join a class action suit and/or continue to lobby the government.

- 20) The class action, who is the action being brought against and what is the claim?

It's against 10 insurance companies suggesting that a property policy should cover business interruption loss of revenue without limitation to direct physical loss.

- 21) Will you be providing something in writing with steps our members should be following to become part of this class action lawsuit as many small businesses especially restaurants may not survive this pandemic the longer it lasts.

Hubb is not a law firm, but the Merchant Law Group in Regina can be contacted individually or collectively to understand the steps to be included in their suit.

<https://www.merchantlaw.com/class-actions/business-interruption-insurance-class-action/>

- 22) Are the policy makers in government aware that the Tourism Industry have uninsured losses due to COVID Emergency Measures? How is this affecting next steps?

TIAO continues to have these conversations and working with the other tourism associations across the country (including TIAC) on a national communication to go forward to address this issue specifically. Also being addressed on a call with the provincial government.

- 23) Is it better to see if we can get a class action launched specific to tourism and specific to Ontario rather than piggyback on someone else's?

This would be a legal question.

- 24) Is there a sample waiver you would have John?

Not at this time but will see if other insurers have a sample or template.

- 25) Please address 2 issues that our insurer raised: we are considering declaring "Vacancy": "If your property is unoccupied during the crisis or you have changed your businesses operation, please contact us immediately as this may affect your insurance coverage." Also: "Note: Vacancy - If your building is or will be vacant or unoccupied during the policy period, please advise our office immediately. Certain insurance coverage will cease once a building becomes vacant or unoccupied and all coverage terminates after 30 days unless the insurer issues a vacancy permit."

All insurers on a requested basis are agreeing to this but the government hasn't made a public statement (hope to see this soon).

- 26) In regards to aircraft insurance, companies are charging premium whether or not you fly aircraft. It is hard to pay premium if we have no income coming in with the border closed to our industry.

In speaking with Taylor Bettinson (Hub aviation specialist), he advises that the aviation industry withdrew the "lay-up clause" (which allowed customers to ground their aircraft for 30+ days with an associated premium credit) about a year and half ago when the industry results were so poor that they did not feel they could afford to offer this flexibility premium credit – this was well in advance of Covid-19 and not considered. Now, as the request is being presented under different state of emergency circumstances, the broker involved needs to fight aviation specialty insurers for reconsideration on a case-by-case basis. Hubb is taking this advocacy stance in all areas as explained.

## Northern Ontario Tourism

Number of participants: 72

### Questions and comments (not insurance related):

- 1) For small ma/pa fishing camps that don't have full time hire but instead 1 or 2 part time students and do not meet the \$20K payroll. What assistance is available for these camps?

The CERB is available for your part time staff.

BDC Loans – <https://www.bdc.ca/en/financing/business-loans/pages/small-business-loan.aspx>

**Note:**

We have a number of resorts in our area that do not currently qualify for any assistance.

- 2) Regarding the wage subsidy, does it apply to new hires? Can we hire skilled people to do building work, like roofing?

<https://www.canada.ca/en/department-finance/economic-response-plan.html#individuals>

- 3) Any update on when the 75% payroll funding will be available?

Available Monday, April 27<sup>th</sup> - [https://www.canada.ca/en/revenue-agency/services/subsidy/emergency-wage-subsidy.html?fbclid=IwAR1WgGIYpbXhmNAzJ8VW6CuV0bj\\_n0-nBl7czAzYca6jtn9YbDd4Sx3zFI](https://www.canada.ca/en/revenue-agency/services/subsidy/emergency-wage-subsidy.html?fbclid=IwAR1WgGIYpbXhmNAzJ8VW6CuV0bj_n0-nBl7czAzYca6jtn9YbDd4Sx3zFI)

- 4) Just bought a resort Jan 31st 2020. Is there any assistance for me?

May have to look at last year's numbers.

- 5) What about the BDC loans, when will they be available?

You can apply for the \$40K loan and others - <https://www.bdc.ca/en/financing/pages/default.aspx>

### Comments:

- David MacLachlan- I've requested we form a northern discussion group as well through the co-chairs of tourism leader panel.
- If anyone has questions glad to share our experience...inbox me at [d.maclachlan@destinationnorthernontario.ca](mailto:d.maclachlan@destinationnorthernontario.ca)
- Cancellations continue to be a big issue with what to do with requests. If we allow guests to move to 2021 it is equivalent to refunding their 2020 deposit as we have no 2020 income from those rentals. If one guest is offered the opportunity to move to 2021, then all guests should be offered the same opportunity to be

completely fair.

We do not qualify for \$2000 each benefit nor the 75% subsidy as an employer to bring in staff to get the season started. Our income is generated in May to Aug, not March. Maybe we as an Ontario group should have a general consensus or discussion.

- PEI has a specific program for income replacement for self-employed individuals. Need statement of Business income (T2125) and Notice of Assessment from 2019. Interesting!
- As a non-resident business owner, you can qualify for government programs being offered (loans),

## **RTOs**

**Number of participants:** 12

### **Questions and comments (not insurance related):**

- 1) In response to Beth's question: What should the RTO calls cover going forward?

**Comments:**

Could we continue conversations regarding research & data to help inform planning. I like the idea of industry leading the work on what re-opening could look like.

Would training be something we could focus/leverage regional as related to return to work?

- Another resource for training might be WSPS: <https://www.wsps.ca/Home.aspx>

TIAO will look to have to OTEC/Skillsnet Ontario on the calls next week to provide an update on what they are doing in the background to be ready from a training perspective.

- 2) I spoke with an operator this morning concerned with permit approvals for events etc. needing at least 30 days for those approvals...maybe this is something that can be looked at in the recovery or reopening phase...apologies if already taken into account

We will take this forward. We know all permits were cancelled but how do we reactivate those and get things back in the pipeline.

- 3) Can you please share the Boating Ontario's Social Distancing Best Practices guide?

<https://silkstart.s3.amazonaws.com/73764e8f-6138-4c6e-9fd5-50359ba362e4.pdf>

- 4) A question came up during our DMO meeting about how American seasonal business owners can return to Ontario. Any info on that? Even if they are not Canadian citizens they are eligible for financial support?

We do know that non-resident business owners are eligible for some of the emergency loans for the Canadian small business account and loans through BDC. Must be an incorporated business.

Following up for an answer about crossing the border.

- 5) What do you think the Minister is looking for from all of the panels? The panels, plus the new Minister's survey is casting a very wide net. Is there something specific that you think she would gravitate to more than others?

Looking for innovation and creativity.

We need to demonstrate how the four components of the ministry (heritage, sport, culture, and tourism) are all interdependent.

- 6) In regards to red tape reduction for the film industry, how realistic is that we can make a difference? Should we put it aside?

The Minister did say it would be an appropriate suggestion to government. Most of the red tape that we need as an industry is complicated and will need a significant amount of time.

## **DMOs**

**Number of participants:** 76

**TIAO Ask:** If you are a MAT dependent DMO, please reach out to Beth directly.

## **Sector Association**

**Number of participants:** 37

### **Questions and comments (not insurance related):**

- 1) Regarding panels/committees, attraction sector was not covered.

Attractions are included under the festivals & attractions panel, museums panel as well as the Big 10 panel (10 largest attractions & cultural events in the province).

Currently looking at where F&B and education are being covered.

Please send a note to the deputy minister as TIAO is not selecting committee members.

- 2) Which committee includes resource-based tourism?

A couple of options – multi-sectoral panel or recreation panel. There is a tourism leaders panel which includes all the RTO leads would also approach that.

The panels can also set up subcommittees – looking at one for Northern Ontario as well as Francophone.

If you want to participate in a committee or subcommittee please reach out to the Minister or Deputy Minister: [nancy.matthews@ontario.ca](mailto:nancy.matthews@ontario.ca)

We will share the terms of reference and submission scope once permitted.

- 3) Do we have a breakdown of how much money the provincial government has committed to COVID-19 as of yet? Because the majority of the dollars seem to be the feds so far.

TIAO does not have that information.

**Additional Comments:**

- EDCO would like to be part of the coordinated communication effort to Finance, Treasury, Economic development and the Premier.

**Tourism Operators and Educators**

**Number of participants:** 126

**Questions and comments (not insurance related):**

- 1) a) Any word around GST/HST refunds to reduce financial stress.  
b) Also any word on when credit unions will be able to forward CEBA funds to applicants?

a) The only approach they have taken at this time is deferring remittance, TIAO is still have conversations with our federal counterparts and them with the Canada Revenue Agency.

b) According to the Government of Canada website, this program is now available at various financial institutions and credit unions: <https://www.canada.ca/en/department-finance/programs/financial-sector-policy/business-credit-availability-program.html>

- 2) How do we get on one of these panels?

If you want to participate in a committee or subcommittee please reach out to the Minister or Deputy Minister

- 3) Who is creating the protocols?

They are industry driven.

- 4) Is there a website where we can see the Boating Ontario protocol?

<https://silkstart.s3.amazonaws.com/73764e8f-6138-4c6e-9fd5-50359ba362e4.pdf>

**Comment:**

NOTO is gathering information on protocols for lodges, camps and resorts and are interested from hearing from businesses to help inform those pieces and will work with the other sector assoc.

## **Additional Resources:**

- Stop the Spread Business Information Line - 1-888-444-3659 or <https://www.ontario.ca/page/stopping-spread-covid-19>
- Essential Workplaces: <https://www.ontario.ca/page/list-essential-workplaces>
- Canada's COVID-19 Economic Response: <https://www.canada.ca/en/department-finance/economic-response-plan.html>
- Canada's COVID-19 Economic Response Plan: Support for Canadians and Businesses: [https://www.canada.ca/en/department-finance/news/2020/03/canadas-covid-19-economic-response-plan-support-for-canadians-and-businesses.html#Support for Businesses](https://www.canada.ca/en/department-finance/news/2020/03/canadas-covid-19-economic-response-plan-support-for-canadians-and-businesses.html#Support_for_Businesses)
- Canadian Federation of Small Businesses (CFIB) - <https://www.cfib-fcei.ca/en/advocacy/federal-government-banks-small-business-relief-measures-covid-19>
- Destination Ontario Contact – [do.partnerships@ontario.ca](mailto:do.partnerships@ontario.ca)
- Tourism Industry Association of Canada (TIAC) - [https://tiac-aitc.ca/Impact on Tourism.html](https://tiac-aitc.ca/Impact_on_Tourism.html)
- Destination Canada - <https://www.destinationcanada.com/en/coronavirus-updates/covid-19-research>
- Ontario Restaurant, Hotel and Motel Association - <http://www.orhma.com/>

**We look forward to speaking with you again soon.**