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# Standing Committee on Agriculture and Agri- Food

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**Monday, October 17, 2005**

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**Chair**

**Mr. Paul Steckle**

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## Standing Committee on Agriculture and Agri-Food

Monday, October 17, 2005

•(1535)

[English]

**The Clerk of the Committee:** Honourable members of the committee, I see a quorum.

[Translation]

We can now proceed to elect a chairman.

[English]

I am ready to accept motions to that effect.

Madame Jennings.

[Translation]

**Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine):** I move that Mr. Paul Steckle be elected Chair of the committee.

[English]

**The Clerk:** Are there any other nominations?

Is it the pleasure of the committee to adopt this motion?

**Some hon. members:** Agreed.

**The Clerk:** I declare the motion carried and Mr. Steckle duly elected chair.

If you agree, we will proceed to the election of the vice-chair of the official opposition.

Are there any nominations?

**Mr. James Bezan (Selkirk—Interlake, CPC):** I nominate Gerry Ritz.

[Translation]

**The Clerk:** Are there any other nominations?

[English]

Nominations are now closed.

Is it the pleasure of the committee to adopt this motion?

**Some hon. members:** Agreed.

**The Clerk:** I declare the motion carried and Mr. Gerry Ritz duly elected vice-chair.

[Translation]

Our next item of business is the election of a Vice-Chair from the other opposition party. Are there any nominations?

**Mr. Réal Lapierre (Lévis—Bellechasse, BQ):** I nominate André Bellavance.

[English]

**The Clerk:** Nominations are closed.

Is it the pleasure of the committee to adopt this motion?

**Some hon. members:** Agreed.

**The Clerk:** I declare the motion carried and Mr. Bellavance duly elected

[Translation]

Vice-Chair of the committee.

[English]

Thank you.

I invite Mr. Steckle to take the chair.

**The Chair (Mr. Paul Steckle (Huron—Bruce, Lib.)):** First I want to thank all of you for your confidence in my continuing as your chair. This is a different experience from what we've been used to in previous times when we had a majority, and I've learned that it can work when we work in conciliatory ways.

I do want to thank you for your past indulgence on my rulings. There will likely be some rulings in the future that will make some of you upset, but my duty as your chair is to conduct these meetings in such a way as to continue to do government business, so at the end of the day we ultimately achieve what we've been mandated to do, and that's to serve the Canadian people. So thank you once again.

To my colleagues who have been elected as vice-chairs, Gerry and André, congratulations. I look forward to working with you.

Normally we just restructure and then simply adjourn, but because time is of the essence, we want to continue this meeting today. I need to seek the unanimous consent of the committee to go in camera.

I've asked for a motion to go in camera, but it's not unanimous. I'm going to have a recorded vote on this motion.

•(1540)

**Mr. Gerry Ritz (Battlefords—Lloydminster, CPC):** Is there discussion before you call for the vote, Mr. Chair?

**The Chair:** We can call for discussion, yes.

**Mr. Gerry Ritz:** Thank you, Mr. Chair.

I remember discussing this issue back when we talked about future business and having the CFIA officials come in. We have no problem with that, of course. We want to find out any hoops and hurdles we may hit as this hits the legislative calendar. I don't, for the life of me, understand why it has to be in camera. We didn't discuss that at any great length. We certainly discussed having them come here to talk about the dairy labelling provisions.

**The Chair:** We do not have those people here at the moment. In fact, insofar as the public is concerned, there is no such meeting. We had a meeting to reorganize, restructure today. And there are matters of business before this committee that I believe should be conducted in camera.

I would seek your indulgence to allow us to continue in camera, because we did agree...and you know the structure of the committee and what the committee's mandate is. The duties of the committee were fulfilled when we passed Bill C-27; therefore, other matters coming before this committee in regard to Bill C-27, whether it's dairy terms or whatever, are simply not in our purview to discuss or allow bodies to come before this committee on. Therefore, I have to rule in this way.

Mr. Easter.

**Hon. Wayne Easter (Malpeque, Lib.):** I think, Mr. Chairman, for many of the reasons you outlined, it is important to have this meeting in camera. I think we ought to recognize that when we did the dairy labelling amendment it was as a result of the request of one of the witnesses, the Dairy Farmers of Canada. We worked through that over the course of a number of meetings, trying to come to an agreement on what would meet the Dairy Farmers of Canada's concern, which was truth in labelling, without in any way jeopardizing the industrial side. We have reported that bill to the House as such, in that way.

There have been concerns expressed by the processing council and the Consumers' Association of Canada since the bill was tabled in the House. While CFIA can't speak of potential future amendments that may go to the House, we thought it would be useful for them to meet with us, in fairness to all members. But it should be an in camera meeting so that we can look at the various scenarios without creating a public stir when the bill has already been reported to the House. It's important that the meeting be in camera.

**The Chair:** Yes, Mr. Ritz.

**Mr. Gerry Ritz:** I don't disagree with anything Mr. Easter has said, other than the fact that there are other affected parties, and he actually went ahead and named them. I would think if we're going to have the CFIA back in to do a second look at this amendment, then in fairness we're also going to have to call back the processing council, the Consumers' Association, and the dairy producers to speak back to what may or may not come out of this.

**The Chair:** Absolutely not.

There is a process that will be followed. This is not the last word on this particular bill. This bill goes to the House, and it will eventually likely go to the Senate, where there will be opportunity for these people to make presentations. The Senate may very well wish to hold hearings or whatever. We can't determine what their agenda is.

It is not for this committee to meet with witnesses, but we do have some obligation I think as a committee to understand what the concerns might be. The CFIA is the enforcing body of this particular bill, so basically it's for the information and edification of this group of people that we're having this meeting, not for the public. The public will hear witnesses come before the House or before the Senate committee, and that will happen at a future time. But at this point in time this is another matter for today.

Mr. Angus.

**Mr. Charlie Angus (Timmins—James Bay, NDP):** Thank you.

I'd like the issue clarified a little. I do believe it is definitely not the role of this committee to reopen Bill C-27. If there's a campaign against Bill C-27... There was a lot of opportunity to speak to Bill C-27. We had every group under the sun speak to Bill C-27.

My concern is that we are hearing issues. I want to know from a legal perspective where we stand with this bill. I feel we need to be well armed. We all agreed on moving this bill forward. I still need to have clarified why it has to be in camera. I'm not opposed to it being in camera if there's an issue that could prejudice our work, or if it could reopen this bill in a way we don't want. I need that clarified, but I haven't heard an explanation other than the fact that we should go in camera.

If you could clarify that for me, I would appreciate it.

• (1545)

**The Chair:** First, we're not reopening the bill. Bringing CFIA before the committee is not in any way giving any indication that we're reopening the bill. We don't have authority to do that.

But we have been challenged here by a number of parties in regard to this bill. I think we need to know what the concerns are. The CFIA obviously knows how this impacts and how they would have to respond to some of these concerns, and I think we need to be privy to that. I think this should be done in the privacy of this committee and this committee alone, and then we can open it up at some point if there's a reason to do so. But I think we need to enter into it in a manner of privacy and deal with this matter in camera for us to do the work that we should do and at least be honest about it.

Yes, Mr. Anderson.

**Mr. David Anderson (Cypress Hills—Grasslands, CPC):** Mr. Chair, I guess my opinion is that there already is a public stir. Wayne says we need to avoid a public stir; there is a public stir.

The government side has botched this amendment twice already. They are concerned about it for good reasons.

You said the CFIA obviously knows all the legal ramifications. I'd say they obviously don't or we wouldn't be in this situation. We have three provincial ministers who have serious questions about this, and other associations as well. There was no consultation on this particular amendment, in spite of what the parliamentary secretary told me when I asked on the day we passed it. There hasn't been consultation. It's been requested from the industry, and they need the opportunity to speak to this.

I think the discussion should be public. If there's a legal perspective here that needs to be clarified, then that legal perspective should be made public, and it should be clear to the public and to both sides of this discussion so that we don't have the questions we have right now.

**The Chair:** Mr. Anderson, this amendment was put forward almost at the end of our discussions. We had 20 meetings. I indicated at our second meeting, going into the discussions on Bill C-27, that this would be a matter that would be dealt with for the public record. Furthermore, every party that's represented at this table agreed. We had unanimous support for that amendment, so let's not go back and undo it. We can't do that anyhow.

**Mr. David Anderson:** The issue is that it was not presented 20 meetings ahead. You had one amendment on the table; you pulled it off and brought another one back, and it was passed that day. So to say that the amendment we passed was in the public domain... It was not, Mr. Chair.

**The Chair:** Mr. Angus.

**Mr. Charlie Angus:** Mr. Chair, I would defer to you on this.

I would prefer to hear what we need to hear from CFIA. If this is going to become a public battle, it will become a public battle regardless of whether we meet on this, but I've got a number of questions I need answered and I'd prefer to get them done today.

**The Chair:** Ms. Jennings.

**Hon. Marlene Jennings:** As a non-regular member of this committee—I'm sitting on behalf of Mr. Smith from Quebec, from my own caucus—I have followed a little bit of this, and I, too, have questions.

If the committee has adopted an amendment and reported back to the House, I don't understand why this committee is continuing to hold meetings on that piece of legislation. First, in my eight years I've never seen that happen, and, second, if this committee does in fact desire to get more information, why would it wish to do so in camera?

**The Chair:** Just to clarify that point, it's not about Bill C-27; it's about the dairy terms' labelling aspect, an amendment within the bill. It's become a public issue, and I think this committee is well advised to have the CFIA speak to us and address the questions we have on this matter. That's the reason we're doing it. We're not reopening the bill.

**Hon. Marlene Jennings:** Okay, but if it's become a contentious public matter and you are asking questions of the agency that will have the ultimate responsibility for applying the legislation—if and when it is enacted and receives royal assent—why would you want to do that in camera? Why would you not want to have that expert opinion on this contentious amendment, which was adopted and has been reported back to the House? Why would you not want their views—and it's the government view, from a government agency—made public? I'm truly trying to understand that.

**An hon. member:** That's the question.

**The Chair:** Mr. Easter first, and then André.

**Hon. Wayne Easter:** Mr. Chair, I think we have to understand that the CFIA is the regulator here. The bill we're dealing with is all encompassing of CFIA and its responsibilities. The dairy labelling

section is quite an important section. There were concerns raised that the bill isn't law as yet; there may or may not be amendments made to it in the House. I think we would be putting CFIA officials in an almost impossible position if we had this as a public meeting.

My suggestion would be that either we have it in camera or we don't have it at all, and we can go to the House probably not armed with the information we'd have been better off getting in camera here today by way of a presentation, which will clearly show I think some of the products we're being misinformed on, both ways, out there in the public arena.

● (1550)

**The Chair:** Mr. Bellavance.

[*Translation*]

**Mr. André Bellavance (Richmond—Arthabaska, BQ):** I've yet to be convinced that it's absolutely necessary to conduct the meeting in camera. I don't recall having discussed this option. We all agreed to hear from CFIA representatives. However, here we are discussing whether today's meeting will be in camera, and whether witnesses will be present.

Could someone explain to me, even a CFIA representative, if necessary, exactly why the meeting shouldn't be open to the public? I'm all in favour of transparency and in the vast majority of cases, I prefer our meetings to be public. If someone can make a solid case for an in camera meeting, then I'll go along with that decision. It's important for this meeting to take place. As Mr. Angus was saying, we do have a number of questions. However, I've yet to hear a convincing argument for holding the meeting in camera.

I'd like us to settle this question once and for all, even if it means bringing in someone to explain why this matter should not be debated publicly.

[*English*]

**The Chair:** We did agree, on the record, at a previous meeting held a number of weeks ago that we would go in camera for this meeting. It's right in the minutes.

It's not the chair's prerogative to lead us into unknown territory or uncharted waters. I'm simply trying to have the best information and not prejudice this issue before we get into the public domain. I think we all have a right to ask the questions we want to ask. I think we should expect the kinds of answers that we would want to hear from CFA.

This is not the last time we're going to be meeting in public over this matter. This is not a case of opening a bill. It is simply to deal with a particular, specific amendment within this bill, and I still stand by my original intent, along with the concurrence of this committee, which had instructed us, unanimously—

**Mr. David Anderson:** It wasn't unanimous.

**The Chair:** Yes, it was. It's right in the minutes. It's recorded that way. Therefore, I'm bringing it forward today, and I think we should get on with the vote, and I'm going to call the vote. We've had enough discussion.

Those in favour of going in camera? Those opposed?

(Motion negated)

**The Chair:** Okay, we won't go in camera.

**Mr. David Anderson:** Mr. Chair, I'd like to make a motion that we hear the witnesses who are present today regarding the issue of dairy labelling. I would like that treated as a motion.

**The Chair:** There was a matter I was going to raise, but I was going to do so in camera. As for the confidentiality that we've had around this table—and we've had that trust among members for a long time—somehow that trust was broken.

**Hon. Wayne Easter:** I think the witnesses would be prepared to come forward on the basis of the motion. I think it would, though, be extremely difficult for them to get into legal interpretations at this time. But with that caveat, I don't think there's a problem in terms of the witnesses coming forward.

**The Chair:** I'm going to say this. Something happened when the agenda of our future business was sent out from the clerk, only to members of this committee and no one else. Immediately a number of us started getting phone calls. We know that someone who received this information leaked it—and it wasn't your chair who leaked that information. Someone who is sitting around this table at this moment did that, and I take great offence to it. I'm offended that we would break trust, because I think we've had that trust.

And this is one of the reasons that I think we need to do some of these things in private. But because of the fact that we didn't have an in camera meeting, I'm saying this right now for the public to hear. Someone broke trust with this committee. I don't know who that person is, but whoever it is knows who it is, and I don't want it to ever happen again, because we can only function if we can speak the kinds of things we want to say knowing it's done in confidence in a given meeting and knowing it's not going to be public the next day. I take offence to that.

Basically, at this point in time, I'm going to call the witnesses to the table.

I'm sorry. There was a motion here.

Do we have a seconder for that motion?

•(1555)

**Mr. David Anderson:** I also have a concern now that the parliamentary secretary has basically instructed the witnesses as to what they can't speak about. They've apparently come with a presentation. He's just given them direction that they're not to talk about it. We're obviously not going to get the presentation that we would have otherwise.

**The Chair:** I don't think it was an instruction. It was an option.

**Hon. Wayne Easter:** Mr. Chair, I told them that in the beginning. If they had wanted a wide open conversation, we'd have had it, but they didn't want it. That's fine.

Shit in your own nest and sit in it.

**The Chair:** Do we have a seconder for this motion?

We have a motion to hear the witnesses, as they've come today, a motion for them to come to the table.

(Motion agreed to)

**The Chair:** Okay, we'll have the witnesses come to the table.

Ms. Blair, are you coming to the table? Everyone has a presentation. It's been presented in both languages, I believe.

Ms. Stolarik, you'll be leading off, I presume. You might want to give us some indication of what your presentation is about and what we're doing here.

•(1600)

**Ms. Kristine Stolarik (Executive Director, Liaison, Preparedness and Policy Coordination, Canadian Food Inspection Agency):** Perfect. I will.

Thank you very much, Mr. Chair. Good afternoon, everybody. *Bonjour, tout le monde.* Thank you for inviting us back before the standing committee.

What we'd like to do today is discuss the conclusion of the CFIA's analysis of clause 65.1, the dairy terms provision.

I know originally the committee did request that Mr. Mark McCombs, who was my partner in crime during the standing committee last time, also appear. Mark has left the agency. He's now working for Human Resources Development Canada, so he no longer represents the interests of the agency. But I do have with me Jane Dudley, who you know from last time around, and also Darlene Blair, who is a senior policy adviser to this file.

Some of you may recall the proposed amendment, clause 65.1, adds section 18 to the Canada Agricultural Products Act. It includes four subsections, two prohibitions, subsections (1) and (2), and a list of exceptions to the first prohibition, subsection (3).

I apologize. That should be our very first slide, so maybe I'll just wait.

I want to review this very quickly, just to refresh everybody's memory. So there are the four subsections again, and the two prohibitions, which are your subsections (1) and (2). Then you have a list of exceptions to the first prohibition, which is your subsection (3). Then there are a series of definitions related to subsection (1) and (3), which is subsection (4).

**Mr. Charlie Angus:** Where am I without a PowerPoint presentation in my hand? I'm lost. I'm like a voice crying in the wilderness.

**The Chair:** You were missing at the table when they passed them out.

**Mr. Charlie Angus:** A man goes to the washroom and they try to rob him of the things he needs to represent his constituents.

Go ahead. Sorry.

[*Translation*]

**Ms. Kristine Stolarik:** To my knowledge, this is the first time we've had the French version, but not the English one. We can go ahead.

[English]

I'd like to clarify for the members once again the scope of the Canada Agricultural Products Act. This act, which is under the trade and commerce head of power, under the Constitution regulates the marketing of agricultural products in import, export, and inter-provincial trade. These products include meat, eggs, poultry, manufactured dairy products, fresh and processed veggies, fruits, honeys, maple syrup, and their related products. So it's quite a broad scope.

We have spent the last several months reviewing and assessing the technical implications of a processed dairy terms provision. This was done not only with CFIA but in consultation with Industry Canada, as Industry Canada has the responsibility for the agreement on internal trade; International Trade Canada, which of course is responsible for our WTO, our NAFTA, and our other trade agreements; and our colleagues from Agriculture and Agri-Food Canada, which has the trade responsibility for agrifood products.

We looked into the effects of the provision on a large number of agricultural products, including products intended to substitute for dairy products and those that are not intended to substitute for dairy products but use dairy terms on their labels. We also reviewed related claims made by various stakeholders and the media regarding the impact the provision would have on products currently in the marketplace. So there would be some products that, unless relabelled, would be prohibited from being marketed in import, export, or interprovincial trade.

I have some actual examples that I'm going to walk you through as we go along. It's easier if you see the picture, and we'll get to that. These include cereals with references to or pictures of milk on the labels—and I'll show you one of those—but do not contain the milk, and crackers pictured being served with cheese, perhaps on a box of Triscuits, but do not contain cheese in the box. These slides have been provided, and I'm going to be walking through these examples as we go along.

Subsection 18.1(2) places significant restrictions on the marketing of agricultural products and would prohibit the marketing in import, export, and interprovincial trade of some agricultural products that could substitute for the dairy product or contain dairy ingredients.

We're going to review our definitions as we go through as well. It's important to understand that our dairy ingredient here means butter, buttermilk, butter oil, cream cheese, ice cream, milk, sour cream, whey, and that your dairy term means a word, name, designation, symbol, or the pictorial related to a dairy ingredient. Perhaps we can keep that in mind as we go through this exercise.

Some of these ingredients...for example, the vast majority of margarines are made using whey or a whey product, and therefore they are required to have the term "whey" in the list of ingredients. However, a margarine with the dairy term "whey" on the label, including the list of ingredients, would be prohibited from being marketed.

Under the current wording of section 18.1, it would therefore need to be reformulated in order to be marketed in import, export, or interprovincial trade.

● (1605)

**Mr. David Anderson:** Could you go over that again?

**Ms. Kristine Stolarik:** Sure.

**Mr. David Anderson:** That product as it now exists could not exist?

**Ms. Kristine Stolarik:** Yes, and I think once we go through the actual slides and the labels, Mr. Anderson, we'll walk you through that again, if that's okay with the committee.

Once again, the other issue or concern with this proposal is the definition of milk, which is found in subsection (4). You can read it: "'milk', means the normal lacteal secretion obtained from the mammary gland of an animal". Now there currently are some definitions of milk already found in the Food and Drugs Act regulations as well as in the dairy products regulations. There's going to be some work that's ongoing now, actually, that's going to try to harmonize those two regulations to come up with common definitions. This definition is a third definition of milk, which would just complicate things even more on the enforcement side of things. It would create more confusion and inconsistency.

Now what I'd like to do—and we'll always go back to the slide or perhaps keep it at our side as we go through the definitions—is walk you through actual label examples, as they provide a good illustration of what effect these provisions may have on various products.

This slide is just a very quick explanation of what we did here. As you see, some labels are going to contain more than one dairy term, so what I'd like to do is... We tried very hard to point that out, so we have these big red arrows everywhere. If it's not clear, please let me know, and I'll point out exactly what word or pictorial or whatever we're referring to.

Let's start with number one. This is an example of a product that would meet the requirements of section 18.1. The product is an agricultural product, and it has a dairy term, "cream", on the label. It also contains a dairy ingredient, once again "cream", represented by the dairy term. Therefore, under section 18.1 as it is now, it is not prohibited from being marketed in commerce.

Now we're going to go through the exercise of looking at several products where, with the existing section 18.1—the prohibition—and the exemption list we have in subsection (3), it would not apply as a result of the exception set out in 18.1.

The use of the word "artificially flavoured" is used in connection with the dairy term "butter", where the agricultural product, that being the popcorn, does not contain the dairy ingredient represented by the dairy term. Thus, this product, as is, meets the exception listed in 18.1(3)(a).

If you go back to your—

● (1610)

**Mr. Charlie Angus:** Are you saying this is exempted or it will not be?

**Ms. Kristine Stolarik:** It will be exempted. It's allowed.

Now let me just state something based on our current policy and our regulatory requirements. This label would need to be corrected. We currently have a policy and regs in place. The font size of “artificial flavour” is going to have to increase to be the appropriate size proportionate to the “butter lover’s” wording. So you see “artificial flavour”—I’ve got the big arrow; it’s a little, little word. The font would have to be increased. So basically, under our current policy, we’d have to go back to the company and tell them that their label has to be corrected.

**Mr. Gerry Ritz:** If I can just break in, you’re saying that under today’s regulations, you should be calling this company and saying they have to fix this now.

**Ms. Kristine Stolarik:** Yes.

**Mr. Gerry Ritz:** But it’s never been enforced.

**Ms. Kristine Stolarik:** We’ve never received a complaint on it.

**Mr. Gerry Ritz:** Okay, until this amendment to Bill C-27, which would then force you to phone them and make a complaint yourself.

**Ms. Kristine Stolarik:** Yes.

**Mr. Gerry Ritz:** Is that a bad thing?

**Ms. Kristine Stolarik:** I don’t—

**Mr. Gerry Ritz:** If you’re the regulatory body and the enforcement agency, then yes, it is your job. If you see something that’s wrong—if I’m a policeman and I see a bank robber, I have to stop him whether I’m on duty or not.

**Ms. Kristine Stolarik:** If it’s enforcing truth in labelling, it’s not a bad thing.

**Mr. Gerry Ritz:** Right. Good. Thank you.

**Mr. David Anderson:** May I ask a question then? Why, if it isn’t enforced now, do you need a complaint? But also, in this example you have “natural and artificial butter flavours” on the label, and I guess I’m asking then why the “artificial” has to be bigger if you have natural butter in it as well. You’ve got a combination of products there.

**Ms. Kristine Stolarik:** I’m going to ask Darlene to answer that technicality for me.

**Mr. David Anderson:** It has natural butter in it, so they’re calling it butter, but you’re saying that’s inaccurate because it has artificial butter flavour as well.

**Ms. Darlene Blair (Project Manager, Program Branch Realignment, Canadian Food Inspection Agency):** Technically, for most products like this, the most truthful way of expressing it would be “natural and artificial butter flavour” together. It’s both.

**Ms. Kristine Stolarik:** It should be up front as well. It’s on the ingredients, Mr. Anderson, but it’s not up front on the label.

**Mr. James Bezan:** So you’re saying that where it says, “butter lover’s” it should say, “natural and artificial butter lover’s” flavour.

**Ms. Darlene Blair:** The lettering and the expression of the flavour is too small; the policy is that it should be at least half the size of the flavour itself. So it’s too small relative to the word “butter”.

**Mr. David Anderson:** But it’s already that way presently. It already is at odds with the way it should be, but it’s not enforced.

**Ms. Darlene Blair:** Yes, this is a label from the marketplace.

**The Chair:** Let me be clear. We don’t have any legislation barring them from advertising that way. But it’s not up front, and that would now have to be done. Do people really see what they’re buying? That’s really what we’re trying to do in this bill.

**Mr. David Anderson:** Mr. Chair, she said it’s already required; it’s just not enforced.

**Ms. Kristine Stolarik:** It’s in our labelling policy. It’s complaint based, so if you complain—say you have a complaint about this popcorn; we’d investigate and check out the policy and make sure they’re compliant. This, obviously, is not compliant.

Can I move on to the next line? Thank you.

The next example is a nature of product generally known as peanut butter, but it’s not clear from the name alone. That is, the product is obviously not butter from peanuts, since that’s not possible, or butter with peanuts. The nature of the product is, however, clear from the traditional use of the name “peanut butter”. Therefore, exception 18.1(3)(c) would apply to terms like peanut butter.

**Mr. Gerry Ritz:** That’s nice. Nobody’s going to take my Skippy off the shelf.

**Ms. Kristine Stolarik:** Here’s another example of an exception, and this is crème de cacao, which is an agricultural product with a dairy term on its label. The name of the product contains the dairy term “crème”. However, the product does not, surprise, contain cream. The nature of the product, however, is clear from the traditional use of the term, “crème de cacao”—it is a liqueur—so therefore our exemption 18.1(3)(c) would apply and it would stay on the marketplace.

We have lots of nice examples here.

• (1615)

**The Chair:** Yes, Ms. Jennings.

**Hon. Marlene Jennings:** I have a question. Given that you just mentioned that you’re complaint driven, in the sense that your agency doesn’t go out and investigate all the products on the market—you wait until a complaint comes in—notwithstanding the fact that you’re determining that this particular product, crème de cacao, would benefit from the exemption under section 18.1(3)(c), if someone brings a complaint about another similar product, say, that normally would benefit, would you still have to investigate? What happens to the product while you’re investigating? Do you order it off the shelves? Is there any disruption?



**Ms. Darlene Blair:** Basically, no. In order to take an action we need to be certain that there's been a contravention, and therefore while we're following up on a product it's business as usual.

Can I clarify one thing? As Kris mentioned, we do primarily look at products on a complaint basis, but each year in our work plan—because there are so many types of products, we could put our whole workforce out there looking at labels—we identify particular classes or groupings of products that are of particular concern and target those types of products that year. There are targeted activities each year for inspection by product type based on the risks those products present. It's very much targeted on a grouping, as opposed to saying, go wild and look for everything.

**Hon. Marlene Jennings:** The list that you target each year, is that public?

**Ms. Darlene Blair:** It's in the work plan, yes, in our annual report.

**Hon. Marlene Jennings:** Prior to the actual year that you're going to be implementing it.

**Ms. Darlene Blair:** Yes.

**Hon. Marlene Jennings:** Great. Thank you.

**The Chair:** Carry on.

**Ms. Kristine Stolarik:** We're on “creme style” corn. This label is an example—or an exemption—of the descriptor. “Creme style” refers to the texture of the product rather than the presence of cream in the product. Thus, once again this product would meet the exception laid out in proposed paragraph 18.1(3)(d).

**Mr. David Anderson:** I have a question on that. What's to stop people from using the word “creamy” in describing anything they want? Are you saying there's nothing?

**Ms. Darlene Blair:** Creamy in terms of right now, or under this?

**Mr. David Anderson:** Or whatever. If I make a product and I think it's creamy and want to call it that, according to this—you say it refers to texture—then I can use that label on any product.

**Ms. Darlene Blair:** Yes, and actually that's part of the exemption in proposed paragraph 18.1(3)(d). It's where the name of a dairy ingredient is used to describe a sensory characteristic other than taste. But again, there is the general requirement that all labelling be truthful, so if you're calling something creamy when it's water, that would obviously not be a truthful representation.

**Mr. David Anderson:** It would be difficult to sell as well.

**A voice:** The second time.

[*Translation*]

**Mr. André Bellavance:** A margarine can be creamy. The words “creamy margarine” could appear on the product label, even though the product does not contain any cream.

**Ms. Darlene Blair:** Not on the product label as such, but on other promotional material.

[*English*]

Sorry, maybe I'll answer in English. I hope you'll pardon me.

This does not address advertising per se, only the label. If it's on another piece of paper, whether it be a brochure or anything else that doesn't accompany the product, it is not part of the label.

• (1620)

[*Translation*]

**Mr. André Bellavance:** I understand.

**Ms. Darlene Blair:** Are you talking about the product label?

**Mr. André Bellavance:** Yes.

[*English*]

**Ms. Kristine Stolarik:** Yes, right on the label—

[*Translation*]

**Mr. André Bellavance:** I was referring to promotional material...

[*English*]

**Ms. Kristine Stolarik:** —it would mention creamy margarine.

[*Translation*]

**Mr. André Bellavance:** ...because I wasn't talking about the list of ingredients, but actually about the product label.

[*English*]

**Ms. Darlene Blair:** Like “flavour flash”, yes.

We will be talking about margarine in a minute, but under proposed subsection 18.1(2), no reference to any dairy term would be allowed on a label for margarine.

[*Translation*]

**Ms. Kristine Stolarik:** We'll come back to this in a few minutes.

**Mr. André Bellavance:** Therefore, it would be all right for corn, but not for margarine.

**Ms. Kristine Stolarik:** No, because corn is not a dairy product.

**Mr. André Bellavance:** Fine. That's what I wanted to know.

[*English*]

**Ms. Kristine Stolarik:** The next section we're going to look at is what is currently not accepted under subsections 18.1(1) or (2).

This is what I was talking about earlier. This is a depiction of a serving of a product with milk, but there is absolutely no milk in the product itself. Marketing of this product would therefore, in import, export, or interprovincial trade, be prohibited under subsection 18.1(1) of the CAPA. I guess on this one as well...

Are the nutritional facts on that one? You can't read them?

**Mr. Gerry Ritz:** Let's back up on that one just a second. It says, in proposed subsection 18.1(1), “using a dairy term”; it doesn't say anything about a pictorial. It doesn't say milk on there anywhere.

**Ms. Kristine Stolarik:** Yes, but read your definition of dairy term in proposed paragraph 18.1(4)(b):

“dairy term” means a word, name, designation, symbol or pictorial which refers to a dairy ingredient

**Mr. Gerry Ritz:** I think there's got to be a way to work around that.

**The Chair:** Mr. Angus has a question.

**Mr. Charlie Angus:** I don't even know what a Crispix is. Are we talking about a breakfast cereal here?

**A voice:** Yes.

**Mr. Charlie Angus:** My concern here is that what we're basically telling all the kids out there is to eat that stuff dry. We'd be undermining our farmers, who love to sell them the milk. I think putting milk on it is telling people that this is a good way to do it. In other words, don't do it with Pepsi-Cola, do it with milk.

So I wonder if that exemption is a little...

**Ms. Kristine Stolarik:** We're just here to give you the straight facts of the analysis and where it stands right now.

**Hon. Wayne Easter:** I think on this one, Mr. Chair—

**The Chair:** Let's go through the chair.

**Hon. Wayne Easter:** —what we're asking the witnesses to do is lay it before us as it is in terms of the amendment that is before us. If we see this as a problem, a non-intended problem that we may have created, then either the government or somebody will have to look at that later on. That's the purpose of this presentation, to see if there are unintended consequences from some of the amendments we have in the bill.

**The Chair:** Mr. Angus.

**Mr. Charlie Angus:** Thank you, Mr. Chair, for giving me a rejoinder on this. I would strongly suggest that is taken back into consideration, because I'm certainly more than willing to stand by what we've done on this, but we can't be held up to ridicule on stuff. I think this would be an example where we would be seen to be much over the top, where we don't need to be.

**The Chair:** Okay, carry on.

Ms. Stolarik.

**Ms. Kristine Stolarik:** Thank you.

Another example. This is the reference to what you were hearing about banning Kraft Dinner. The directions on the Kraft Dinner box include the dairy term “butter”. That's where the arrow is pointing, where you see “add three tablespoons of butter”. But the product itself does not contain butter in its ingredients. Therefore, marketing of this product in commercial trade would be prohibited under proposed section 18.1.

**Mr. James Bezan:** So the same thing would be true for Chipits, the chocolate chips, which has the cookie recipe right on the back. You can't—

**Ms. Kristine Stolarik:** That's the next one; you're ahead of me.

**Mr. James Bezan:** Oh gee, that's the only way I can make those things. If I don't get it with a recipe...

**Mr. Gerry Ritz:** Isn't the disclaimer when they say “add”? That tells you it's not in there. If it's a disclaimer, that gets you around that. I'm not a lawyer, but even I would stand up and argue that one.

As soon as you start to say “add”, people have to realize it's not in there; you have to add it.

**Ms. Kristine Stolarik:** I think the legal wording of it basically reads “No person shall market an agricultural product using a dairy term on the label unless that product contains the dairy ingredient represented by the dairy term.”

**Mr. Gerry Ritz:** But there isn't a dairy farmer out there who wouldn't say add my product to everything so I can sell more of it. When you say “add”, it's not in there. I think this is a ridiculous example.

• (1625)

**The Chair:** But aren't we going...? We're talking about the front panel labelling. If we get into ingredients, are we not sort of going off the wall a little bit on this one?

**Ms. Kristine Stolarik:** No, because there is a definition of label as well, and a label could be directions, it could be nutritional ingredients, it could be the front, it could be the side, it could be—

**The Chair:** What about recipe?

**Ms. Kristine Stolarik:** Yes, that's caught in here as well.

**The Chair:** Mr. Angus.

**Mr. Charlie Angus:** We'd be doing a great disservice to the dairy farmers of Canada if we sent out the message to industry to strike butter and milk off every direction for every cake mix and use margarine, or whatever, a soy substitute, and then you'll be legal. To me, the problem is truth in advertising, not truth in directions. The directions are telling you what you need to use.

If we're interpreting it that way, I think that is completely at odds with what our messaging was, which was the truth in labelling, not truth in directions.

**The Chair:** Mr. Bellavance.

[*Translation*]

**Mr. André Bellavance:** I simply wanted to echo Mr. Angus' sentiments. In proposing this amendment, it was never the legislator's intention to prevent the directions on the label from saying that the product can be served with milk or, as was the case with the previous example, from showing cereal being served with milk. I think all Canadian dairy farmers will be delighted to hear us say that cereal should be served with milk. That doesn't pose a problem, because the label depicts the product being served with milk.

We need to focus on the legislator's intent. My sense is that we're exaggerating the intent of this proposed amendment. As Mr. Easter was saying, if we need to rephrase the wording of the amendment, so be it. However, I'm convinced that the goal of committee members is not, by any means, to eliminate any reference to the word “butter” in the directions on a box of Kraft Dinner.

[*English*]

**The Chair:** Mrs. Ur first and then Mr. Easter.

**Mrs. Rose-Marie Ur (Lambton—Kent—Middlesex, Lib.):** I guess since this amendment might have come from this direction, I should say something. I think where this is going is completely ridiculous. We all sat around this table thinking we were dealing with a fairly simple approach to something, and clarifying it, but someone out there is totally making a mountain out of a molehill, in my opinion.

This is front labelling. I have this package here and it has everything on there that's in that cookie. That's all it is. It's truth about labelling. It has nothing to do with the safety of the product or the ingredients or whatever. Surely to God, when someone picks up this Kraft box...I had my discussions with a few people affiliated with Kraft and I'd be the last person to take Kraft Dinner off. I enjoy Kraft Dinner. Surely there has to be some responsibility by the consumer. For some of these processors to go off on this tangent, I think they're trying to steer the committee totally off base. It's nothing more than truth in front labelling, that what you see on the front is what you get inside that container of the product.

I feel they're simply making a mockery out of all the hard work this committee has put forth on Bill C-27.

**The Chair:** Mr. Easter.

**Hon. Wayne Easter:** Thank you, Mr. Chair.

On Rose-Marie's point, Mr. Chair, the difficulty is that nothing is simple in law. I think André's point is that it was not our committee's intent to take these products off the market.

With respect to what the witnesses are putting forward today, I think the reality is there are some problems with clause 65.1, and those we need to know. We as a committee can't re-amend the bill, but I think the House certainly can. The whole purpose of the witnesses being here is to spell out the difficulties, which were non-intended by us as a committee, and once we have that information, I'm sure, at whatever level it may have to be addressed, it can be addressed and handled in a correct way, one that's going to stand up in law and not cause unintended consequences.

I think these are good examples for us to have. It's not any criticism of the intention of all of us as committee members, who are doing this in good faith, though certainly under some pressure in terms of time, and it's not a criticism of CFIA either.

The request came forward from witnesses; they did their best on it. They spent all summer relooking at this issue to ensure that it's not going to have unintended consequences, and this is the result. I think we should welcome the evidence they're putting forward to us, and then we can probably deal with it at another level.

• (1630)

**The Chair:** Yes, David.

**Mr. David Anderson:** This is why I asked originally if the consultations had been done, because if we had done a summer's worth of work, we might not be sitting here now and having to go through this.

Rose-Marie should be upset, but the processors aren't the ones who are pointing this out to us right now. It's CFIA who brought the amendment forward.

**Mrs. Rose-Marie Ur:** Mr. Chair, the CFIA didn't call me over the last couple of weeks to complain.

**The Chair:** The processors have been negligent—

**Mr. David Anderson:** Well, the processors may have been, but we're not hearing from them today. Our witnesses are pointing this out.

**The Chair:** We realize there's some concern.

Mr. Bezan.

**Mr. James Bezan:** It's just exactly what Wayne was saying, that we can't make changes at committee but we can in the House as it goes to report and then onto the next level of reading. That's why it was important to have this as a public consultation, so there is a record of this and so our colleagues in the House can review the Hansard and know exactly what was discussed and what the concerns are. We all want truth in labelling, but we definitely weren't given the straight bill of goods as to what the consequences were when we had this thing brought forward, and that's what we're dealing with now.

**The Chair:** Let's move on. We've had some good comments.

Ms. Stolarik.

**Ms. Kristine Stolarik:** Thank you.

Here's the next slide, then. I think Mr. Bezan used this example already. Once again, this Baker's chocolate has dairy terms—sour cream, cream cheese—on the back of the label itself. That's contained in the recipe, but it does not contain sour cream or cream cheese, and there's no allowance for this use of dairy terms under proposed section 18.1.

**Mr. Gerry Ritz:** But again, they're saying to add these to this powdered ingredient thing, so they're not claiming that they're in the box. They're saying, to make this taste like it should, you have to add these dairy products. Again, I don't see a producer out there who would have a problem with this at all. If you operate on the basis that someone has to complain before you go after them...nobody's going to complain. Cheesecake isn't cheesecake without cream cheese in it.

**Ms. Kristine Stolarik:** I think we understand that. It's just the way it's worded now.

**Mr. Gerry Ritz:** But it's a bit of a specious argument with respect to some of these labels.

**The Chair:** For us to overcome this problem—and we're not here to make those changes today, but we should perhaps put it on the table to think about it—would one way of dealing with that be to add another paragraph to proposed subsection 18.1(3)? Basically, you're going to be looking at, for instance, recipes and those kinds of advertising areas where products need to be added for you to use this product; that would be an exemption.

**Ms. Kristine Stolarik:** Yes, that's correct. That would be one way to deal with it.

**The Chair:** Let's carry on.

Mr. Angus.

**Mr. Charlie Angus:** I guess my concern here, Mr. Chair, is that this fight for proper labelling has gone on for a long time and we're almost there. What I'm seeing is that the interpretation here will torpedo this from moving forward, and I just have to put it on the record that I think to say this about directions on labelling is the picture-perfect way of taking all this hard work and saying, well, it's too difficult; we're throwing it out. I think that's unacceptable after what we've done at this committee and what our intentions were.

I don't think there's a person in the country who would think that what's in directions on how to cook something is the same as truth in labelling. I think that is an interpretation that's come from someplace else. I think it has a dire impact and we have to address that right up front here.

**The Chair:** Ms. Stolarik.

**Ms. Kristine Stolarik:** Could I please turn to Ms. Dudley so she can read the definition of "label" we're dealing with?

Thank you.

**Ms. Jane Dudley (Counsel, Legal Services, Canadian Food Inspection Agency):** The concern we have is that this labelling provision was put into the Canada Agricultural Products Act, which already has a definition of "label". What we're doing is pointing out that this is something that is captured by the definition of "label" and that it needs to be corrected for this provision to go ahead. The definition of "label" that already exists and has not been amended is this:

"label" means a label, legend, word, mark, symbol, design, imprint, stamp, brand, ticket or tag or any combination thereof that is, or is to be, applied or attached to an agricultural product or a container or that accompanies or is to accompany the product or container;

So you can see that the definition of label captures just about everything that appears on the product.

•(1635)

**The Chair:** Madam Jennings.

**Hon. Marlene Jennings:** I appreciate your reading out the definition of "label", and if I can, I'll just address the issue Mr. Angus raised, that nobody would want to have excluded a product that said to add butter or cheese or whatever. If this is an unintended consequence, it should be corrected. I would agree with him.

I had experience on another committee a number of years ago where the government brought in legislation and we had some stakeholders come before the committee and express concern about a particular definition that existed. They were concerned that a certain work product would be captured in that, and the committee members on both sides and government officials said, don't worry about it; we're all clear that that work product will not be captured. Well, immediately the legislation came into place, the work product was captured. It went before the Privacy Commissioner. The Privacy Commissioner issued an order saying no, it should not be captured under the definition, but it had to go all the way to Federal Court and then to the Federal Court of Appeal. Only now is the government planning on changing it, correcting it, under the five-year review.

So I think it's really important, the work you're doing now in this committee, calling in the experts, who are the government officials,

to ask if there are unintended consequences of the amendments that were brought forward and adopted unanimously by this committee. I'd just like to commend the committee on doing this work.

**The Chair:** Mr. Ritz.

**Mr. Gerry Ritz:** Thank you, Mr. Chair.

It's just on that point you were making, Jane, that agricultural labelling is already fairly comprehensive. Some of what's in here may be redundant; it also has to work in lockstep with health regulations and Agriculture Canada's labelling regulations and so on. What we're trying to do is to smooth the process so one doesn't interfere with the other.

What it boils down to, from a producer's standpoint, is that they're concerned about market share, and marketing is a big part of market share. If someone out there talks about "soy milk", they will have to say "soy beverage". Those are two different things. In my particular house there is a lot of soy milk used. My wife is lactose intolerant, so that's what she uses. That all falls under the Health Canada allergens and everything; she wants to know what's in a product.

So for some of these examples you're showing me, if we put another exemption, as the chairman started to say, in proposed subsection 18.1(3) and call it paragraph (f), on Health Canada allergens, I don't think anybody would have a problem with that. Those are the amendments we can make on the floor.

But your definition of "label" under the Agriculture Canada synopsis is a kind of broad brush. Everything is under the one umbrella; it doesn't differentiate between soy milk and dairy milk, and that's the crux of this. If we can make the soy guy say "soy beverage", it's still just as good, but it's not "milk". That's what this comes down to; that's what this is all about.

It's about going after market share and consumers. Your taste buds water when you talk about butter on popcorn, but if somebody says they're going to put margarine on it, you say no thanks. It's just not the same. There is that mind image. That's what we're working for here.

Some of these things are never going to happen. Nobody is ever going to sue Fry's cocoa because it has "may contain milk ingredients". That's a warning. That, again, would be a specious argument.

**Ms. Jane Dudley:** We understand, Mr. Chair, what the committee intended, but that doesn't mean a court will interpret it the way we understand the committee to have intended it. Our view is that we identify the problems now so Parliament can correct any errors, so we can prevent problems down the road.

**The Chair:** Is there any way we can put a disclaimer against lawyers challenging us into this act? If we can do that, then I think we've got it licked.

**Mr. David Anderson:** Mr. Chair, I was actually looking through this, and I was going to ask if we should go through the rest of the examples before we have too much discussion. We may not get done, and there are also some other very important principles ahead.

**The Chair:** I take that as good counsel. Let's move forward, and we'll abide by that guidance.

Ms. Stolarik.

**Ms. Kristine Stolarik:** I think we've touched on this one. This is the allergen labelling. Fry's cocoa basically has "may contain milk ingredients". In the way that it's written now, it shows the term "milk", even though the product does not contain it. The purpose of the use of the term "milk" is to alert consumers to the potential presence of the allergen milk, but right now it would be captured under proposed section 18.1 and not allowed.

We now move on to an example of a non-substitute with a reference to dairy ingredients in the list of ingredients. We tried to highlight that the soup label shows the dairy term "milk" in the list of ingredients, even though the product does not contain milk. This is done to identify that the ingredient, which is related to the milk protein casein, is derived from the allergen milk.

• (1640)

[Translation]

**Mr. André Bellavance:** The French version refers to "protéines de lait".

**Ms. Kristine Stolarik:** You're right, the French version is different in that it refers to "protéines de lait".

**Ms. Darlene Blair:** That's correct.

**Ms. Kristine Stolarik:** So then, the arrow is in the wrong place.

**Ms. Darlene Blair:** Yes.

**Ms. Kristine Stolarik:** Our apologies.

[English]

**Mr. Gerry Ritz:** Each one is missing one arrow. That's all. You haven't got an arrow on fresh cream in the English, and you don't have an arrow on milk protein in the other.

**Ms. Kristine Stolarik:** We could have pointed to both, but there is no problem with cream. Cream is okay. It's the casein as a substitute that we wanted to point out.

**Mr. Charlie Angus:** Is cream of mushroom soup okay?

**Ms. Kristine Stolarik:** Yes, there is cream. Yes, it would be the milk protein.

**Mr. Gerry Ritz:** Not to nitpick here, but isn't that just a definition? Nobody knows what calcium caseinate is, so they're putting in brackets that it's a milk protein. Again, it's a bit of a warning.

**Ms. Kristine Stolarik:** Yes, I agree.

Here again is an interesting one. An example of a reference to a dairy ingredient is "orange juice with calcium". The product has the dairy term of "milk" on the label in reference to providing a source of calcium for people who don't drink milk.

The marketing of this product would once again be prohibited under proposed section 18.1. Once again, it says "for people who do not drink milk". To me, that's a warning as well.

**Mr. Charlie Angus:** They could say "an excellent source of calcium" and that's not a problem, as opposed to saying it was "specifically designed for people who don't drink milk".

**Ms. Kristine Stolarik:** The next example would be when the product is intended to substitute for a dairy product. Cheddar cheese has a dairy term of "cheddar" on its label. Therefore, under proposed

subsection 18.1(2), "cheddar-flavoured soy rice" would be prohibited from being marketed.

[Translation]

**Mr. André Bellavance:** I just want to know what the difference is between this example and the one given earlier in the case of popcorn. It was argued that writing the words "artificial flavour" in larger print would suffice, whereas in this example, the words "cheddar flavour" appear. I'm trying to understand why one is acceptable, while the other is not. After all, the word "butter" does appear, to satisfy butter lovers.

**Ms. Kristine Stolarik:** I'll ask Darlene Blair to answer that question.

[English]

**Ms. Darlene Blair:** *Redemandez cela en anglais.*

The difference between the first one and this one is that this product could be determined to be intended to substitute for a dairy product. Therefore, it falls under the prohibition in proposed subsection 18.1(2), which is:

No person shall market an agricultural product that has a dairy term on the label if the agricultural product is intended to substitute for a dairy product.

There are no exceptions to that prohibition. Therefore, even if it said "cheddar-flavoured" or "butter-flavoured", a product intended to substitute for a dairy product could not be sold with a dairy term.

**Mr. James Bezan:** Would it be allowed if they called it "artificial cheddar flavour"?

**Ms. Darlene Blair:** No. It's quite clear under proposed subsection 18.1(2) that under no circumstances is the term "cheddar" allowed to appear on the label for this product. There are no exceptions. All the exceptions in proposed subsection 18.1(3) apply only to the prohibition in proposed subsection 18.1(1). Therefore, there is no manner in which a product that's intended to substitute for a dairy product can be labelled using a dairy term and still be allowed to be marketed.

**Ms. Kristine Stolarik:** There are no exceptions. I guess that's the concern.

**Mr. Gerry Ritz:** In this particular example, there's absolutely no cheddar of any description in there.

**Ms. Darlene Blair:** That's correct.

**Mr. Gerry Ritz:** So it's not truth in labelling anyway.

• (1645)

**Ms. Darlene Blair:** It does have cheddar flavour in it.

**Mr. Gerry Ritz:** Yes, but it's all chemical. It's got nothing to do with a dairy product of any kind, so again it's not truth in labelling.

**The Chair:** It captures exactly what we're trying to do.

**Mr. Gerry Ritz:** Yes. This is the poster boy for why we're doing this.

**The Chair:** Madam Jennings is first, and then Mr. Angus.

**Hon. Marlene Jennings:** On an earlier label, where you said natural and artificial flavour... So if this particular product had natural and artificial cheddar flavour, or simply artificial cheddar flavour, then would it be okay?

**Ms. Kristine Stolarik:** No.

**Ms. Darlene Blair:** On the difference between this product and the previous one, the previous one was an artificial butter-flavoured popcorn. Popcorn doesn't substitute for a dairy product; therefore it is only subject to the prohibition in proposed subsection 18.1(1).

Because this product is intended to substitute for the dairy product, cheese, it falls under the prohibition in proposed subsection 18.1(2), and there's no way in which any kind of dairy term can be used on the label, even if it is truly a cheddar-flavoured rice product, that would allow the product to be sold.

**Hon. Marlene Jennings:** But the other one was natural and artificial butter flavour. Butter is a dairy term under the definition; therefore it would be a substitute for an actual dairy product, butter.

**Ms. Darlene Blair:** If the flavouring was sold by itself, if someone was trying to market an artificial butter flavouring for popcorn, then the flavouring itself would be the substitute product, but because it's being—

**Hon. Marlene Jennings:** But this one is rice.

**Mr. David Anderson:** I think Marlene is right on that because you have artificial butter—

**Hon. Marlene Jennings:** The product is rice, but the flavour they're using to market it is cheddar. That's the dairy product. The other one is corn, and the dairy product they're using to market it is butter. In the case of the popcorn, they use natural and artificial butter flavour. You said that under the current legislation this was not standard—that's the nicest term I can use—but you hadn't captured it because no one had complained.

So when we come to rice, rice is the product and the cheddar flavour is artificial—you said there's no cheddar in it, and cheddar is the dairy term; therefore even now I'm assuming it should be artificial cheddar flavour.

**Ms. Darlene Blair:** Under the current legislation, yes.

**Hon. Marlene Jennings:** Under the proposed legislation, both the natural and artificial butter-flavoured popcorn and this one would not be allowed. Am I correct?

**Ms. Darlene Blair:** No. Again, it's because popping corn with artificial butter flavour—the product taken as a whole—is not intended to substitute a dairy product.

**Hon. Marlene Jennings:** But the one we're talking about here is rice. Rice is not intended to substitute a dairy product, and the cheddar is simply the flavour.

**Ms. Darlene Blair:** Our understanding is that this is sold as a substitute for cheddar cheese.

**Hon. Marlene Jennings:** The rice.

**Ms. Darlene Blair:** If you look at this product—

**An hon. member:** It's a soy product.

**Ms. Darlene Blair:** It's too bad I don't have it here. It looks like cheese; it feels like cheese, kind of.

**Hon. Marlene Jennings:** But it's made from rice.

[Translation]

I thought it was a package of rice.

**Ms. Darlene Blair:** No, I'm sorry.

**Hon. Marlene Jennings:** Because there is such a product as cheddar flavoured rice on the market.

**Ms. Darlene Blair:** No. It's similar to tofu or some such thing.  
[English]

**The Chair:** I think we've got some clarity on that. We're selling a product to replace cheese made from rice.

Mr. Angus.

**Mr. Charlie Angus:** I guess the only question I'd ask about it, in that rice is fairly predominant... I personally would never buy rice and use it as cheese, but I guess people do all kinds of crazy things in this world. My concern is that the orange swath of cheddar flavour across it gives you the impression that it's cheese. Is it possible to have on the package "rice" in big letters, and then below it in smaller letters "a rice product with artificial cheddar-type flavouring"? If people still want to eat it, go ahead, but it's the big piece of orange there telling you "cheddar flavour", almost as big as "rice". If they had it printed much smaller, would that be acceptable?

● (1650)

**Ms. Darlene Blair:** Under the prohibition there would be no manner in which this product could be labelled using the word "cheddar" on the label that would allow it to be marketed.

**The Chair:** Mr. Anderson.

**Mr. David Anderson:** I just have a question on the popcorn. As Ms. Jennings pointed out, popcorn is the main ingredient, and you have butter, but you have an artificial material replacing butter. I think that's going to be captured by proposed subsection 18.1(2). It's going to affect the ability to label it, because if you didn't have the artificial flavour, you'd have all-butter flavour. You've replaced some of that butter with artificial flavour, even though you still have some natural flavour, and that is going to be captured by proposed subsection 18.1(2) as well. It's similar to what's going on with the cheese here.

**Ms. Darlene Blair:** From the way it's being interpreted, when the word "product" comes up it's the whole product.

**Mr. David Anderson:** I understand that, but your interpretation is not clear in the clause.

**The Chair:** Okay, we've had some discussion here. It's a little more confusing perhaps.

Ms. Stolarik.

[Translation]

**Ms. Kristine Stolarik:** I believe I have an answer your question about margarine, Mr. Bellavance.

[English]

We basically have an example here of a substitute with a dairy ingredient—margarine. So once again the product could be determined to be intended to substitute for butter, and it has the dairy term "whey" on the label. So marketing of the product would be prohibited under proposed subsection 18.1(2), as there are no exemptions in there to allow it.

[Translation]

**Mr. André Bellavance:** Because "whey powder" is listed as an ingredient?

[English]

**Ms. Kristine Stolarik:** Where is “whey”?

[Translation]

Yes.

**Mr. André Bellavance:** But it's listed as one of the ingredients. The product contains whey powder. Where is the problem then?

**Ms. Kristine Stolarik:** It's a listed ingredient. If you read clause 2... Do you have that provision?

**Mr. André Bellavance:** I don't see why that is not allowed, because whey powder is listed as an ingredient.

It doesn't say on this margarine tub that the product contains butter, buttermilk or some other ingredient. We see a trade mark, but there is probably some advertising as well, although we don't have all the packaging here. However, one of the ingredients listed is whey powder, and that disqualified the product. Therefore, if this ingredient is removed from the list, we no longer know what the product contains. That's unacceptable!

**Ms. Kristine Stolarik:** The current provisions require a reformulation in order for the product to be put on the market.

**Mr. André Bellavance:** The aim is to avoid misleading consumers, not to prevent them from finding out the actual ingredients in a product.

**Ms. Kristine Stolarik:** That's right.

**Mr. André Bellavance:** In my opinion, this interpretation of the act is erroneous. Nothing in the proposed amendment suggested that we were opposed to listing the ingredients in a product.

The mere mention of “whey powder, 1.4%” does not constitute advertising. There is nothing here to suggest to me that..

**Ms. Kristine Stolarik:** It's more than just advertising. A label can be defined as many things, one of which is a list of product ingredients

[English]

**The Chair:** Mr. Easter.

**Hon. Wayne Easter:** On André's point, I understand where he's coming from on it, but I think it's possible to fix it to do what our intent is as a committee and still have that information available. We have to find the fix, and I think that's possible.

**The Chair:** Let's move on.

**Ms. Kristine Stolarik:** Next is an example of a substitute with a dairy ingredient—spreadable butter blend. So the name of the product includes the dairy term “butter”. The product is intended to substitute for butter, so it would be prohibited under proposed subsection 18.1(2).

I guess it's important to note that this is not a dairy product as defined in our dairy products regulations because it contains a source of fat from canola oil. The dairy products regulations do define a dairy product as milk or a product thereof. So whether alone or combined with another agricultural product that contains no oil or fat, other than that of milk... How is that for confusion?

•(1655)

**The Chair:** Yes, Mr. Eyking.

**Hon. Mark Eyking (Sydney—Victoria, Lib.):** To me, unless I'm reading this wrong, this one is pretty well a lie, isn't it, if you read “made with fresh churned butter”, and then in the ingredients there's no butter?

**Ms. Kristine Stolarik:** There is butter.

**Hon. Mark Eyking:** But cream is not butter.

**Mr. Gerry Ritz:** It's actually canola oil added to the butter and not the other way around.

**Ms. Kristine Stolarik:** Yes, to make it spread easily.

**Mr. Gerry Ritz:** It also lasts longer.

**Mr. David Anderson:** This would not be allowed, even though the main ingredient is dairy?

**Mr. James Bezan:** It says right here “52% milk fat, 29% canola”. Over half of it is butter.

**Mr. Gerry Ritz:** Which subsection would take this out?

**Ms. Kristine Stolarik:** It will be proposed subsection 18.1(2) again, and that's because there are no exemptions underneath there. It's just a prohibition.

**Mr. Gerry Ritz:** But the majority of the product is a dairy product, is butter.

**Ms. Kristine Stolarik:** But read the subsection:

No person shall market an agricultural product that has a dairy term on the label if the agricultural product is intended to substitute for a dairy product.

**Mr. Gerry Ritz:** Black is white and white is black, and let's go to the Supreme Court, because, I mean, you can take every one here. It's crazy.

**The Chair:** Okay, let's carry on. That's a confusing one.

**Ms. Kristine Stolarik:** Yes.

Here's another interesting one. This is another example of substituting with a dairy ingredient. This is the spreadable cream cheese.

Because spreadable cream cheese contains fat or oil from a non-dairy source—vegetable oil, in this example—it's not a dairy product as defined under dairy product regulations. The product could be determined to be intended to substitute for a dairy product, and it has a number of dairy terms on it. You can see there's “cream cheese” and “milk” and “cream” on the label, and there's a little picture of a cow on there as well. So marketing this product in import or export or interprovincially would be prohibited under proposed subsection 18.1(2), the way it's written.

**The Chair:** Mr. Anderson.

**Mr. David Anderson:** I would actually like to know how the CFIA allowed this to come forward when these are the examples they're now using to prove that it doesn't function. Who is in charge of bringing this forward?

It came from the government side, clearly with somebody's approval. We had all kinds of consultation, according to the parliamentary secretary. Now we're sitting and listening to these exemptions that hurt everybody. They hurt dairy farmers, they hurt other agriculture... I guess I'd like an answer to that question. Who was in charge of reviewing this before it was brought forward?

**The Chair:** Basically, the department.

Yes, Mr. Easter.

**Hon. Wayne Easter:** Mr. Chair, I think a number of people reviewed this. We had a request come forward from Dairy Farmers of Canada under a fairly tight timeframe. That meeting was indeed public. We made amendments to that proposal on dairy labelling as it went along. We asked CFIA to review it. They did their best in terms of reviewing it.

Also, in meetings that I've had with CFIA, we asked them to review it further to make sure there were no unintended problems. They did that over the summer, and we're here today to put these forward. They are problems that can be fixed. But I think in fairness, the CFIA is here to show where there are some problems, and those can be fixed.

Mr. Anderson can say what he likes, but I think the fact of the matter is that we're trying to ensure that when the bill does finally clear the House it's not going to end up in the court system, that we're going to have truth in labelling, and that's what we're all trying to find here. If he wants to play politics with it, he can do so all he likes. It won't bother me a bit. But what we're trying to do is make sure that this is a bill that at the end of the day does what it's intended to do.

**The Chair:** Mr. Anderson.

**Mr. David Anderson:** Mr. Chair, can I just respond?

This isn't an issue of politics; it's clearly one of incompetence.

**The Chair:** Well, I'm not sure... Let's face it, I'm not going to go down that road, because basically there were never any people here who felt that we needed a bill that was going to take things off the shelf. That was never our intention. It was done with the right intentions on all sides of the House, and I think if we have a little patience here, we can come to...

Mrs. Ur.

• (1700)

**Mrs. Rose-Marie Ur:** I take exception to Mr. Anderson's statement. Yes, I brought that amendment forward, but it was unanimously accepted. So if I'm incompetent, I guess perhaps there are more sitting around this table than myself.

**The Chair:** The government of the day is not the only party that has brought forward this type of bill. Your party brought that forward on two occasions.

Mr. Angus.

**Mr. Charlie Angus:** Sir, can we just go through this and finish it? I think we need to get to the end on this, and then we can make our judgments afterwards.

**The Chair:** Ms. Stolarik.

**Ms. Kristine Stolarik:** Thank you.

The next example we have is an example of a substitute with reference to a dairy ingredient. This product is intended to substitute for a dairy product, and the label includes the dairy term "milk" in the statement "milk-free". Marketing the product in trade again would be prohibited under proposed subsection 18.1(2). As a note as well, "mozzarella" could also be considered a dairy term and the

marketing of this product in trade again would be prohibited under (2).

**Mr. Charlie Angus:** As a question of truth in advertising and calling tofu "mozzarella", I think we owe it to the people of Canada to clarify that. But among their check marks of no cholesterol, no butter fat, no milk—they're saying they don't have any milk—if they did that, would it be acceptable?

**Ms. Kristine Stolarik:** Yes, milk-free is there. That's where the arrow is pointing, and it's vegetarian.

**Mr. James Bezan:** This one also violates it under "mozzarella", being a dairy term, with their "Mozzarella Flavored Slices". That's also in violation.

**Ms. Darlene Blair:** Yes, neither the term "milk" in "milk-free" nor the term "mozzarella" in the "Soy Mozzarella Flavored" would be allowed to appear on the label.

**Ms. Kristine Stolarik:** I think the font size would have to be adjusted accordingly as well.

This one is an interesting one. It's an example of a substitute with reference to a dairy ingredient. Once again the product is intended to substitute for a dairy product and has the dairy term "cheese" on the product label. Also, what we're pointing to actually is the name of the company, Silani Sweet Cheese Ltd.

**Mr. Gerry Ritz:** Would that be kicked out? It's the registered name of a company. You could no longer tell your kids when they're little that the moon is made of cheese? They would haul you away to food court for that? This is a little overboard.

**Ms. Kristine Stolarik:** I'm just giving you something we found that could be problematic.

**Mr. Gerry Ritz:** That's just beyond the realm of ridiculous.

**Ms. Darlene Blair:** In what we were doing, quite frankly, we were looking at all the different examples of things that people brought to us or talked about, whether it was in the media, in correspondence, or in direct contact with us, to look at where these provisions as they're currently drafted could potentially have an impact. The way proposed subsection (2) is currently drafted, it allows absolutely no exception for any use of the dairy term on the label. Therefore, regardless of whether it's in a name, address, product name, or allergen statement, the term cannot appear.

**Mr. Gerry Ritz:** But (2) specifically says, "No person shall market an agricultural product...". They're not marketing a product with the name of their company.

**Ms. Darlene Blair:** *Inaudible—Editor...* on the label.

**Mr. Gerry Ritz:** But that's the name of their company.

**The Chair:** Soya cheddar, in my opinion, is in violation too, is it not? That is the greater violation in that particular advertising.

**Ms. Darlene Blair:** It's very similar to the previous one, which is why we pointed out the different usage of the term.



**Ms. Kristine Stolarik:** I just wanted to highlight that in doing our little survey over the summer, there were labels that we found that have problems both under our existing policy or legislative requirements now and with the proposed clause 65 that SCAAF reported as well. We just wanted to point out a couple for the committee's consideration.

This one shows the label of the product in English only. It would need to be relabelled to include both English and French, as required under our current labelling requirements. Also, according to our labelling policy, it is mandatory to identify the place of business on the actual label, but there's none of that on this label. Comparatives such as "better" and "superior" are also at fault, because it's right there, "Better than Sour Cream".

• (1705)

**Mr. Gerry Ritz:** Is this product actually available in Canada now?

**Ms. Kristine Stolarik:** It's actually available in Loblaws.

**Mr. Gerry Ritz:** For how long?

**Ms. Darlene Blair:** We just found it and have turned the matter over to our enforcement branch.

**Mr. Gerry Ritz:** It's the same. "Tofutti" is the same brand name as one other cheddary thing we were claiming.

**Ms. Kristine Stolarik:** I've been told it's a B.C. company, or maybe New Jersey via B.C.

[Translation]

**Mr. André Bellavance:** Are you authorized to take some action in this case?

**Ms. Kristine Stolarik:** Yes. Our operations people will be investigating this matter.

[English]

That was just one example we wanted to point out.

This is another one. This is a very special label. If you look at the back of this label—and it's kind of blurry, so I'll read it to you. It's once again in English only, but it uses comparative statements like "It tastes, bakes and spreads like rich butter but it's absolutely 100% vegan".

**Mr. Charlie Angus:** Mr. Chair, may I put on the record that I think it's an oxymoron to say 100% vegan and then say it has a buttery spread?

**Ms. Kristine Stolarik:** There are lots of strange labels like that out there. We just wanted to point that out.

**Mr. David Anderson:** May I ask a question? First of all, it's buttery, and secondly, it's a spread. What makes you come to the conclusion that they're trying to replace a dairy product with it? Because they're using the word "buttery"? You said they can use the word "buttery" as long as they're not trying to replace a dairy product. They're saying this is more like a cracker spread or...I don't know what it is. It's not a dairy product, it's not replacing a dairy product, so they can do that?

**Ms. Darlene Blair:** Actually this one is kind of like margarine. It's like a butter...you put it on your bread before you put your sandwich filling in.

**Mr. David Anderson:** But if they don't market it that way—

**Ms. Darlene Blair:** The way it is presented, and especially on the back where it says "It tastes, spreads and bakes like rich butter", it is presented as a substitute for butter and therefore would be prohibited under subsection 18.1(2).

**Ms. Kristine Stolarik:** We should have brought our products in. We have a fridge full of them, and it's quite interesting.

**The Chair:** Can you give us some guidance, from your perspective? Obviously, I think we have four parties in agreement here that we want this part of our bill to pass. We want the whole bill to pass, but certainly this amendment is something that is crucial to the passing of Bill C-27.

So where do we go from here? Obviously, we're not going to be the group doing it, but I think for all of us, as we go to the House and as we go forward...

Yes, Mr. Easter.

**Hon. Wayne Easter:** Mr. Chair, the presentation outlined some unintended concerns. The minister is well aware of these unintended concerns, and from a government perspective, they're looking at it relative to the stage the bill is at. I would say at the moment it's a work in progress, and I think the government in due course will outline its intention to try to deal with what is seen as a problem.

**The Chair:** Madam Jennings.

**Hon. Marlene Jennings:** If I understand correctly, your government and its agency are consulting with the stakeholders to come to some kind of consensus that would correct the types of unintended consequences that Ms. Stolarik, Ms. Blair, and Ms. Dudley underlined here before the committee.

So is food processing being consulted? Are they part of the discussions?

**Hon. Wayne Easter:** I can't answer that question specifically. They will be, in any event, if they're not already.

**Hon. Marlene Jennings:** Thank you.

**The Chair:** Are there any other comments?

I think Mr. Easter has outlined that this is a work in progress, but I think it was fair for this committee to hear what the CFIA had to say.

Mr. Angus.

**Mr. Charlie Angus:** Thank you, Mr. Chair.

I appreciate what we've heard. I guess we did get all-party consent to keep this forward, because our producers have wanted this for a long time. My concern is from here I don't know where we're going. I know there are a lot of people in industry who'd like to have so many exemptions to this amendment they could drive their trucks through with everything they need.

So in order to maintain this sense of solidarity with all the parties, I'd like to know what we're coming back with before I can commit my party to anything, because I am very worried. What we're seeing here today is that it's interpreted in such a close light that they're going to create all kinds of exemptions, and then everything we've created in this will become meaningless. I do not want that to happen, and I want to have a sense of assurance from people around this committee that we're going to do everything to make sure that what we intended is what is going to come out in law.

•(1710)

**The Chair:** Mr. Bellavance.

[*Translation*]

**Mr. André Bellavance:** I want to reassure my colleague that the Bloc Québécois will not fall victim to fear-mongering either. Some extreme examples have been presented to the committee. No doubt some adjustments are in order, but we need to remember that the objective here was to protect farmers who don't want products that are not butter to be labelled as such. That's basically what it boils down to and I have no wish to prolong the debate.

Another goal was to protect consumers who are entitled to know exactly what they are consuming. I have no doubt that this was the aim of this amendment. We must not lose sight of this fact and at some point, end up with an amendment that fails to accomplish what we set out to accomplish as legislators. We must avoid having so many exceptions that misleading products could still end up on our store shelves. These proposals need to be weighed very carefully, because we will stand firm where this matter is concerned.

[*English*]

**The Chair:** Well, I guess the work in progress will manifest itself as we go down the road, but I can certainly assure members on the opposition side that from our perspective, from those who put this forward, we all agreed that we wanted to do this, and we're all going to make sure that we reach our particular goal.

I have a motion that's been brought forward by Mr. Ritz with duly given notice.

Do you want this motion put forward?

**Mr. Gerry Ritz:** Yes, I do, Mr. Chair.

**The Chair:** It reads "That the Minister of Agriculture and Agri-Food be called before the Standing Committee on Agriculture and Agri-Food no later than the third week of November 2005".

I see nothing wrong with the motion. I just don't know the minister's agenda. Maybe the parliamentary secretary can shed some light on it.

**Hon. Wayne Easter:** I'm not entirely aware of the minister's agenda right up till the third week of November, Mr. Chair, but I know that the minister would come if he can at all. I think you have to consider, though, that the WTO negotiations are at a very crucial stage; he was at meetings in Geneva last week. His father's funeral was today. Even given that, he will likely be back here tomorrow. And he may potentially have to go to Geneva this week. So keep that in mind.

I think the minister will do his best to be here, but if he has to be in WTO discussions, it'll be difficult. I know this is relative to the WTO meetings, so I think we would be supportive of the motion, but let's keep in mind that things are pretty well in flux.

**The Chair:** We should point out, though, that the motion also asks for the meeting to be televised and that the minister explain the government's position on issues arising at the World Trade Organization meetings scheduled for December.

The other thing I must tell you is that he has committed to coming on November 2 to discuss CAIS.

**Mr. Gerry Ritz:** They're very much separate issues, Mr. Chair.

**The Chair:** I understand.

**Mr. Gerry Ritz:** One, of course, is domestic, and the other one has huge ramifications for state trading agencies and the supply managed system as we know it here in Canada. We're getting mixed messages of what's in, what's out, and whether we have any allies.

I think we need some stability in our marketplace here in Canada, and I think only the minister can do that by appearing before the committee. Whether it's televised or not is one thing, but it certainly cannot be in camera; it has to be a public forum. I'm sure he could squeeze us in for at least an hour in the next month. We can do an extra meeting; it doesn't have to be in our schedule. We've got one extra meeting scheduled already.

**The Chair:** We have a date set for beef trade on November 28, but that's going beyond the timeframe—

**Mr. Gerry Ritz:** Well, I'm flexible with the timeframe, too, Mr. Chair. We know he's going to be in Hong Kong the middle of December.

**The Chair:** What if we change the motion to read "before December 1"?

•(1715)

**Mr. Gerry Ritz:** That's fine. I have no problem with that. It's a friendly amendment; I have not problem with that.

**The Chair:** Then there's some flexibility to make that work within those parameters.

**Mr. Gerry Ritz:** Fine.

**The Chair:** Mr. Angus, do you have a comment?

**Mr. Charlie Angus:** If it contains "before December 1", I'm a happy man.

**An hon. member:** You're a happy man.

**Mr. Charlie Angus:** It doesn't take much.

**The Chair:** Mr. Anderson.

**Mr. David Anderson:** Mr. Chair, today in the House we heard that we have a plan in this country to deal with avian flu, a plan that's better than any other in the world. I guess I'm interested in that, and I think this committee should probably be interested in talking about that at a meeting or two and in having the officials come in to explain what their plan is to deal with it. It could be bigger than BSE if it hit.

**The Chair:** Is that a motion you're making?

**Mr. David Anderson:** Yes, it's a motion that we try to make it a priority. I know we've got a busy schedule, but the motion is that we don't put that off too long.

**The Chair:** I don't know if I can work that in, but we'll put it in with our matters of urgency that if we can work it in we will.

Mr. Angus.

**Mr. Charlie Angus:** I would like to follow up on my colleague's comment.

I think in terms of what's going on right now in the world, and the concern about avian flu, we should at least put two meetings on that before Christmas, and I think other things might have to get bumped. It is starting to emerge now and we're starting to see other countries panicking. I think we would be well forearmed if we held that meeting, and I think we need at least two.

**The Chair:** Mr. Ritz.

**Mr. Gerry Ritz:** I've got two points, Mr. Chair. First, I thoroughly support Mr. Anderson's motion. I think we could also, at the same time, get an update on that very concise report we did coming out of Abbotsford, with the seven recommendations that we asked the government to move ahead on. Maybe we could get an update as to where they are with that. If they've got this wonderful plan in place, maybe they've taken our advice and everything is done.

The second point is, are we going to vote on my motion?

**The Chair:** That's my point. I've allowed this debate to go on because it centres around our time and agenda.

Are we all understanding the motion, that Mr. Ritz has asked for the minister to appear before the committee before the first of December to deal with world trade talks, that the meeting would be televised—

**Mr. Gerry Ritz:** I'll negate the televised, Mr. Chair, if that's a factor in getting a room. It's more important that he get here, but televised would be nice.

**The Chair:** All in favour of that motion?

(Motion agreed to)

**The Chair:** We've heard the discussion regarding avian flu. It's an important issue, so let's see what we can do. Allow the chair and the clerk to see how we can frame our meetings to accommodate this, and if we have to accommodate an extra meeting, we would have to ask your indulgence to do that because we may have to do that to make it work.

Are there any further comments? No.

Thank you very much, and thank you very much, members from CFIA, Ms. Blair, and Ms. Stolarik, of course, as always, and Ms. Dudley, glad to have you with us. Hopefully when we come back next time we'll have this all resolved and we can start eating these dairy products and non-dairy products, but having full assurance that they're safe products to eat.

Thank you. The meeting is adjourned.

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