



House of Commons
CANADA

Standing Committee on Agriculture and Agri- Food

AGRI • NUMBER 024 • 2nd SESSION • 39th PARLIAMENT

EVIDENCE

Thursday, April 3, 2008

—
Chair

Mr. James Bezan

Also available on the Parliament of Canada Web Site at the following address:

<http://www.parl.gc.ca>

Standing Committee on Agriculture and Agri-Food

Thursday, April 3, 2008

•(0905)

[English]

The Chair (Mr. James Bezan (Selkirk—Interlake, CPC)): I call this meeting to order.

I want to welcome everybody to committee. We're kicking off our new study today on "Product of Canada" claims.

I want to welcome, first, from the CFIA, Debra Bryanton, executive director of the food safety directorate; and Carla Barry, acting director of consumer protection. From the Competition Bureau, we have Colette Downie, deputy commissioner of competition; Andrea Rosen, acting deputy commissioner of competition in the fair business practices branch; and Richard Taylor, deputy commissioner of competition for the civil matters branch.

Welcome to all of you. I'll open it up.

Andrea, I believe you're going to start us off with the first comments. Please keep it to 10 minutes or less.

Mr. Gaudet.

[Translation]

Mr. Roger Gaudet (Montcalm, BQ): Who is Mr. Taylor, is he a deputy minister? What does he do?

[English]

The Chair: Mr. Latimer.

[Translation]

Mr. James Latimer (Procedural Clerk): Mr. Richard Taylor is Deputy Commissioner of Competition, Civil Matters Branch, Competition Bureau.

Mr. Roger Gaudet: Thank you very much.

[English]

The Chair: Okay.

With that, Madam Rosen, perhaps you'd kick us off.

Mrs. Andrea Rosen (Acting Deputy Commissioner of Competition, Fair Business Practices Branch, Competition Bureau): Thank you, Mr. Chairman. *Bonjour, tout le monde.*

The Competition Bureau is pleased to appear today to take part in the committee's deliberations on "Product of Canada" claims. My name is Andrea Rosen, and I am the acting deputy commissioner of competition for the fair business practices branch. I am joined today by my colleagues Colette Downie, deputy commissioner of

competition, legislative and parliamentary affairs; and Richard Taylor, deputy commissioner, civil matters branch.

First I'd like to apologize on behalf of Commissioner Scott. Unfortunately, due to other commitments, Commissioner Scott is unavailable to appear before you today.

The bureau is well aware of the concerns raised by Canadians, particularly since last summer, over the labelling of food products and related health and safety concerns. The bureau is also keenly aware that consumers need accurate information in order to make informed purchasing decisions.

It is my understanding that the committee wanted the bureau to appear to discuss our *Guide to "Made in Canada" Claims*. I would like to state at the outset that the bureau's guide was developed for the purpose of assisting businesses and consumers in understanding how the bureau would likely deal with such claims when discharging our mandate under the legislation that we administer and enforce.

In my remarks today, I will briefly describe the roles and responsibilities of the Competition Bureau generally, its role with respect to labelling and, specifically, our *Guide to "Made in Canada" Claims*.

The Competition Bureau is an independent law enforcement agency. It contributes to the prosperity of Canadians by protecting and promoting competitive markets and enabling informed consumer choice. Headed by the commissioner of competition, our organization investigates anti-competitive practices and promotes compliance with the laws under its jurisdiction. We also advocate in favour of market forces to government law and policy-makers, as well as administrative boards and tribunals. Competitive markets drive innovation and investment. Innovation and investment drive productivity, and productivity is a vital ingredient of our well-being. Consumers with access to accurate information, who are able to make informed consumer choices between competing products and services, are a key part of this formula.

False or misleading representations and deceptive marketing practices do not achieve these objectives and, therefore, are violations of the legislation we administer and enforce, namely the Competition Act; the Consumer Packaging and Labelling Act, with respect to non-food items; the Textile Labelling Act; and the Precious Metals Marking Act. It is important to stress that the CPLA is administered and enforced by the bureau with respect to non-food items, and by our colleagues at the CFIA with respect to food items.

Each year, the bureau receives complaints from consumers and competitors about anti-competitive activity falling within the bureau's mandate. False or misleading representations and deceptive marketing practices constitute the area where we receive the largest number of complaints—from 10,000 to 15,000 per year. Approximately 25 of these complaints per year relate to labelling issues.

With that context in mind, I will now turn specifically to the bureau's *Guide to "Made in Canada" Claims*. As I mentioned earlier, it is important that consumers receive accurate information to enable them to make informed purchasing decisions for all products, including those that use "Made in Canada" claims in their promotion.

Generally, legislation administered and enforced by the Competition Bureau does not require businesses to put the country of origin on their products. Where businesses do make claims about their products, including for example that they are made in Canada, they must ensure that their claims are not materially false or misleading, or contravene one or more of the acts enforced by the bureau. For example, if a product is wholly made in country X and it is represented as made in Canada, this would raise an issue under the Competition Act. Moreover, if it is a non-food, pre-packaged product, it may also raise an issue for the bureau under the Consumer Packaging and Labelling Act.

Why do we have a guide? Essentially, it is to provide clarity and predictability to businesses and consumers as to the threshold at which country of origin claims may be considered to be false or misleading by the commissioner. The Competition Bureau publishes an enforcement guide for its interpretation of when "Made in Canada" claims may contravene the statutes it enforces. This guide is intended to help businesses comply with the legislation and to indicate when the commissioner is likely to take enforcement action under the laws she enforces. It is a guide only, and each situation is assessed on a case-by-case basis.

● (0910)

Now, as for the key elements of the guide, the key guideline is the one that states that 51% of the direct labour and/or material costs should be of Canadian content before a product can be designated "Made in Canada" without raising a question under our legislation.

This guideline was arrived at in the context of the realities of the Canadian market. Very often, specialized parts not produced in Canada have to be imported by Canadian manufacturers—and that's overall. Given this reality, it was felt that if the threshold relating to Canadian content were too high, most Canadian manufacturers would not qualify. This would limit the ability of Canadian manufacturers to distinguish themselves from foreign competitors and would deprive Canadian consumers who want to "shop Canadian" from obtaining helpful information. The 51% threshold also took into account the public's perception that the major part of a product should be of Canadian content for it to be called "Made in Canada".

Over the years, the guide was tweaked for the sake of clarity, to add additional detail or to respond when stakeholders raised concerns. The last significant changes to the guidelines were in 2001.

First, expenditures on overhead incurred by the producer or manufacturer relating directly to the production or manufacture of the goods, and that can be reasonably allocated to the production or manufacture of the goods, may be eligible to be factored into the calculation of whether a product meets the 51% guideline.

Second, goods wholly obtained or produced in Canada are considered Canadian, as long as these goods do not undergo any substantial transformation outside the country, resulting in a new product.

Now, genuine and serious issues such as these are often brought to our attention by our various stakeholders. The bureau always responds to the issue by researching and analyzing it and, where warranted, by consulting with stakeholders. Based on the results, we may adapt our enforcement policy, develop new guidelines, or even seek legislative change if warranted.

With regard to our "Made in Canada" guide, the bureau, to date, has not been made aware by its stakeholders, nor has it come independently to the conclusion, that its current enforcement policy on "Made in Canada" is no longer relevant to the Canadian marketplace when it comes to those matters that are within our legislative mandate. Recognizing that recent events regarding food products have raised concerns in the Canadian marketplace and with the public, the bureau has not been subject to pressures from its various stakeholders to review its enforcement policy. Nevertheless, the bureau will be acting responsively, as it has always done in the past, as exemplified by the Canadian diamonds issue.

Mr. Chairman, the bureau agrees there is a need to have accurate information on product labels, whether for food or non-food items. With respect to the matters within our purview, that is, the labelling of non-food, we are monitoring this issue. As stated at the outset of my remarks, consumers need accurate information in order to make informed purchasing decisions. If it appears there is a need to further update our guide, we will always be open to any suggestions and will follow this committee's deliberations closely.

We would be happy to deal with any questions the committee may have.

Thank you. *Merci*.

● (0915)

The Chair: Thank you very much.

Madam Bryanton.

Ms. Debra Bryanton (Executive Director, Food Safety Directorate, Canadian Food Inspection Agency): Thank you, Mr. Chairperson.

Good morning, ladies and gentlemen. We certainly do appreciate this opportunity to appear before the committee. My name is Debra Bryanton and I'm the executive director of the food safety directorate at the Canadian Food Inspection Agency. One of my divisions is the consumer protection division. Ms. Carla Barry, the acting director of that group, is here with me today.

We are here today to discuss the CFIA's work regarding "Product of Canada" and "Made in Canada" labelling of food products. As has been pointed out by the Competition Bureau, CFIA does have the responsibility for labelling policy and legislation as it relates to consumer protection in food.

With regard to the current situation, food offered for sale in Canada, whether domestically produced or imported, must meet Canadian food safety standards. Manufacturers and importers are responsible for ensuring that the materials they use, as well as the products they sell, meet all federal requirements.

Canadians have a high level of confidence and trust in foods from Canada and in Canada's food production system. We do have a world-class reputation for producing food that is good to eat, wholesome, and of a high quality. So it is no surprise that manufacturers sometimes voluntarily label their products with the claim "Product of Canada" or "Made in Canada", both in their advertising and on their labels. To help promote their commitment to Canadian jobs and the economy, companies often use words or phrases, logos, pictures, or symbols to indicate that the product is of Canadian origin.

Companies can make such voluntary declarations as long as they are true and do not mislead the consumer. These general requirements prohibiting false and misleading information on food labels and advertising are found in both the Food and Drugs Act and the Consumer Packaging and Labelling Act. CFIA is responsible for administering the provisions that relate to non-health-and-safety labelling in these acts.

As for what "Product of Canada" and "Made in Canada" mean today, our guidance to the food industry and information to consumers on how we interpret legislation relating to consumer protection are included in our *Guide to Food Labelling and Advertising*. Through that document, CFIA provides guidance to industry to better enable it to comply with the law.

Currently, the guidelines for the labelling and advertising of products of Canadian origin recommend that two basic criteria be met before manufacturers use Canadian origin statements. As with the guidance used by the Competition Bureau, these include the criteria that the last substantial transformation of the goods must have occurred in Canada, and that at least 51% of the total direct cost of producing or manufacturing the goods is Canadian. If these criteria cannot be met, companies may take the opportunity to make other voluntary statements about Canadian content; but these must be qualified with more specific and accurate claims, such as "Roasted in Canada" or "Distilled in Canada" or "Packaged in Canada". These guidelines are used by the Canadian Food Inspection Agency to help companies comply with the laws that prevent false and misleading representations about the Canadian origin of food.

When assessing voluntary "Made in Canada" or "Product of Canada" claims, CFIA takes a case-by-case approach, because we do balance all factors, taking into account the nature of the food product and consumers' expectations that may relate to that product.

We do recognize that Canada's food supply is increasingly global in nature and that Canadians are seeking clearer information about

the foods they buy. In October 2007, in the Speech from the Throne, Prime Minister Stephen Harper did make clear the commitment to enhance the safety of foods and products imported into Canada and to provide information necessary to assist consumers in making informed decisions.

Further to that, on December 17, 2007, the Prime Minister did announce Canada's food and consumer safety action plan. This is a comprehensive set of proposed measures that will make Canadians safer by legislating tougher federal regulation of food, health, and consumer products. The action plan also includes a commitment to review the government's current policies on "Product of Canada" and "Made in Canada" claims on food labels and in food advertising. More information regarding these initiatives can be found on the new website, Healthy Canadians, at www.healthycanadians.gc.ca.

Furthermore, in the budget of 2008, the government did deliver further action on this commitment by identifying \$113 million for the action plan to ensure that food safety systems evolve to meet some of these new challenges of the global market, and to provide clearer information to Canadians.

So we are taking active steps to review "Product of Canada" and "Made in Canada" labelling policies. We will be looking to that further. Any further action relating to the action plan will appear on the Healthy Canadians website.

● (0920)

In closing, we would like to thank you for allowing us to be here today. We would certainly welcome any questions you may have concerning CFIA's work in this area.

The Chair: Thank you very much.

For your benefit, one of the reasons we undertook this study on "Product of Canada" labelling is that during our agricultural policy framework study that we did last spring and continued in the fall, "Product of Canada" labelling kept coming up over and over again as a concern, not only from producers but also from consumers and other players in the industry. So I do welcome those comments.

One of the other things that came up through that study, and one of the reasons we wanted the Competition Bureau here as well, is the concern about concentration within the various levels of the agrifood chain, including at the retail level or the grocery store distribution system, and right through the entire industry. I know there's a lot of concern about that amongst our members, so I'm glad that Mr. Taylor is here so that he can answer some of those questions as well.

With that, we'll kick off our seven-minute rounds.

Mr. Easter, you have the floor.

Hon. Wayne Easter (Malpeque, Lib.): Thank you, Mr. Chair.

The chair has, I think, basically outlined the concerns that we have. I guess I should say, in the beginning, that we understand that your job is to administer the laws that you have been given. If the law doesn't give you the authority to deal with a situation the way we want it dealt with, that's not your fault. So I don't want you to think we're blaming you for the problems.

But to be quite direct, the farm sector has pretty well found the Competition Bureau, forever, to be absolutely useless in dealing with the concerns that farmers face on the farm input side. KAP, for instance, did a study of fertilizer costs, and they went to the Competition Bureau, but they might as well have walked around the block for all the help the Competition Bureau was to them. So the concentration in the industry and its impact on input costs is a real concern for the farm sector, as we feel there's potential price collusion, but because it's on the input side it seems hard to deal with.

Now, we made a recommendation about this in our June 2007 report. I don't know whether you've seen it, but we can give you a copy. We basically said that we're concerned about the domination and concentration in the agrifood chain, and we made a recommendation—and I guess the second point is perhaps the most important—that the government introduce a general administrative monetary penalty provision for abuse of dominance in any industry, which would encourage businesses in most industries to comply with the Competition Act. We felt that the Competition Act, the way it was—because something has to be almost criminal—should be changed. We suggested that the “government decriminalize the discriminatory and predatory pricing provisions in the Act in order that these practices receive a full hearing on their likely economic effects” on the industry, basically. But we'll give you a copy of that.

I don't know who can answer that, but what is your view of it? Our view is that the Competition Act doesn't work. What do we need to do to make it work for costs of inputs to the farm sector?

My second question—and Debra, you can think about this while somebody else is answering the first question—is about the definition of 51% of total direct costs. I think the definition was designed for industries that are manufacturing widgets and different parts for cars, and so on, but we're talking about food. Can anybody actually sit there and tell us that 51% of the direct costs, which really have not a darn thing to do with the product in the package, are “Canadian” and believe that's truth in labelling? When a consumer goes to the shelf and picks up a product that says “Product of Canada”, and it's the cost of the packaging, the box, the plastic around it, the labour of mixing water with it, or whatever, and it has nothing to do with the content, do you really think that's truth in labelling for the consumer who goes to the grocery store shelf?

Anyway, think about that, Debra, and tell me what we can do about it. You're a good Islander, so I wouldn't want to criticize you.

An hon. member: Oh, oh!

Mr. Wayne Easter: Now to the Competition Bureau.

• (0925)

Mr. Richard Taylor (Deputy Commissioner of Competition, Civil Matters Branch, Competition Bureau): Mr. Chair, I'll try to address the honourable member's question on concentration.

We do two things that affect, or could affect or be relevant to, concentration. The first thing is that we review mergers. Those that would lead to unacceptably high levels of concentration we challenge or adjust, pursuant to our legislation, to make sure that the excessive part of the concentration is divested to another hand.

It is true that under our act—under our legislation and guidelines—the safe harbour is at 35%. You don't have to be a mathematical genius to figure out that 35% really means there can be three companies in the sector. That is our legislation, and it's not that different from legislation around the world for certain sectors. Within that level, we enforce the act rigorously. We would have a very close look—and a strong look—at companies that would seek to get 50% or 60% of a market.

I'll use an example from the agricultural space. We spent 10 years reviewing, challenging, and getting divestitures in the grain handling industry, going back to 2001, when we put some severe restrictions on the UGG/Agricore merger. We wanted a bunch of prairie elevators—the good ones too, not the garbage ones or the old ones, but the high throughput new elevators—divested into another company's hands. And we wanted the best terminal in Vancouver divested, and it ultimately went to another competitor.

So we're aware of those issues, and we apply the merger laws rigorously in this sector.

I'll speak to one other point. The second thing that could obviously affect concentration is the abuse of dominance provision. That's when a company does become dominant or large—and again, that 35% is in our guidelines. When a company attains more than 35% of a given market, be it the fertilizer, the grain, or the slaughter industry, then certain things they might do that hurt their competitors, or stymie competition, we will take a close look at as well. And we do that.

Obviously those are two very important things we do.

The final thing, and perhaps one of the most important things we do, is that we make sure there are no agreements among competitors. I think, Mr. Chair, there was some reference to the potential of that happening. We have zero tolerance for that. It's a criminal offence: you go to jail. We have a number of ongoing investigations.

Over the years, I have gathered a list of some 100 cases that we have resolved and that involved cartels. I believe it's on our website. Many of them touched on the farm industry. I'll just mention a few. Lysine is a major ingredient that takes fat out of chickens and hogs, and it's used extensively in the rearing of hogs and chickens. That was subject to an international cartel. We stopped that. And the vitamins that were fed to animals, the bulk vitamins, were from a \$1 billion cartel. We stopped that and imposed heavy fines. So when we're aware of these anti-competitive situations, we will look at them.

Right now we're picking up a number of complaints about price differences between the U.S. and Canada—and there are price differences. Let me just tell you about some of the sectors where we are getting price differences: first of all, TVs; books; gasoline; food products of all types, such as chicken, poultry, dairy products, vegetables; barbecues; electronics; cars; ATVs; and boats. In fact, the price of virtually every product is lower in the U.S. This has been the result of an 18% appreciation of the Canadian dollar since August. Prices are moderating, and if there is any evidence—any evidence—that these price differences between Canada and the U.S. are due to a conspiracy, then we'd certainly look at that. As every product in the U.S. is now cheaper than it is in Canada—since August—I find it a little hard to believe that every product is subject to price fixing and that we don't know about it. But there is the remote possibility that people are taking advantage of these exchange rate differentials. If that's the case, we will look into it. And we are looking into certain cases where there is evidence.

● (0930)

Hon. Wayne Easter: The problem with fertilizer, though, is that it's manufactured just outside of Brandon, with Canadian natural gas and Canadian labour, and it is more expensive to buy in Canada than it is south of the border. There's something wrong with that picture.

Can you not find a way to deal with that?

The Chair: Mr. Easter, your time has expired.

I'm going to let Madame Bryanton respond briefly to your several questions.

Ms. Debra Bryanton: This will be brief.

When it comes to false and misleading claims, the legislation provides a basic prohibition on false and misleading claims. It's important there is an understanding of what government will be considering when it's evaluating a claim on a label to determine whether it's considered false and misleading. To accommodate that, we do have our *Guide to Food Labelling and Advertising*, which does put on paper our interpretation of the various claims that are being made on food labels. But more importantly, it provides advice on what would be considered a claim falling within the intent of that basic prohibition.

The current policy on “Product of Canada” claims is an old one; it's not an issue that has been looked at since the eighties. Consumer interests evolve, and of course we want to be able to respond to evolving consumer interests. So as we become aware of changing consumer interests on some of these issues, we do on occasion review policy. Based on the input we've received from consumers on our current “Product of Canada” labelling policy, this is a policy that we are looking at reviewing today.

[*Translation*]

The Chair: Thank you.

Mr. Bellavance, you have four minutes.

Mr. André Bellavance (Richmond—Arthabaska, BQ): Thank you.

Good morning. It's not every day that we can say this in Parliament, but I sincerely believe that we will manage to achieve something concrete on this issue. The proof is there seems to be

some political will, not only on the part of the government but of all parties in the House of Commons as well as the stakeholders involved, to do something to improve the way food products are labelled. Perhaps I'm naive to think that we'll really achieve a satisfactory result for everyone. I dare to believe that. Perhaps I would not have come here today or I would not have run for office if I didn't think we could change things.

This is a file that affects a lot of consumers who are entitled to know what they're buying and consuming. There's the whole economic aspect for our agricultural producers, so that their products can be properly identified and that people can make an enlightened choice to consume a local product. There's also the whole issue of food safety that is related to this labelling.

Ms. Bryanton, when you referred earlier to the Throne Speech and the budget, you stated that action had been taken in the area of food safety. I'd like to know what has actually changed. This week, there was a series of articles—you certainly read them in *La Presse* newspaper—which presented a number of cases of products from overseas which contained salmonella, bacteria, glass, metal and chemical disinfectants.

I've always felt that products entering Canada were not sufficiently scrutinized. It's often been said that the use of pesticides that are prohibited in Canada should suffice to prohibit the entry of a product grown elsewhere, even in the United States. This isn't clear. Unfortunately, this rule has never been applied to the letter. Despite what you say, perhaps the government has uttered some pious wishes about food safety and security, but I get the impression that with the seizures, the recalls... Products are being withdrawn from the shelves. Recently, it was cantaloupe, spinach, carrot juice, pear juice. Those are the examples that spring to mind. We even had trouble with pet food.

I don't know if there's been any improvement, but I'd like to hear your views on this and I'd like to know whether, in concrete terms, we're really moving toward tighter inspection of food entering the country.

● (0935)

[*English*]

Ms. Debra Bryanton: Thank you.

First, Canada does have one of the safest food supplies in the world. The food inspection systems put into place to verify the actions taken by food manufacturers and importers are based on a risk-based approach, using the history of compliance; and when we take into account that history of compliance, it can, at times, include some of our previous non-compliance data.

Now, with regard to the food safety action plan, as has been noted, the food supply has become more complex. With the globalization of the food supply, we do find there are new products and new ingredients coming in from many countries. That same environment applies domestically, where we do have consumer demand for new and different products. Both industry and governments seek to respond in this new environment to verify that the products continue to be safe for Canadians.

There are occasions when we do find problems with the food supply. If that situation did not exist, you would not need CFIA. When do find there is a problem, we find that both the Canadian industry and importers do work with us to respond quickly to these events when they occur.

Further to that, we work very closely with other governments, and if we do find a problem that emerges with regard to a particular food product, we do work with other governments to verify that actions have been put into place to address some of these risks at source.

So the action plan itself is oriented at enhancing our capacity to do that, to further ensure the safety of the food supply, and it builds on the roles and responsibilities of those engaged in our food safety system, including industry, governments, and consumers. So it looks at better identifying those areas of risk, putting in targeted measures that will help us to address those areas of risk, working with foreign governments to address risks at source, and providing more information to consumers, so they too can play a role in the safety of the food supply.

So this announcement is relatively recent, and certainly we are working very actively to be able to work towards an action plan that will realize some of the objectives the government has identified in that action plan.

[Translation]

Mr. André Bellavance: I understand that inspectors cannot taste all the products that arrive here to make sure they're all right. However, I feel that the agency should have far greater means to inspect at the Canadian border, as well as in the field, where products are being purchased abroad. We should inspect them directly on-site, perhaps even conduct random tests. Perhaps we'd be surprised to see how people in other countries grow certain products.

Let me ask you a question. Perhaps it would be better addressed to the Competition Bureau and may seem bizarre to you, but I want to understand the difference in your mind between a product of Canada and a product made in Canada. Explain to me the difference in interpretation between the two, if there is one in your opinion.

[English]

Mrs. Andrea Rosen: In our legislation, we don't oblige anyone to use either one of those two terms, but if they are using them, they have to be accurate.

Now, of the two terms, "Made in Canada" and "Manufactured in Canada", the latter is the more specific term. As long as the company that is making the claim can show that the product was actually manufactured here, that the product fulfills the 51% requirement and that its last transformation happened here in Canada, then they could certainly say either "Manufactured in Canada" or "Product of Canada".

[Translation]

Mr. André Bellavance: Yes, and what's the difference compared to the label "Product of Canada"? I'll tell you what I understand from this in French and what I feel should be done. A product of Canada that someone buys, the he will eat—not the bottle, the liquid and the cover—is a product from here. Am I mistaken, or when this is written on a product label, that is indeed what it means?

Mrs. Andrea Rosen: No, that's quite correct. One could use the terms "Product of Canada". I've seen a lot of newspaper articles lately that talk about a will to add another term that means product of Canada. We agree that this could be done, there's nothing in the legislation that prevents us from doing so.

● (0940)

Mr. André Bellavance: Does the term "Product of Canada" mean grown in Canada? Right now, when we buy a product which is labelled "Product of Canada", do we have assurance that this is grown here, that it comes from here?

Mrs. Andrea Rosen: Not necessarily. I must add that with regard to farm products, it's not up to us to issue an opinion, it would be up to the CFIA. So it would be best to put this question to Ms. Bryanton.

Mr. André Bellavance: Right now, what does it mean?

[English]

Ms. Debra Bryanton: Presently the guidance we apply as it relates to "Product of Canada" and "Made in Canada" claims is the same guidance that is used by the Competition Bureau at Industry Canada for other consumer goods. A product can currently be indicated as a product of Canada although the food ingredient in the product may not have been grown in Canada. That's under our current policy.

The Chair: Thank you very much. The time has expired.

Mr. Miller.

Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC): Thanks, Mr. Chairman.

Thank you to the witnesses who have come today. Because our time is limited, I am going to try to ask pointed questions. Try, if you can, to keep your answers brief.

One of the main things we're talking about here today is food labelling, and I very much support Mr. Bellavance and where Mr. Easter went. The grapefruit juice that I have every morning, when you pick it up, says "Product of Canada". Now, I've yet to find a place in Canada where grapefruit is grown, so there is obviously a big problem.

I want to concentrate my questioning today on the Competition Act, and in particular on the food business and how it gets down to the consumer. There's no doubt in my mind—and I think I can fairly well speak for any committee member who was here last spring when we had an in camera session with independent grocers and some other businesses—about the control that is going on in that business.

First of all, the Competition Act, as Mr. Easter said, is not working. It's either that the Competition Act people are not doing their job—and I'm not suggesting that, necessarily—or the mandate is too loose. Something is wrong; it's not doing its job.

One question I have, Mr. Taylor, or whoever wants to answer, is this. Do you believe it's okay for a huge conglomerate, e.g., Loblaw's, Sobeys, or whoever, to dictate that a small local supplier have only them as a customer? Do you think that's right?

Mr. Richard Taylor: Under the Competition Act, Mr. Chair, those kinds of exclusive dealing arrangements raise an issue when a company demands exclusivity, or not dealing with anybody else, or that they be offered the lower price or be given a price matching what they've given somebody else. Those kinds of vertical restraints that a buyer puts on a seller would raise an issue under our act if the firm is dominant.

This whole concept of dominance is a very important point to understand. It sounds bad; it sounds unfair. It sounds—

Mr. Larry Miller: It's happening.

Mr. Richard Taylor: Of course it is happening, and we know it's happening, and we get complaints about it. But the question about whether anybody is dominant, if you'd just let me finish off—

Mr. Larry Miller: If you're brief, we will.

Mr. Richard Taylor: Well, Loblaws, you may have read... There's an eight-page story. For the last 10 years, we've heard about Loblaws' dominance. They were and they are the largest grocery chain in Canada. In fact, their average national share went to about 35% at its zenith. In Ontario and Quebec it was slightly higher, because they're less represented out west. Well, if Loblaws is dominant, then I guess we have these 10-page articles trying to figure out what's wrong with Loblaws. Loblaws has not been able to translate it into higher prices, which is from our point of view what a dominant firm does.

Our role is to make sure consumers continue to get the best-priced products. When we look at the price inflation rate for groceries and at Loblaws' profitability, we see that Loblaws hasn't been profitable in three years. So if they're pushing their weight around, they're not doing a very good job of it.

Mr. Larry Miller: Okay, I just—

Mr. Richard Taylor: And their market share is now declining and is being picked up by companies such as Shoppers Drug Mart, Lawtons—which has gone into groceries—Zellers, and Wal-Mart, and a number of local stores such as, in Ottawa, Farm Boy and Produce Depot. That whole market has evolved from five years ago, when Loblaws was looking untouchable as the dominant firm in the market. It's still a big firm, but it is not dominant under our standards.

• (0945)

Mr. Larry Miller: That can be up for debate.

The one thing I want to touch on and that I think our direction is wrong on is that it's important to provide good, safe products for our consumers and at as reasonable prices as possible, but the problem in the whole system—and I think the Competition Act has a role in this—is that what we're doing, which you just emphasized, Mr. Taylor, is concentrating so much on providing a cheap product that the people producing it aren't getting anything for it, or not enough to survive. That's wrong, and our direction needs to be changed.

Do you think it's right that a Loblaws or a Sobeys—and I'm just using these names because they're common, not to pick on them—is able to charge, for example, \$100,000 or \$250,000 for a supplier to put a product on the shelf? Just yes or no; I just want to hear the answer.

Mr. Richard Taylor: That's acceptable if they're not dominant. It's no abuse of dominance. It wouldn't violate Canadian laws if they're not dominant. There are a number of other firms that are competing also for that supplier's product. The supplier that is looking at paying \$100,000 to Loblaws as a penalty could also go to Wal-Mart and try to get Wal-Mart's business, or it could go to Farm Boy, or it could go to Costco, or it could go to about a dozen other companies that sell groceries in most towns.

Mr. Larry Miller: I would say in that frame of thinking, number one, you're not really protecting the consumer around there, because that's going to get passed on to the consumer, and second, it's very detrimental to small businesses surviving, and that's important.

Large wholesalers—

Mr. Richard Taylor: I'll just point out that we do protect the consumer. It's only when there's dominance. Dominance is synonymous with a price rise—

Mr. Larry Miller: I understand that, Mr. Taylor. I just happen to disagree with that dominance part. I don't want to belabour it because we're running out of time.

Large wholesalers continually—and I know for a fact—blacklist any supplier who will sell to an independent grocer. They do. They blacklist them, make sure none of the big ones buy from them, and basically starve them out. I can give you examples, but I don't want to waste time on that.

Another thing they do is not allow independent stores or even their member stores to sell provincial beef, and in Ontario we have one of the highest food inspection regulations, I think, compared to nearly any province in the country. It's certainly close, if not at the top. Yet they won't allow them to.

What I think of that, and you tell me if I'm wrong, is that it's just basically another way to have control—i.e., a monopoly. Do you have any comments on that?

Mr. Richard Taylor: I shop at Farm Boy, and Farm Boy is a very successful local chain out of Cornwall that has about 10 stores and is growing by leaps and bounds in Ottawa. I don't know what beef it is, but they have Canadian beef. If they're having trouble getting beef, or chicken, or a major product that such a grocery store would sell, then obviously it's a problem. I'm not aware that they're having trouble. They may not be able to get every brand, but they are certainly able to have a full store.

I'd just ask you to look at Farm Boy. It's an independent grocery store run by a family in Cornwall; it's extremely successful. It's on its tenth store now. It seems to have all these products, so it has overcome these restrictions.

Mr. Larry Miller: Thank you.

I'm going to give you an example here, and I know this to be a factual one. A wholesaler, whether it's Loblaws or National Grocers, sells eggs to an independent store for \$1.19. That's the store's cost. I'm sorry, no, they buy the eggs from the egg producer at \$1.19. They sell them to the independent store at \$1.69, and then they turn around and order it to sell them at \$1.19, as a loss leader. Do you think that's right?

Mr. Richard Taylor: Again, it's a question of whether the company selling them at \$1.19 is in a dominant position. The laws in Canada don't require firms that are not dominant in competitive markets.... We don't monitor the prices to make sure every price they charge makes a profit, especially in a grocery store where there may be 20,000 SKUs. They make money on some products, they make a lot of money on some products, and they make less money on other products.

We would look at that in two scenarios. First of all, is the grocery firm that is selling one product below cost dominant? The second question we would ask is whether that firm is profitable overall. Whether it sells the eggs at a loss is not the issue; it's whether or not they make profit overall.

In the grocery business it's a well-known fact that grocery companies charge....They don't make any money on certain key products, milk, bread, and eggs being three of them—also turkeys around holiday season. They routinely discount those products and sell them below cost.

• (0950)

Mr. Larry Miller: There's a point, though, that needs to be made here. They don't lose money on them; the stores lose the money on them, sir.

Mr. Richard Taylor: Even if the stores lose money on them, they may make money up, because you buy your Coca-Cola at \$7.99 a case and you may buy your carrots at \$3 a pound, in which case overall for your \$120 bundle of goods, they may make their little margin, which is 4% or 5% in the grocery business. The question from our point of view is whether or not that bundle of goods is profitable.

Mr. Larry Miller: My point is—

The Chair: Mr. Miller, your time has expired.

Mr. Bevington.

Mr. Dennis Bevington (Western Arctic, NDP): Thank you, Mr. Chair.

It's a pleasure to be here on the agriculture committee. I'm not all that experienced with this field, but I'm interested in some of what's going on here. It seems you're looking at coming up with new ideas for labelling products in this country, and I think that's a great idea. I think the committee should be commended. Consumers are after more information all the time, and some of the changes we've seen have been great, and people are picking up on them.

One question I have is this. When it comes to labelling products in Canada, are we restricted by any of our international trade agreements about how we deal with the labelling provisions on the products in Canada?

Mrs. Andrea Rosen: There are some laws other than the Competition Act and the Consumer Packaging and Labelling Act that have an effect on how things are labelled. Country of origin issues under NAFTA are not our jurisdiction, and we don't really have the details about that. With respect to the Competition Act and the Consumer Packaging and Labelling Act, we do have jurisdiction on those.

Mr. Dennis Bevington: Could you characterize how those restrictions might work under NAFTA?

Mrs. Andrea Rosen: It's just not an area that we deal with. The reasoning behind country of origin for NAFTA versus the Competition Act or the Consumer Packaging and Labelling Act is different.

Mr. Dennis Bevington: Surely if they impact on the labelling of products, you should understand how they impact.

Mrs. Andrea Rosen: I'm not saying they impact on the labelling. I'm saying there might be definitions under country of origin that have nothing to do with the labelling. The labelling is the jurisdiction.

Mr. Dennis Bevington: Consumers might want to know how far the product travels. This is a very important thing right now with many people across the country. They want to be able to understand that the food they're eating has a low travel distance, so that it fits with their preferred lifestyle, which may be a more green or environmentally correct lifestyle with the food they're eating.

So would it be possible to understand on the label where the product is coming from, its country of origin? Are there any restrictions in that regard that you know of that would fit under our international treaties?

Mrs. Andrea Rosen: I will speak just from the Competition Act in the non-food area.

I would say that anybody who wants to put information like that on the label that is accurate would be completely in compliance with the Competition Act or with the Consumer Packaging and Labelling Act as regards non-food.

Mr. Dennis Bevington: People can put whatever they want on their label. What we ask them to put on their label is where we get into issues in terms of international treaties. Is that not correct?

Mrs. Andrea Rosen: Right. Our legislation does not require anything on the label unless people wish to do so. Then they are perfectly within their rights to do so as long as the information on it is accurate and doesn't convey a misleading impression to the consumer.

Mr. Dennis Bevington: So the 51% Canadian content that you have to have to design this "Product of Canada" label on it has nothing at all to do with any international treaties.

• (0955)

The Chair: I think Ms. Bryanton wants to add something.

Ms. Debra Bryanton: Thank you, Mr. Chair.

A labelling provision that becomes a mandatory requirement would fall under the auspices of the Agreement on Technical Barriers to Trade. Under that agreement, there are provisions that relate to identifying a legitimate objective for the measure and whether the measure is the least restrictive means to achieve that legitimate objective.

What we are talking about here today, of course, is “Product of Canada” labelling. That labelling provision is a voluntary statement that industry may want to make on food labels. The criteria we have around that, of course, would have taken into consideration any of our obligations, but being a voluntary measure, this is not something that would necessarily fall under the auspices of the Agreement on Technical Barriers to Trade. There isn't a requirement to label your products “Product of Canada”.

Mr. Dennis Bevington: So we don't have any requirements, yet I think there's some concern that we actually come up with some labelling policies that give Canadians the information directly. I think that's very important, that when Canadians buy something they understand the nature of that product.

What my colleague said about the grapefruit, I think, was brilliant. We see these things all the time. Well, you know, brilliance can show up in many strange places.

To the Food Inspection Agency, have the standards for your inspection of products—for example, fruit and vegetable products—changed in the last two years? I know we've had some laws in front of Parliament about pesticides. Has that actually been initiated or put in place now, where we've changed our standards on the quantity and quality of pesticides that are allowed on fruit products?

Ms. Debra Bryanton: Food safety standards are set by Health Canada and, for pesticide residue specifically, by the PMRA. Now, PMRA constantly reviews data and pesticide submissions, and as they review those submissions, CFIA will take action to verify that maximum residue limits that are identified are not exceeded. So we do have a very comprehensive monitoring program for pesticide residues, and as new pesticides are added to that suite, we do include them.

Mr. Dennis Bevington: Some legislation for changing the standards of pesticide products came in front of Parliament earlier on. Is that now in place?

Ms. Debra Bryanton: I'm not sure which—

Mr. Dennis Bevington: Perhaps I'm going on the wrong track here.

Ms. Debra Bryanton: This could be legislation that related to the PMRA itself. I'm not aware of any recent legislation that related to the inspection component.

Mr. Dennis Bevington: Oh, to the inspection component—

Ms. Debra Bryanton: I'm not aware of any legislation related to that inspection component.

Mr. Dennis Bevington: In terms of the ability to judge products, could you describe how any of the NAFTA provisions have changed the inspection criteria in the last number of years?

Ms. Debra Bryanton: NAFTA hasn't changed our inspection criteria. We do work very closely with our NAFTA partners in looking at food safety and other related issues. That is done on the basis of improvements to our system, so whenever there is an opportunity for cooperation among the NAFTA partners, that can take place through some of our technical working groups. But there haven't been any changes to the inspection approach that resulted explicitly from those NAFTA discussions. It's just that we do take into account discussions with trading partners.

Mr. Dennis Bevington: You wouldn't characterize any changes that have made more stringent requirements for food products through the NAFTA process.

• (1000)

Ms. Debra Bryanton: I would not, through the NAFTA process itself. The governments in our three countries are very committed to food safety, and as our health departments set food safety standards, they certainly look for the best science upon which to base those standards.

Mr. Dennis Bevington: Thank you.

The Chair: Time has expired.

Mr. Steckle, go ahead.

Mr. Paul Steckle (Huron—Bruce, Lib.): Good morning. Thank you again for appearing.

Through the chair to you, I want to pose a few questions.

From the outset I would just say that if there was such a thing as dominance, I think that we share a dominant view on the issues before us: that in both cases—both with CFIA and with the Competition Bureau—there are serious inequities that need to be corrected.

I would like to place my first question to you on the issue of truth in advertising. You would agree that we need to have truth in our advertising practices. I think we would agree. When we talk about dairy terms, do you understand what I'm referring to when I speak about dairy terms?

Ms. Debra Bryanton: Yes.

Mr. Paul Steckle: Why was there such a reluctance in terms of CFIA, Health, and other agencies—in terms of our committee a couple of years ago—to put into practice a piece of legislation that would dictate what dairy terms are and that there should be compliance with those dairy terms?

Ms. Debra Bryanton: Thank you, Mr. Chair.

First I'd like to say that we do work very closely with industry and with consumers when it comes to discussion on information that does appear on food labels. Certainly the dairy sector has been in close contact with us as it relates to the use of dairy terms and, more generally, the use of highlighted ingredients. CFIA did undertake an extensive consultation on highlighted ingredients, which did include dairy terms, and of course they did receive submissions from the dairy sector more specifically to dairy terms.

What the CFIA seeks to do is create a level playing field so that when we look at an issue that may be raised by one sector, such as the dairy sector for dairy terms, we consider that in light of other commodities and consumer expectations.

Mr. Paul Steckle: We're getting pretty soft here. I don't want to cut you off, but either we believe in the fact that terms should be clearly and explicitly given so that they're understood.... When a company like Kraft challenges the committee for taking an action in committee, in terms of putting forward part of a bill that they felt was intruding into their territory, where they threatened to pull Kraft out of Canada, it's ridiculous; it would never have happened, but this is how it impacted. This is what kind of power these people have.

When you list butter as part of the product or cheese as part of the product, there should be a requirement that at least there should be some element of that in there in terms of the way it's advertised, and that's not happening today, as we speak. And what is being done about it?

We talked this morning about taking action. Mr. Taylor has indicated they do take action when it's warranted. Sometimes we're working from guidelines rather than from principles of law, where basically a law has been broken and therefore we need to take the pecuniary action that has to be taken because of that.

I think in many cases we're sitting back and letting the big oligopolies and monopolies of this world dominate, and they are dominating. It's been said time and time again, and we'll hear it again before you leave this morning. I can go on and on.

I think we have to start looking at what we're doing and whose responsibility it is to change the way the labelling is done. If we want to say "Grown in Canada", then it should be grown in Canada. But we should have a defined descriptive of what that is: "Grown in Canada" means this.

Another question is this. Do taxes, in terms of excise taxes on wine or liquors, factor into the 51%? Those are taxes that are not put on at the end; they're put on ahead of the pricing.

Ms. Debra Bryanton: With regard to the first question, I'm trying to pull out in my mind the specific question. So I think the first question related to what is being done to enforce the provisions that relate to—

Mr. Paul Steckle: Yes, these provisions are there now; we have truth in advertising. If they're breaking the law and doing that, why are we not taking action against Kraft and others? And I mention Kraft because it's indomitable.

Ms. Debra Bryanton: Okay. What had been identified previously...we had done a consultation on highlighted ingredients. As an outcome of that consultation, we are working on a sectoral approach to identify areas that may be of concern and to work to correct some of the issues that relate to those particular sectors, and we are following up on that basis.

In general, when it comes to some of the non-health-and-safety labelling provisions, we do direct our resources to responding to complaints. Where we do find there are some issues that relate to a particular sector, we do focus more closely on improving compliance as may relate to a sector.

With regard to the second question on how the laws may be changed—a labelling issue—as with any other issue, if there is a change being considered by government, that is certainly subject to consultation, and if it is to be reflected in regulation, we follow regulatory policy following that. CFIA does follow Canada's regulatory policy very closely in looking at any potential changes to legislation.

With regard to the third question about excise tax, it is the cost of producing that product that is considered, and we don't take into account the taxes, no.

●(1005)

The Chair: Time has expired. I forgot to remind everyone that this is the five-minute round.

Mr. Lauzon.

Mr. Guy Lauzon (Stormont—Dundas—South Glengarry, CPC): Thank you very much, Mr. Chair.

Welcome to our guests. It's good to have you here, and I'm enjoying the discussion.

I think it's worthwhile mentioning that, thanks to a whole bunch of cooperation amongst a whole bunch of people, starting with our agricultural people—with the farmers—Canada has the safest source of food supply. Sometimes we lose sight of that. This doesn't mean we can't make it better, but I think it's important to appreciate that we have a wonderful food supply, a good source of food. When I go home to eat dinner this evening, there's a good chance I'm not going to get food poisoning, because I know that the quality of the food is second to none—as long as I don't cook it, I suppose; I think that's what Brian was saying.

The whole idea around "Product of Canada" labelling is to give the consumer the opportunity to make informed decisions. I think everybody is on the same page here. When I go to the supermarket, I want to be able to make an informed decision, so that I know what I'm consuming.

One of the good things about Minister Ritz, our Minister of Agriculture, is that he, I understand, has commissioned a full review of "Product of Canada" labelling. Am I correct in that? So we're going to get there. We're going to settle once and for all this labelling of Canadian product. That's a step in the right direction.

Another step in the right direction, I thought, was when, a few months ago, the Prime Minister announced Canada's food and consumer safety action plan. Mrs. Bryanton, is the \$114 million you referred to going to be part of that? Will it fund part of that? Okay.

The whole idea of the action plan, I understand, is to preserve and to strengthen—not only to keep what we have, but to strengthen—the safety of Canada's food supply. Am I correct in assuming that?

Now the million-dollar question: what has happened since December, and where are we on the progress list?

Ms. Debra Bryanton: With regard to the action plan itself, there was a discussion document posted on the healthycanadians.gc.ca website in January, and there was a consultation held with targeted stakeholders on the first phase of the action plan, which is a review of the legislation that would be required to support some of the objectives of the action plan. Involved in that targeted consultation were producer organizations, consumer groups, industry organizations, and other public interest groups.

When that document was posted on the Healthy Canadians website, there was an offer to all Canadians to forward their views concerning the discussion paper that was proposed on the website and some of the action items that were identified in it. The results of the consultation are currently being compiled, and they will be posted on the website.

Associated with that, the departments involved have been asked to put together action plans that respond to what the government has identified, and the government will make further decisions, I'm sure, in the near future.

• (1010)

Mr. Guy Lauzon: The minister has a reputation now for consulting with industry. Has the consultation you received through this been significant? Are people buying into this? Are people coming forward?

Ms. Debra Bryanton: There has been a lot of support for the objectives that have been identified in the action plan, and there have been some ideas forwarded as well on ways to achieve some of those goals, as well as some concerns expressed on some means to achieve those goals. But in general the response has been very positive.

Also, both Health Canada and the Canadian Food Inspection Agency have met with stakeholders who are interested in further discussion on the objectives of the action plan and the discussion paper, and we have received some very positive comments there as well.

Mr. Guy Lauzon: You mentioned Health Canada, which is a bit of a segue, and I appreciate your mentioning it.

My follow-up question is this. In the short time I've been part of this agriculture committee and have been working with the Minister of Agriculture, it's become very apparent that the agriculture minister and the health minister have to work very closely.

What is CFIA's relationship? How closely do you work with Health Canada to ensure and maintain the quality and the safety of our food? What kind of relationship is there? Is it working? Maybe you could elaborate a bit on how it's working.

Ms. Debra Bryanton: CFIA has a very close working relationship with Health Canada as well as with our Agriculture and Agri-Food portfolio partners.

When the Canadian Food Inspection Agency was created, there were roles identified for the Minister of Agriculture and Agri-Food as well as the Minister of Health that were consistent and that supported the health minister's role as the food safety standard setter for Canada and the agriculture minister's role on behalf of the agency in verifying that industry is meeting the standards identified by Health Canada. Because those roles are very clear, we do work very closely with Health Canada, both as they work to develop standards and as we look at ways to verify the effectiveness of industry in meeting the standards set by Health Canada.

So the working relationship is very strong.

The Chair: Thank you very much.

[*Translation*]

Mr. Gaudet, you have five minutes.

Mr. Roger Gaudet: Thank you, Mr. Chairman.

My question is for you, Ms. Bryanton, because you didn't answer the question about food safety.

In Quebec and in Canada, food inspection is very good. That's not what worries me. In Quebec newspapers—I don't know if the same

is true elsewhere in Canada—we read this week that only 2% of foods imported into Canada were inspected.

How come products from the United States, from Brazil or elsewhere are entering our country in vast quantities, when these countries are allowed to use pesticides, fungicides and herbicides that we're not allowed to use in Canada?

What are you doing about all this? Our system is 100% safe. I'm not afraid of eating any food produced in Quebec or in Canada, because I'm sure they're good. Our farmers have enough inspectors and agronomists on their backs to make sure of that.

How come foods that come from elsewhere are not inspected? This makes me furious because I get the impression that foods from elsewhere are unsafe. What is your responsibility in all this? Don't talk to me about Health Canada. It's all very nice to say there are action plans, but let's stop coming up with those and let's actually do something. This is 2008. We have to stop coming up with action plans. You are aware of the problems.

I'd like you to answer that question.

[*English*]

Ms. Debra Bryanton: Thank you, Mr. Chair.

As the member has pointed out, the provinces in Canada have also played a very important role in food safety and food inspection, that being part of the shared responsibility of the federal government and the provinces as it relates to food safety. And we certainly do congratulate the provinces on that.

When it comes to imported food products, of course that is a federal jurisdiction. The measures we have put in place verify the safety of imported foods against Canadian standards, similar to the way we verify that the Canadian industry is meeting those standards.

Those import programs are based on risk. That risk can be associated with some of the pesticides or microbial issues. It could be associated with a particular food product as well as the volume of the product, and the origin of the product may also be taken into consideration when we're doing that risk profile.

We do monitor a large number of products through our pesticide residue monitoring programs. We do hundreds of thousands of samples of these products, and that does include imported products as well as domestic. The compliance rate is very high. When it comes to pesticide residues on foods coming into Canada, the compliance rate is very high.

If there is a pesticide residue that is identified on a food product, for example, we follow up on that. We work with Health Canada to determine if there is any health risk associated with it. If there is a health risk, appropriate follow-up action will be taken, and that can include a food recall.

When we do find a pesticide residue that is of concern, we also follow up with the importer of the product, and quite frequently the country of origin as well. So if we do find an area of concern that relates to an imported product, we certainly work with the importer, because the importers are responsible for the products they bring into the country. But we may also work with the foreign government to make sure they are aware of the issue as well, and that they are taking steps to bring a product back into compliance with Canadian law.

Reference is quite frequently made to pesticides being used that are not approved for use in Canada. It is important to understand the difference between a pesticide that has not yet been presented for registration by PMRA, the Pest Management Regulatory Agency, versus a product that has been banned—it has been assessed and determined to be unsafe. If a pesticide or a veterinary drug has been assessed and is identified as being unsafe, our action is very clear and quick. We take very rigorous action on these products. If a product has not yet been assessed, there are provisions under the Food and Drugs Act and regulations that provide for a 0.1 default level. We assess the product against that default level.

When we do identify a problem area—

•(1015)

[Translation]

Mr. Roger Gaudet: Stop, you're telling me a story. That's not what I wanted.

Let's go back a bit and talk about the lead found in toys at Christmastime. These toys were sent back to China. There was no talk of doing any testing. You know that, in imported products, there are pesticides, fungicides and herbicides that we are not allowed to use in Canada. You simply have to shut the door to these products, that's all. We have Canadian and Quebec products that we do not manage to sell here because we are importing inedible products from China and the United States.

What are you doing? That is what I am asking you. You are going to be receiving another \$100 million. Food safety does not come from outside the country. At any rate, up until now, you have not proven to me that the Canadian Food Inspection Agency is doing a good job.

I have been an MP for five years, and you have been hearing the same thing for five years. This is the third time that I have sat on the Standing Committee on Agriculture and Agri-Food, and in five years, nothing has changed. Why is that?

The same thing applies to the Pest Management Regulatory Agency (PMRA). We're going to have to fire you and hire someone else. At any rate, personally, I am not satisfied with the Food Inspection Agency, particularly with respect to the inspection of foreign products. We are tough when it comes to Canadian products. It's not possible to be any tougher. But when we import foreign products, this is not important, it's free trade. Let's stop talking about free trade and defend ourselves, so that our products can be good and so that the products we eat are good as well.

Thank you, Mr. Chairman.

The Chair: Thank you very much.

[English]

Ms. Skelton, you may have the floor.

Hon. Carol Skelton (Saskatoon—Rosetown—Biggar, CPC): I have a really interesting piece of information. Mr. Miller talked about his grapefruit juice, and I see that Agriculture and Agri-Food Canada shows that over a four-year period we will have imported from China just about \$111 million worth of apple juice, non-fermented and non-sweetened concentrate.

When meeting with apple producers this year, I found out that they get less than 5¢ per apple. A child's sucker costs more than that. We're importing all this juice and concentrate from China, and our producers can't make a living. They're losing their orchards.

Mr. Miller made the point about “Made in Canada” with the grapefruits and no grapefruit. This really bothers me, because I'm seeing our producers losing their markets, and we're importing food and telling Canadians that it's “Made in Canada” or that it's a “Product of Canada”.

If you say 51% of the total cost is the guideline, why can't we say it's 51% total Canadian content? Why can't we do that?

•(1020)

Ms. Debra Bryanton: As was indicated in the action plan, the concerns and expectations of Canadians were noted, and the government did commit to a review of “Product of Canada” labelling provisions as it related to food. Certainly these types of considerations would be taken into account in review of that policy.

Hon. Carol Skelton: How many “Made in Canada” and “Product of Canada” claims are verified, and how often, and how many inspectors do you have in charge of verifying these claims? Do you have statistics?

Ms. Debra Bryanton: No, we don't have statistics on that. We can indicate, however, that we receive quite a number of consumer complaints in the run of a year.

In considering complaints related to “Product of Canada” labelling specifically, over the years we have received very, very few—probably fewer than one a year. More recently, of course, we have received a fair amount of correspondence on “Product of Canada” labelling, and consumers indicated they did have an interest in the fact that “Product of Canada” labelling did not necessarily indicate the food itself originated in Canada.

Hon. Carol Skelton: We talk about the safety of our food, and Canada is testing for BSE, or CFIA is. Are our regulations stricter than those of the United States?

Ms. Debra Bryanton: As it relates to—

Hon. Carol Skelton: Testing on our products. If you yourself looked, are our regulations tougher than the United States' regulations, in your opinion?

Ms. Debra Bryanton: I don't think I'd be able to assess whether they're tougher. We certainly feel that the regulations we have in place put us at least on an equal step with those of our trading partner.

Hon. Carol Skelton: You don't have statistics on how many letters you've received that talk about “Made in Canada” or “Product of Canada”?

Ms. Debra Bryanton: We have statistics on recent correspondence we have received that relates to consumer concerns regarding “Product of Canada” claims, yes.

Hon. Carol Skelton: Can we get those statistics?

Ms. Debra Bryanton: Yes, we can.

Hon. Carol Skelton: Will you give them to the committee for us?

Ms. Debra Bryanton: Yes. I asked about that before I came to the committee. We received just over 200 letters that related to “Product of Canada” statements. That may not sound like a lot of correspondence, but when it comes to labelling issues we receive consumer letters that relate to labelling issues on an ongoing basis at the agency. This is certainly more than we have received in the past on “Product of Canada” labelling.

Hon. Carol Skelton: Are some products checked more than others and the compliances checked more than others?

Ms. Debra Bryanton: No, there hasn't been any particular target or area identified as a result of consumer complaints.

Hon. Carol Skelton: You don't look at the import lists from all these companies with high imports and check to see what's going on with them?

Ms. Debra Bryanton: As it relates to “Product of Canada” labelling, no, we don't do that.

The Chair: Ms. Skelton, your time has expired.

For the benefit of the committee, after our study in the summer on the APF, we sent a letter off to the minister's office asking for more information on imports of products and how they're used within Canada. Canada does not collect any of that data. Once it crosses the border, it doesn't determine whether it's going for further processing, going direct to retail, going for re-exportation. None of that is taken into consideration. The resources just don't exist, and the data's not collected.

So we aren't going to be able to get that data unless we try to commission it ourselves. But I'm not sure, if the numbers aren't out there.... It would take a survey of every business that we think is bringing in product from offshore and refurbishing it into a “Product of Canada” or “Made in Canada” commodity good, which we'd have to try to track down. We don't have the resources, probably, to undertake such a big study.

●(1025)

Mr. Larry Miller: Mr. Chairman, could I have a clarification on something Ms. Bryanton said?

The Chair: Very quickly, Mr. Miller.

Mr. Larry Miller: Yes.

You said 200 letters. Would that be over a week, or a month, or how long a time period?

Ms. Debra Bryanton: That was since the summer of 2007.

Mr. Larry Miller: So it's a couple of months.

Ms. Debra Bryanton: It's about six months.

Mr. Larry Miller: Thank you.

The Chair: Mr. St. Amand.

Mr. Lloyd St. Amand (Brant, Lib.): Thank you very much, Mr. Chair.

Thank you, sir and ladies, for coming and for your cogent presentations.

We've heard numerous examples, but—only because I want to be considered brilliant by Mr. Bevington—my example is this: I buy a bunch of grapes, and they clearly have to be marked as from California, or “Product of New Zealand”, or something, as I understand it. I buy grape juice with grapes made Lord knows where, and the grape juice can say on the item “Made in Canada” or “Product of Canada”, even though the grapes are perhaps from California, New Zealand, or some such place.

That's the case, is it not?

Ms. Debra Bryanton: Yes.

Mr. Lloyd St. Amand: So I think we're of one mind here, that the “Product of Canada” and “Made in Canada” labelling is unintentionally misleading or deceitful. The proper phrasing, of course, would be “Partially Made in Canada”, “To Some Extent a Product of Canada”, or whatever.

How did this 51%, this very arbitrary figure, come about? Whoever decided and how was it decided in the first place that even if it was just the packaging that was made in Canada, it would be 51%?

Ms. Debra Bryanton: As I indicated earlier, the guidance that relates to “Product of Canada” labelling has been in place since the 1980s. Being as young as I am, of course, I wasn't involved in the consultation at the time, but—

Mr. Lloyd St. Amand: If you don't know, that's fine. You don't know.

Ms. Debra Bryanton: No. However, I was going to indicate that the Competition Bureau may have more of the history on that.

Mr. Lloyd St. Amand: Okay.

Mrs. Andrea Rosen: I'd like to say that I was there too, but I wasn't—at least not involved in this.

First of all, I'd like to say the origins occurred when the issue before the Competition Bureau was not a labelling issue, but rather a misleading advertising issue. So it could have been in any media that somebody could have made a claim of an origin, of “Made in Canada”.

At that time, the Competition Act was a criminal act, and there were no civil provisions in the act. Also, we did not have responsibility for the non-food side of—

Mr. Lloyd St. Amand: I apologize for interrupting.

You can say no or decline to answer. Would you agree that the 51%, if it was ever the appropriate percentage, should no longer be considered the appropriate percentage?

Ms. Debra Bryanton: When guidance was established, it would have been subject to extensive consultation. Certainly as government officials, we do not draw our own opinions or conclusions on that. As we enter into consultation on the issue, we are certain we will hear a lot from Canadians on that issue.

Mr. Lloyd St. Amand: That's fair.

Perhaps I could speak to whoever about this abuse of dominance. It's my impression that more and more the distribution of food in Canada is in the hands of fewer and fewer companies. Four companies now, as I understand your literature, are responsible for 75% of all grocery items sold in Canada. So it is happening. The mergers are happening for sure. And I understand that the commissioner of competition is responsible for inquiries under the act, etc. What I'd like to know is, how busy is the commissioner?

• (1030)

Mr. Richard Taylor: The commissioner for competition runs a number of units. We've talked about cartels. And we're very busy in cartels. That's agreements among competitors. They have always been the basis of any trust laws around the world. It was the first provision in Canada, well over a hundred years ago, to stop companies from price-fixing. So a lot of our resources go to that.

A lot of our resources also go to review mergers. There are hundreds of mergers a year. We want to make sure they don't lead to such high levels of concentration that prices to consumers go up.

I take your point. In fact, a hundred years ago we used to have 30 or 40 car manufacturers in North America, because it would prove profitable in economies of scale and scope. We went down to 10. McLaughlin in Oshawa went by the boards because making 500 cars a year wasn't profitable.

Our job is to promote adaptability and efficiency but not to allow concentration to get so high that prices to consumers go up. If we look at the retail food price index from 1998 to 2006, it's gone up 2.1%. The general inflation index has gone up 2.3%.

So I take your point, but I would argue that it hasn't shown up in any pernicious effects on consumers in quality, selection, or pricing.

The Chair: Your time has expired, Mr. St. Amand. I apologize.

Mr. Lloyd St. Amand: Could I ask one more question?

The Chair: One very short question.

Mr. Lloyd St. Amand: In terms of pernicious effects, though, the farmers', the Canadian producers' share of the food price has correspondingly plummeted from 1988. Is that fair to say?

Mr. Richard Taylor: I don't know that. I don't have those numbers.

The Competition Act is very much concerned about maintaining competitive markets for consumers. It's in our mission statement. It's in our whole DNA.

Mr. Lloyd St. Amand: But it's price driven. It's not expense driven, obviously.

Mr. Richard Taylor: No. That's quite true.

Mr. Lloyd St. Amand: Thanks.

The Chair: Mr. Storseth, the floor is yours.

Mr. Brian Storseth (Westlock—St. Paul, CPC): Thank you very much, Mr. Chair.

I want to follow up on some of these questions.

It is very important that we, as a committee, try to drill down and find some of the answers to some of the points that have been brought up in the discussion we had today, so forgive me if I interrupt you. I'm trying to get as many answers as I can, because quite frankly, the farmers and producers we all represent around this table feel they are not getting the results they should be getting from the Competition Bureau.

We need to find out whether or not it's a problem on your side or if it's a problem with the act itself that restricts or inhibits you from doing what we need to get done.

It seems in your conversation, Mr. Taylor, that you talk....

First, coming from a rural background, I take offence to hearing you talk about cheaper prices in the United States for things like automobiles and televisions and barbecues and things that are produced in the United States, and in any way whatsoever comparing that to fertilizer cost. As Mr. Easter said very clearly, the primary cost in fertilizer production is natural gas. In 2005-06 we had some of the lowest natural gas prices we've had in quite some time. In my riding we have an Agrium fertilizer plant, and my producers are paying sometimes double and triple what producers in the United States are paying for fertilizer. There is no comparison between barbecues and television sets.

I don't want this to be confrontational. I want to ask you this. It seems as if the two components you have in this are dominance and profitability, as you yourself have said.

Mr. Richard Taylor: That is dominance in prices. Profitability may or may not be indicative of dominance, but it can be.

Mr. Brian Storseth: In your response to Mr. Miller, you very clearly referred to the profitability of Loblaws and how it was no longer dominant.

Mr. Richard Taylor: What I would say is that if it is dominant and has monopoly power, it's not doing a very good job of exercising it.

• (1035)

Mr. Brian Storseth: Would you not agree, as you yourself have said, that as long as three companies each represent less than 35% of the market, that is not necessarily being dominant, but if profitability is thrown in as something we are looking at.... I mean, Mr. Easter, Mr. Steckle, and Mr. St. Amand could control all the food production of this country, and as long as Wayne wasn't profitable when he bought out the rest of them.... When companies are growing and consuming other companies, often they are not profitable.

It seems as if we have put a very reactive system in place, as if we wait until it's very clearly broken and then we look at doing something to change that. Would you not say that is a fair statement?

Mr. Richard Taylor: Loblaws' profitability may or may not be due to their own errors, to the entry of Wal-Mart, to the growth of Costco, to a whole lot of other factors that are changing the dynamic of our food retailing and distribution industry.

The George Morris Centre, which is a leading independent expert on agribusiness, says there is very little doubt that margins of grocery stores in Canada have declined significantly since 1999. That is not consistent with a market that is being dominated. It is consistent with a market that is growing more, not less, competitive.

Mr. Brian Storseth: Thank you very much.

Anybody who looks at the stock markets and these industries knows this industry in particular is cyclical and at times that plays as much a role in their profitability as anything else.

I want to get something straight with this "Product of Canada" labelling. It's voluntary. What exactly are you allowed to say? Are you allowed to say it's made in Canada, produced in Canada, grown in Canada? What are the restrictions on the definition?

Ms. Debra Bryanton: The guidance does not instruct industry on what to say. It indicates that if a certain statement is made, it should be truthful and not misleading and should provide some guidance.

Mr. Brian Storseth: If the statement is not untruthful it's okay, so you can say it's approved by Canada or something like that, as long as it's truthful. Are my constituents and my consumers supposed to go to the grocery store with their lawyer to figure that out? That's a very realistic question. It seems like silly, basic stuff.

According to Mr. St. Amand, we need more lawyers. I'm not sure we do, but it seems this is very deceitful. Does this legislation say this? Is this policy within CFIA?

Ms. Debra Bryanton: The legislation itself just indicates the prohibition of false and misleading claims. What the guidance does is identify certain statements that are commonly made by industry and identify what our current policy would indicate to be a statement that would be compliant with that intent.

The question was asked earlier about the current guidance and what was considered at the time. We did have some discussions on this within our own unit and do understand that, at the time policy was established, there was also a broader policy initiative that related to "Buy Canadian". Some of the objectives and some of the consumer issues at the time may be somewhat different from the consumer issues today. That's why guidance with regard to labelling is reviewed on a fairly regular basis, because it does respond to consumers and it's about what the consumer would consider to be false and misleading, as opposed to anyone else.

The Chair: Okay. Time has expired.

Mr. Easter.

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

Mr. Taylor, I believe when Mr. Miller was raising questions earlier and you were talking about Loblaw's, your answer was—and I understand this—something along the lines of making sure consumers get the best price. And that's fine. But I think where we have difficulty...and I'll use that example to explain what I mean, where our producers are in the same kind of box as independent grocers.

Somebody on the Conservative side as well mentioned the big chain stores. We've had the independent grocers before this committee, and they were so fearful that their business would be taken away from them that we had to have the meeting in camera.

The only one who could talk publicly was the executive director of the organization based in Toronto. If they don't go back to the warehouse of the chain, then they're penalized gravely, number one. That's why you don't see local Ontario product or local Nova Scotia product in some of the chain stores, because they're not allowed to do it due to the penalties, even though they're called an independent grocer.

In your descriptions of Loblaw's... Yes, get the best price, but the independent grocers find themselves under other restraints, and that is not adding to competition; that in fact is causing, I think, great problems.

We have the same thing on the farm. The Competition Bureau is geared to consumer pricing. But there are other players in that system, in the middle, who are in a uncompetitive position because of the dominance in the market, and how they exercise that dominance is not related to the pricing issue. That's what we've got to get to somehow, to make the Competition Bureau work for us and, I think, the independent grocers.

• (1040)

The Chair: This is the second time it's happened today. Things are happening in camera and are meant to stay in camera.

Hon. Wayne Easter: No, no, they know we met. There are no names named. The independent grocers said they were at the meeting.

The Chair: Just as long as it was said outside of the meeting. I just want to caution you in you making a comment.

Hon. Wayne Easter: Not a problem, Chair.

This is the other point I want to raise with you about how the Competition Bureau relates to the farm sector. Are you aware of the tied selling that occurs from a fertilizer company or someone else? I'm going to do a contract with Cavendish Farms, which is in my province, with potatoes. In order for me to get the contract, I have to buy their fertilizer or to buy my herbicides and pesticides from them, etc., or to get trade credit. So it's tied selling, and I end up maybe paying more money on that end. Is the Competition Bureau aware of that problem that exists?

Mr. Richard Taylor: Yes, we are, and we receive complaints from time to time on it. We look at those complaints seriously, and I would urge anybody with those complaints... We had a complaint a number of years ago against Monsanto for tying their canola seed to Roundup Ready herbicide. The seed would be totally unaffected by this particular brand of herbicide. Unfortunately it was a patented product, and the Competition Act can't override the patent. So they came up with the product.

But we do look at tied selling; it's one of the biggest areas we look at. If we have complaints, we'll look at them.

Hon. Wayne Easter: On the first question, do you see what I mean—the difficulty we're in, using the grocery store example, trying to have the Competition Bureau work for us?

What changes have to be made to make it possible for the Competition Bureau to work, in our instance?

Mr. Richard Taylor: I certainly see the issue, and it's an issue that is obviously of great concern to all Canadians and the bureau: that our farmers, who are deeply respected across the country and produce some of the best food at the best price, are having trouble. It is of concern to us.

The issue is the lever that the bureau has to do anything about this, when our act is about market power and making sure there's no market power excess profitability, so that consumers get the best price. We do that in all sectors: in fertilizers, in seeds, in herbicides, in grocery distribution and retailing, and in food trucking. We look and we make sure.

But our act has certain limits as to what we can and cannot do, and I've explained those. By and large, a company can have 35% of the market, and that won't raise an issue under our act. Simple math would tell you that under the Competition Act we would have a tolerance for three companies and not let it go below three.

Having said that, if somebody like a Loblaws, with over 30% of the market, were to announce tomorrow an intention to buy Sobeys, with 15%, I think we'd have a strong look at that. We would have a concern, because it goes through our concentration levels under the act.

● (1045)

The Chair: Time has expired.

For the committee's information, we are going to go in camera. We have a couple of housekeeping motions we want to deal with.

Before I let the witnesses go, I have a couple of questions for you.

Everybody is using different examples of "Product of Canada", "Made in Canada", and one that came to mind for me is "Made in Canada" or "Product of Canada" packaged olives on the shelf. We don't grow a single olive in this country, yet in grocery stores across this country we have "Product of Canada" olives in nice green jars.

You talk about truth in labelling and making sure they don't violate that. How can you call something like that a product of Canada? I guess you can under the definition of the law today.

I'm wondering, as we move forward and as this committee considers this "Product of Canada" labelling, whether it is going to require regulatory change, or does it require legislative change, especially as you look at how it affects the food industry differently from the manufacturing industry, which the Competition Bureau has to oversee? Are we looking at changes within a particular act or a particular regulation so that we can bring about the changes we're interested in?

Ms. Debra Bryanton: The current guidance is under our *Guide to Food Labelling and Advertising*. Changes to that guide would not require a change to legislation or regulation. However, we wouldn't want to preclude any result from a consultation and its outcome as to what the most appropriate tool to implement the result of that consultation would be.

The Chair: I want to go back to Mr. Taylor. You talked about dominance of power; that's one of the main criteria you use in determining whether or not we have a problem. You say that the benchmark is 35%. We know that we have in the meat packing industry in this country, especially on the beef end and the pork side, companies that have well over 50% market dominance.

How do you remedy that situation, or did the Competition Bureau actually approve the expansion of these two major players, one in pork and one in the beef sector?

Mr. Richard Taylor: To answer your second question first, we would have approved those mergers under a review. While 35% is a set guideline and is what we call a safe harbour, in certain circumstances we'll allow a merger that attains a higher market share than that, particularly when the barriers to entry into the industry are not high. It's a technical area, but we would have allowed those particular mergers.

As for their ongoing operation, were they to do something that affected a smaller competitor such as Better Beef or some of the smaller Ontario packing houses, or some of the newer packing houses that are trying to open and get off the ground, were they to try to put them out of business, that would certainly raise an issue under the abuse provision. So once they get through 35%, we have a very close watch on them.

To answer the first part of your question, were those large packing houses with high market shares in pork or beef to do things like enter into exclusives that would tie up a large grocery chain or make it difficult for smaller packing houses to make sales, we would want to look at that.

The Chair: What about tying up supply?

Mr. Richard Taylor: We would look at that too, if they looked at exclusive supply contracts with some of the larger producers of cattle, beef, and pork.

The Chair: With that, we are going to go in camera, so we're going to suspend.

I thank the witnesses for coming in.

[*Proceedings continue in camera*]

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

**Also available on the Parliament of Canada Web Site at the following address:
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :
<http://www.parl.gc.ca>**

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.