

Issue

The Competition Bureau of Canada has made changes to the *Consumer Packaging and Labelling Act*, the *Competition Act*, and the *Textile Labelling Act* pertaining to “**Made in Canada**” and “**Product of Canada**” labelling for non-food products.¹ These changes add more requirements for Canadian manufacturers who utilize these labels.

Key Message

Requirements to label a product as “Made in Canada” currently in place remain unchanged and still apply. These current requirements include:

1. The last substantial transformation of the goods occurred in Canada,
2. At least 51% of the total direct cost of producing or manufacturing the goods is Canadian.

In addition to the above, the following **new requirement** comes into effect:

3. The “Made in Canada” representation is accompanied by an appropriate qualifying statement such as “Made in Canada with imported parts” or “Made in Canada with domestic and imported parts”. This could include more specific information such as “Made in Canada with 60% Canadian content and 40% imported content”.

Requirements to label a product as “Product of Canada” include the following:

1. The last substantial transformation of the goods occurred in Canada,
2. All or virtually all (**at least 98%**) of the total direct costs of producing or manufacturing the good have been incurred in Canada.

If a product does not meet either of the criteria for a “Product of Canada” or “Made in Canada” claim, the Bureau recommends the use of a more specific term that more accurately reflects the limited production or manufacturing activity that took place in Canada. For example, “Assembled in Canada with foreign parts”, or “Sewn in Canada with imported fabric”.

These revised regulations **take effect July 1, 2010**. However, the Bureau has indicated that in the six (6) month time period following the implementation deadline, it will only consider enforcement action in circumstances of bad faith.¹¹

These revised regulations apply only to products sold within Canada, including products imported from outside Canada. Normal country of origin labelling requirements apply to goods shipped internationally.

Background and Analysis

The Guidelines are designed to assist in evaluating compliance with misleading advertising prohibitions and the identification of Canadian content requirements in the *Competition Act*, the *Consumer Packaging and Labelling Act*, and the *Textile Labelling Act*.

In the past, “Made in Canada” claims could be made as long as the product met a 51 % threshold of Canadian content and had its last substantial transformation in Canada. The new Guidelines draw a distinction between “Made in Canada” and “Product of Canada” claims.

The major change in the “Made in Canada” claim is the addition of paragraph (c). Forcing Canadian manufacturers to highlight any degree of foreign inputs is a radical change.

Under the CA, a corporation found to have engaged in conduct described in the civil false or misleading representations provision (s. 74.01(1)(a)) can be ordered to pay a maximum administrative monetary penalty of \$10,000,000 for a first order and \$15,000,000 for any subsequent order.

The new 98% requirement for “Product of Canada” claims follows on the heels of similar regulations established by the Canadian Food Inspection Agency for food products. The government decided to overhaul the labelling requirement for foodstuffs after several product recalls in 2007.ⁱⁱⁱ

The Canadian Manufacturers & Exporters (CME) indicated that several of its members have expressed concerns and have been seeking clarification with the new guidelines. The concerns expressed include:

- Transition period is too short to re-label products and/or work through their existing inventory
- Issues calculating total costs to comply with the 51% “Canadian” threshold
- How to communicate the new regulations to clients without negatively impacting business relationships
- Forcing Canadian manufacturers to mention if their products contain foreign input dilutes the value of the “Made in Canada” brand and puts Canadian products at a competitive disadvantage
- Similar guidelines have been developed for food products. The government is currently reviewing these guidelines in light of the concerns raised by the food industry. The Competition Bureau should therefore delay implementation of its guidelines for non-food products in light of the issues raised for food products.

CME has recommended that the “Product of Canada” threshold be lowered to 85%, that the “Made in Canada” qualifiers be added anywhere on the package, not necessarily next to the claim, and that the implementation period be delayed by a year.^{iv}

Addition information is available from these websites:

ⁱ Competition Bureau - [www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapj/Made-in-Canada-2009-12-22.pdf/\\$FILE/Made-in-Canada-2009-12-22.pdf](http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapj/Made-in-Canada-2009-12-22.pdf/$FILE/Made-in-Canada-2009-12-22.pdf)

ⁱⁱ Competition Bureau - www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03230.html

ⁱⁱⁱ Canadian Food Inspection Agency - www.inspection.gc.ca/english/fssa/labeti/inform/prodcane.shtml

^{iv} Canadian Manufacturers & Exporters - www.cme-mec.ca/uploads/documents/12777522067785.pdf