



Dairy Processors Association of Canada  
Association des transformateurs laitiers du Canada

# Regulatory Files Affecting Dairy

June 06, 2024

# Most Boring Presentation Title Ever!

- Years ago in the New Republic, Michael Kinsley ran a competition to find the most boring newspaper headline ever. The winner was "Worthwhile Canadian initiative"
- The runner up was: "Small earthquake in Chile; not many dead"
- I am hoping that my title “***Regulatory Files Affecting Dairy***” beat both of them!
  - I can then only surprise on the upside!



# Presentation Outline

1. Federal Regulatory Landscape
2. Snapshots of Main Regulatory Changes
  - a. some very recent good news!
3. Modified Milk Ingredients
4. Conclusion



# 1. Federal Regulatory Landscape

- The regulatory landscape governing the dairy sector in Canada is multifaceted with Health Canada and CFIA playing major roles
  - **Health Canada**
    - Establishing policies, regulations, standards related to the food safety and nutritional quality of dairy products
      - Food and Drug Regulations (FDR)
  - **CFIA**
    - Enforcement and implementation of the provisions of the FDR and Safe Food for Canadian Regulations (SFCR)
- Increasingly, **ECDC** has become involved particularly regarding regulations on environmental sustainability



## 2. Snapshot: Main Regulatory Changes

- The recent updates or amendments to federal regulations impacting the dairy sector include;
  - Front of Pack Regulations (FoPL)
  - Proposed Regulations for Marketing to Kids (M2K)
  - Vitamin D fortification in Yogurt and Kefir
  - Regulatory Modernization Initiative
  - Proposed Regulations for Plastic Packaging



## 2.1. FoPL Regulations

- A big win for the dairy industry
  - Recognition of the significant contribution of dairy products to a healthy diet;
  - Major dairy exemptions;
  - Win for the entire sector - producers-processors working together.



## 2.1. FoPL Regulations (more good news!)

- Expanded the eligibility for more dairy-related exemptions
  - **Published yesterday**
    - Lowering calcium threshold to 5% of DV regardless of the reference amount
    - More exemptions for fresh and fine cheeses



## 2.2. Marketing-to-Kids (M2K) Regulations

- Proposed policy for M2K was published in early May
  - Plans to release in CG1 in Spring, 2024
  - In parallel, C-252 is proceeding at the house





## 2.2. Marketing-to-Kids (M2K) Regulations

- Proposed M2K regulations are impacting dairy
  - Current proposed regulation only focuses on digital media/television
- DPAC continues to advocate for proposed M2K regulations to be aligned with FOPL regulations
- Health Canada is maintaining its position:
  - 1) No exemptions
  - 2) This is only the first step, more restrictions to come, including possibly on packaging
- Not opposing M2K regulation, but focusing on unintended consequences



## 2.3. Vitamin D fortification of Yogurt/Kefir

- This has been a longstanding request of DPAC
  - Final amendments came out yesterday **on proposed changes to regulations**
  - Another big win for the entire sector - producers and processors
- Until now, there hasn't been a direct mechanism for the fortification of yogurt and kefir with vitamin D
- Represents a new opportunity for dairy sector
  - 20% of the Canadian population is Vitamin D deficient
  - Yogurt and kefir are popular snacks that will provide an additional vehicle to deliver this important nutrient to Canadians other than milk



## 2.4. ECCC Regulations for Packaging

- With the growing emphasis and commitments made by Canada, ECCC has introduced several regulations that impact dairy processors
  - Proposed regulations concerning recycled content offer full exemptions for dairy product packaging
- However, dairy processors encounter numerous challenges
  - Severely limited supply of food-grade recycled resins
  - High prices for recycled food-grade polymers due to increased demand in the Canadian market
- At this stage, numerous questions remain unanswered.....
  - Regulations are at a pause because of the recent court ruling



## 2.4. ECCC Regulations for Packaging

### Politics

# Judge says Ottawa listing plastic items as toxic was 'unreasonable and unconstitutional'

Adding plastics to list of toxic substances a key step that allowed Ottawa to ban single-use plastics

### Key Points:

- Ruled that labelling of all Plastic Manufactured Items (PMI) as toxic was both unreasonable and unconstitutional
- This decision brings the future regulations for PMI into question.....



## 2.4. ECCC Regulations for Packaging

- Final Notice for Federal Plastic Registry was published in April, 2024
  - Guidance document - not a regulation
    - However, the notice impacts dairy processors with many uncertainties
      - Scope
      - Reporting obligations
- **Scope definition for plastics covers poly-fiber cartons**
  - Plastics film inside cartons
    - Fluid milk and table cream cartons



# 2.4. ECCC Regulations for Packaging

## 2. Reporting Obligations

- Impacting dairy processors with reporting obligations and raises many uncertainties
- Dairy processors has a reporting obligation to report the quantities of plastic they place on the Canadian market
  - Dairy processors do not have this data on 23 resins
  - Can delegate to Producer Responsibility Organizations (PROs) to report on our behalf - but are Pros Ready?



# FAIR WARNING: Cynical comment

- This sounds like a “gun registry fiasco” in the making, but one million times worse, because one million times more complicated

## Gun registry fiasco worsens

ALLISON DUNFIELD

PUBLISHED JUNE 4, 2003

This article was published more than 21 years ago. Some information may no longer be current.



COMMENTS



SHARE

Solicitor-General Wayne Easter was forced to defend the embattled federal firearms registry once again Wednesday when he admitted that gun owners' names may have been lost when the federal computer network crashed.

It's unclear how many names might have been lost when the registry's computer system crashed at the end of December, Mr. Easter said.

"The system went down because it was overloaded," he said after a Liberal caucus meeting Wednesday morning.



## 2.5. Regulatory Modernization

- Currently, progressing through Incorporated By reference (IBr) mechanism to facilitate updates of compositional standards
- Presents a significant opportunity for the sector to update outdated content within the regulations
  - DPAC has been actively engaged and is especially proactive in requests related to long-standing changes to compositional standards contained in the Dairy Product Standards
    - **does it makes sense that 5% dairy ingredients is allowed in Swiss and Gouda cheese, and 17% in cheddar?**
    - **what is the rationale for that?**





# 3. Modified Milk Ingredients

- A frustrating issue
- Every single industry in the world fought not to have the word the “modified” attached to its ingredients, except the Canadian dairy industry
  - Particularly true of the plant-based industry
- **Why does the Canadian dairy sector accept this?**



# 3. Broadly Two Schools of Thought

- On this issue, there should be two schools of thought in terms of the best options for Canadian dairy:

## **School of thought #1 :**

Those that think maintaining the qualifier 'modified' is good for the dairy sector. The burden of proof for this camp is to show the positive effect of the status quo on the dairy sector



# 3. Broadly Two Camps

## Schools of thought #2:

Those that want to eliminate the qualifier 'modified' [and regroup all wholesome and nutritious milk ingredients under one generic name]. The burden of proof for this group is to show the negative effect of MMI on the dairy sector.



Dairy Processors Association of Canada  
Association des transformateurs laitiers du Canada



# 3. CFIA Definitions

**Milk ingredients:** any of the following in liquid, concentrated, dry, frozen or reconstituted form, namely, butter, buttermilk, butter oil, milk fat, cream, milk, partly skimmed milk, skim milk and any other component of milk the chemical composition of which has not been altered and that exists in the food in the same chemical state in which it is found in milk

Source: [Common Names for Ingredients and Components](#)



# 3. CFIA Definitions

**Modified milk ingredients:** any of the following in liquid, concentrated, dry, frozen or reconstituted form, namely, calcium reduced skim milk (obtained by the ion exchange process), casein, caseinates, cultured milk products, milk serum proteins, ultrafiltered milk, whey, whey butter, whey cream and any other component of milk the chemical state of which has been altered from that in which it is found in milk

Source: [Common Names for Ingredients and Components](#)



# 3. Context

- DPAC discussed the origin of ‘modified milk ingredients’ and its rationale with CFIA
- Likely dates back to the 1980s, or early 1990s
  - Name likely chosen at a time when genetically **modified** foods did not exist (would have never been chosen today according to CFIA)
  - Distinction between ‘milk ingredients’ and ‘modified milk ingredients’ far from obvious at the technical/scientific level



# 3. Case in Point

According to the regulations,

- Ultrafiltered milk is a 'modified milk ingredients'
- Buttermilk is a 'milk ingredients'

Which one is more 'milk-like'?



# 3. Weakens the Competitive Position

- DPAC-commissioned survey on MMI shows that consumers prefer milk ingredients over plant-based ingredients, **but consumers also prefer plant-based ingredients over MMI in a ratio of more than 3-to-1**
  - This demonstrates that MMI put Canadian dairy products at a competitive disadvantage vs plant-based ingredients





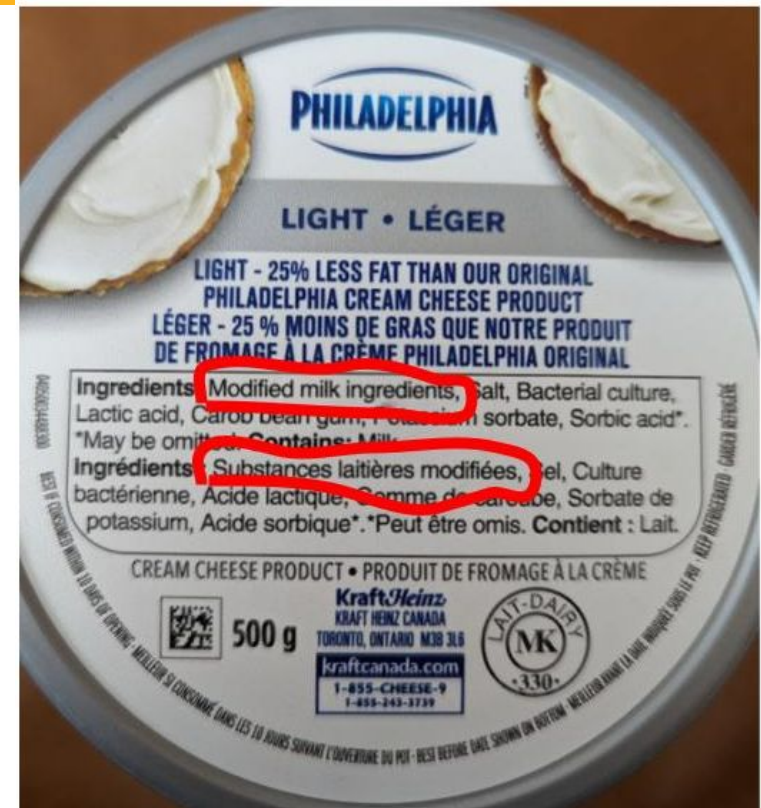
# 3. Weakens the Competitive Position

This is not a theoretical debate!



## Ingredients

PLANT BASE (WATER, BUTTER BEANS, OATS), COCONUT OIL, NATURAL FLAVOUR, AGAVE SYRUP, GUM ARABIC, SEA SALT, KONJAC ROOT POWDER, CALCIUM CITRATE, LACTIC ACID, CITRIC ACID



# 3. Misleading to Consumers and Bad for Dairy

- DPAC-commissioned survey on MMI shows that 40% of consumers think that ‘modified milk ingredients’ are genetically and/or chemically modified
  - They are neither! This confirms that MMI terminology is **misleading to consumers, and bad for the image of Canadian milk products**



# 3. Recent Developments Made Things Worse!

- CFIA now allows a lab-made component of whey protein ( $\beta$ -lactoglobulin) to be used in food, and be labelled “yeast-derived whey protein”
- CFIA did not imposed the word “modified” even though this is created from **genetically modified yeast** and only part of the whey protein is recreated in lab
- Meanwhile, nutritious, natural and wholesome dairy ingredients are called “**modified**”!!



# 3. Do I get this right?

- A component of whey protein ( $\beta$ -lactoglobulin) made in lab from from GMO yeast = this is **not** **'modified'** according to the Federal regulations
- Wholesome and nutritious whey protein from milk = this is **'modified'** as per the Federal regulations
- Wake up call for all of us, producers and processors



# 3. Harm is Self-Inflicted



**Ingredients:** Skim milk, Cream, Modified milk ingredients, Modified corn starch, Bacterial culture, Carrageenan, Guar gum, Locust bean gum, Sodium citrate.

**Ingredients**

Pasteurized milk, Modified milk ingredients, Bacterial culture, Salt, Microbial enzyme, Calcium chloride.

**Ingredients:**

cultures, salt, modified milk ingredients, calcium chloride, microbial enzyme.

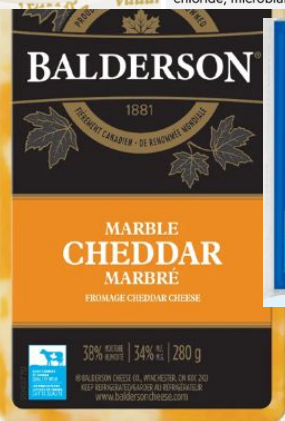


**Ingredients**

Modified milk ingredients, salt, modified corn starch, colour, guar gum, mono and diglycerides, citric acid, carrageenan, bacterial culture, microbial enzyme, carbon dioxide.

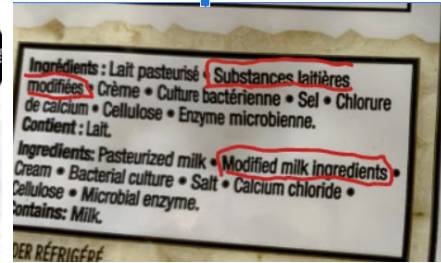
**Product Fa**

- Gluten-free
- Certified Kosher
- Pasteurized
- Available in 189g and 750g



**AGE SIRURIER**

S: LAIT  
CRÈME  
SUBSTANCES  
ODIFIÉES,  
CTÉRIENNE,  
RE DE  
ZYME



**Ingredients**

Ice cream: Sugars (sugar, glucose), Fresh cream, Modified milk ingredients, Mono and diglycerides, Carob bean gum, Cellulose gum, Guar gum, Carrageenan, Vanilla extract, Natural flavour. Wafers: Enriched wheat flour, Sugars (sugar, glucose-fructose, dextrose), Caramel colour, Palm oil, Corn flour, Cocoa, Modified corn starch, Baking soda, Salt, Mono and diglycerides, Soy lecithin.



CRÈME PASTEURISÉE À HAUTE Teneur en matière grasse avec une croûte faite avec pain de seigle et arome de vanille. Sa texture est élastique et moelleuse. Disponible en tailles de 2,5 kg, 10 kg et 25 kg.

**NUTRITIONAL FACTS**

**Ingredients**

Partly skimmed pasteurized milk, modified milk ingredients, bacterial culture, calcium chloride, microbial enzyme

\*Tous les ingrédients sont d'origine canadienne



**Ingrédients**

Lait pasteurisé partiellement écrémé, cultures bactériennes, chlorure de calcium, enzymes microbiennes.



**Ingredients:** Milk, Modified milk ingredients, Cream, Salt, Bacterial culture, Calcium chloride, Microbial enzyme, Annatto.

**Contains:** Milk.

**Ingrédients :** Lait, Substances laitières modifiées, Crème, Sel, Culture bactérienne, Chlorure de calcium, Enzyme microbienne, Rocou.

**Contient :** Lait.



**INGREDIENTS**

Specially Selected Potatoes, Vegetable Oil, Seasoning (Sugar, Salt, Dehydrated Onion, Sour Cream Solids, Corn Maltodextrin, Dextrose, Glucose Solids, Natural Flavours, Colour, Citric Acid), Dehydrated Garlic, Lactic Acid, Modified Milk Ingredients, Spice Yeast Extract, Calcium Lactate, Mono-And Diglycerides). \*For Tartness Contains Milk Ingredients

- NO TRANS FAT
- LOW IN SATURATED FAT
- NO MSG
- NO ARTIFICIAL COLOURS OR FLAVOURS
- CHOLESTEROL FREE
- NO PRESERVATIVES

# 3. We have reached decision point!

- MMI is bad for the competitive position of dairy products vs plant-based and lab-made
- MMI is bad for the image of Canadian dairy and is misleading to consumers
- It is therefore self-evident that MMI is bad for farmers, processors and consumers alike - harm is self inflicted
- Changing it is a win-win-win and is long overdue and should be a no-brainer



# 4. Grocery Code of Practices

- **A great news:** Loblaws announced recently that it supports the code
  - it also indicated that it will participate only if all major grocery retailers do support the code
- The ball is now in Costco and Walmart's court!
- We are happy that the federal government has made it clear that the regulatory option is very much on the table if all large grocery retailers are not 'in'
- Our advocacy continues for a mandatory and enforceable code



## 4. Conclusion



- We made significant progress on some long standing advocacy points in the last two years time, which benefits the entire sector (producers and processors)
- Progress have been slow and laborious on a key file where farmers' support is much needed (MMI)
- If we cannot agree on the fact that the word 'modified' is bad and misleading to consumers, is there any hope that producers and processors can agree on the more difficult issues of our time?
- MMI is litmus test for the producers-processors relationship

