

## The real cheese

## An appeal of new cheese regulations isn't surprising, as they thwart the long-term plans of large cheese makers

WHEN THE FEDERAL COURT shot down Saputo, Parmalat and Kraft's judicial challenge of Canada's new cheese regulations, a collective sigh of relief could be heard wafting up from Canada's cows. And the men and women who milk them.

The new regulations, which preserve the flavour, smell, texture and feel that consumers have come to expect from a given variety of Canadian cheese, require a minimum fluid milk content of 100 per cent in Canadian cheddar, 95 per cent in soft cheeses, 83 per cent in other cheeses and 63 per cent in pizza mozzarella. Products that do not meet these thresholds can of course still be produced, but must be called something other than "cheese".

In his 53-page Reasons for Judgment released Oct. 9, The Honourable Mr. Justice Martineau did not mince words: He found the new regulations "in pith and substance, laws related to interprovincial and international trade" consistent with federal legislative authority over trade and commerce. That they "fall squarely under clear and explicit regulation making authority" of the federal government through the Canadian Agricultural Products Act and the Food and Drug Act. And that they "are, in all respects, constitutionally and legally valid."

No equivocation there. And we all hoped that would be the end to it. But no such luck. In a Notice filed with the Federal Court on Nov. 6, Saputo and Kraft appealed the decision. A hearing is expected in late spring or early fall.

In their submissions, the processors argue the new cheese regulations boost costs, raise prices for

consumers and threaten the viability of Canada as a cheese-making country. In response to questions from the Canadian Press, Lino Saputo Jr. said he feared the technology developed by his company to "improve the quality and consistency of its product" will not be applicable under the new rules.

Translation? In the past decade, technological advances made it possible to separate protein constituents (isolates) from fluid milk. Produced in low-cost countries and imported tariff free, these cheaper derivatives began quickly replacing fluid milk in the manufacture of cheese by transnational giants



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Kraft. Parmalat and Saputo. Canada's new cheese regulations put a stop to that.

Now head of the company started by his father in the 1950s to supply mozzarella to the Montreal market, Lino Saputo Jr. does not take lightly to having the Canadian government tell him what to do.

Canadians eat a lot of cheese. Almost 13 kilograms a person in 2008, up 16 per cent over the past two decades. It's a secure market. Using cheap offshore protein derivatives boosts margins, adding to the company's bottom line. This alone is likely sufficient to justify the business case for an appeal. But there is more at stake here...

Four players dominate the domestic cheese market. Saputo has just under 30 per cent of the Canadian market. U.S.-based Kraft and Quebec-based Agropur each have a roughly 20 per cent market share, and Italian-owned Parmalat has another 10 per cent. (As a farmer-owned cooperative, Agropur supports the new cheese regulations.)

Saputo is by far the biggest. From a 25-pound-a-day Montreal mozzarella factory in the 1950s, Saputo has grown to become North America's fourth largest dairy processor, supplying milk, cream, sour cream, yogurt, cottage cheese and bakery products to retail, food service and industrial markets.

In 2001, Saputo acquired Dairyworld Foods, an amalgamation of several provincial dairy cooperatives, giving them a dominant presence in the Canadian market. By 2004, through a growth strategy based largely on take-overs and acquisitions, Saputo operated 47 dairy plants in Canada, Argentina, Germany, the U.K. and the U.S.

2008. Saputo purchased Ontario's Nielsen Dairy for \$465 million and is currently a rumoured Cheese and Butter.

Commenting Dec. 10 of this year in the Montreal Gazette, industry analyst Michael Van Aelst observes that acquisition of the Australian plant is "one of Saputo's top strategic priorities" since it would "add a stable and large source of low-cost raw milk to make cheese and other dairy products for international markets."

On Sept. 30, Saputo reported quarterly profits of \$94.5 million, up a whopping 37 per cent from year earlier levels.

## **GET THE PICTURE?**

Get rid of the domestic cheese regulations and Canada becomes part of the borderless world where lowest-cost products can be sourced foreign subsidiaries imported wherever they are needed

bidder for Australia's Warrnambool to meet demand. With 37 per cent of domestic raw milk destined for cheese production (versus 39 percent sold as fluid and 24 per cent as ice cream, butter and yogurt), the impact of a reversal on appeal would be devastating for Canada's dairy farmers.

> And the replacement of fluid milk with off-shore protein derivatives doesn't end with cheese. Check out the next dairy case you pass and you will find that chocolate milk, beloved beverage of the young and the youngat-heart, has over the past two years morphed into "chocolate milk drink" made with modified protein constituents and containing as little as 51 per cent fluid milk.

> Dairy Farmers of Canada's "little blue cow" logo assures consumers that the dairy products they consume are 100 per cent fresh milk from 100 per cent Canadian cows. 0



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