Labelling of your products in Canada, and particularly Quebec: don't forget to translate!

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Our clients from outside the province of Quebec often ask us the following questions: what are the linguistic labelling requirements in Canada, and particularly Quebec? There are several statutes and regulations governing labelling in Quebec and Canada. The following is a summary of some of the major points relating to the use of the French language.

RULES APPLICABLE THROUGHOUT CANADA

COMPULSORY INFORMATION

The *Consumer Packaging and Labelling Act*[1] as well as the *Consumer Packaging and Labelling Regulations*[2] provide that the following three pieces of information must appear on the labels of all prepackaged products throughout Canada: the identity of the product, the net quantity of the product, and the identity and principal place of business of the dealer. The statute and regulation also provide that this information must be set out in both official languages, i.e. English and French. There is one exception to this rule: the identity and principal place of business of the person by or for whom the prepackaged product was manufactured, processed, produced or packaged for resale may be indicated in either official language.

It is important to note that where there are one or more surfaces on the label of a prepackaged product that are of the same size and prominence as the principal display panel, the identity and net quantity of the product may be shown on the principal display panel in one of the official languages only, but only if that information is shown in the other official language on one of those other surfaces.[3]

With respect to imported goods, the above-mentioned statute and regulation state that where a product is wholly manufactured outside Canada, the product label must contain the identity of the product, the net quantity of the product, as well as the name and place of business of a Canadian dealer preceded by the words "imported by / importés par" or " imported for / importé pour"; or the statement of geographic origin in the space adjacent to the declaration of the identity and place of business of the foreign dealer; or the identity and place of business of the foreign dealer.

ADDITIONAL INFORMATION

Under the federal legislation, it is not necessary for the additional information appearing on the label (user instructions, advertising claims, or a food recipe, for example) to be indicated in both official languages, although the Competition Bureau encourages companies to set out all information in both languages whenever possible.

USE OF A LANGUAGE OTHER THAN FRENCH OR ENGLISH

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Languages other than English and French may appear on a label, on condition that the compulsory information is shown in the two official languages. In addition, it is important that all the information appearing on the label is true and not misleading, regardless of the language used.

FOOD AND DRUGS ACT[4]

AND FOOD AND DRUG REGULATIONS[5]

The *Food and Drugs Act* and *Food and Drug Regulations* also require certain information to be indicated on the label for a food. Except for a few specific exceptions, all the information that must appear on a food label under that regulation must be set out in both official languages, such as the list of ingredients, nutrition facts table, and net quantity.

The following are some of the exceptions: the common names of certain alcoholic beverages may appear in only one of the two official languages if such name is indicated on the principal display panel in the manner prescribed by regulation; the same exception applies to certain special foods (communion wine and wafers sold to religious institutions, for example) and certain local foods in specific circumstances.

SPECIFIC RULES IN QUEBEC

COMPULSORY USE OF FRENCH ON SIGNS AND POSTERS

While the federal statutes and regulations only require some information to appear in both official languages, the Quebec provincial legislation is more severe with respect to the use of French on the labelling of a product sold in Quebec. Indeed, the *Charter of the French Language*, in force throughout the province of Quebec, requires that every inscription on a product, its container or wrapping, or on a document or object supplied with it, including the directions for use and the warranty certificates, must be drafted in French. This rule also applies to menus and wine lists. However, a language other than French may also be used, provided that no inscription in the other language is given greater prominence to those written in French.

EXCEPTIONS TO FRENCH SIGNS AND POSTERS

Despite the aforementioned general rule, the *Regulation respecting the language of commerce and business* provides that an inscription on a product may be written only in a language other than French in certain cases, such as the following: a product from outside Quebec that has not yet been marketed in Quebec and is being exhibited at a convention, conference, fair or exhibition; an inscription embossed on a tire; the name of a firm established exclusively outside Quebec; the denomination of an exotic product or foreign specialty; and finally, a recognized trademark within the meaning of the *Trade-marks Act*, unless a French version has been registered.

A recent judgment of the Superior Court[6] confirmed that retailers may display their trademarks in English if no French version has been registered, without adding a description of the trademark in French. This judgment arose out of a motion for a declaratory judgment brought by Best Buy Canada Ltd., Costco Wholesale Canada Ltd., Gap (Canada) Inc., Old Navy (Canada) Inc., Guess ? Canada Corporation, Wal-Mart Canada Corp., Toys “R” Us Canada Ltd. and Curves International, Inc. Indeed, although the retailers involved in this action had not registered a French version of their trademarks, the Office québécois de la langue française wanted them to add a description in French of their trademark, such as "Boutique Old Navy". The judge found that firms are under no such obligation, but nothing prevents them from adding a description in French to one of their trademarks in English, if they so wish, as many firms already do on a voluntary basis.

CONCLUSION

Although product labelling may seem quite simple, there are numerous rules to be complied with relating for example to linguistic aspects, print size to indicate certain information, specific features for alcoholic products or standardized container sizes for certain products (facial tissue, peanut

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butter, wine and glucose syrup or sugar syrup), to name just a few. Thus, one can never be too careful, and we would strongly advise that you contact a professional to ensure that your labels are in compliance when you do business in Quebec

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[1] R.S.C. (1985), c. C-38.

[2] C.R.C., c. 417.

[3] Section 6(8) of the *Consumer Packaging and Labelling Regulations*.

[4] R.S.C. (1985), c. C-38.

[5] C.R.C., c. 870.

[6] *Magasins Best Buy ltée et al.* c. *Québec (Procureur général)*, 2014 QCCS 1427.

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