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Regulatory Affairs - Focus on Food, Drug & Health Products

A. Chandimal Nicholas

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Regulatory Affairs is a quarterly round-up of recent items of interest along with new and timely updates – is brought to you by our Regulatory Group.

In this edition: This edition of Regulatory Affairs looks at key developments in regulated product industries such as food, pharmaceuticals, other health products, alcohol, and cannabis among others.

Join Us!

Webinar – Health Check: Hot Topics in Food, Drug and Health Product Regulation

Join us on Thursday, October 12, 2023, as experts from our Regulatory Law Group provide an overview of recent legal trends and offer pragmatic insights on food, drug, and health product regulatory law, including:

- Health Canada guidelines on supplemented foods and fortified foods
- Use of AI in health product development
- Handling on-site inspections by certification bodies and regulators
- Proactive incident report/recall strategies, mitigating mass tort/class action risk
- Compliance in emerging fields (record-keeping, regulator contact)
- Restrictions on advertising to children
- Front of package labelling regarding salt, fat, or sugar
- Bill 96 amendments to the Charter of the French Language

As a national leader in food, drug and health product regulatory law, Cassels offers decades of experience advising clients across Canada on a full spectrum of regulatory law matters and is uniquely positioned to provide a comprehensive yet nuanced update that participants require in 2023.

This event will be presented by Jeremy Martin, Jennifer McKenzie, and Chandimal Nicholas.

Register to attend here.

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Cassels in the News

Cassels Regulatory Lawyers Recognized Among the Best in the Country by Best Lawyers 2024 >

80+ of Cassels lawyers across 30 practice areas, including members of our Regulatory team, have been named to the 2024 edition of *Best Lawyers in Canada* including Jennifer McKenzie and Jeremy Martin.

Cassels Lawyers Ranked Among Canada's Best by Lexpert's 2023 Directory >

75+ of Cassels lawyers, including members of our Regulatory team, have been recognized as leaders in their field in the 2023 edition of the *Canadian Legal Lexpert Directory.*

Cassels Contributes to WTR's Americas Trademark Prosecution Review >

Cassels contributed to the 2023 edition of WTR's Americas Trademark Prosecution Review. The first edition of the WTR Americas Trademark Prosecution Review takes a wide-ranging view of the best strategies to follow across the Americas to secure trademarks, with a focus on the prosecution landscape in specific key markets.

In Case You Missed It

The Landscape of AI Regulation in Canada >
Bernice Karn | A. Chandimal Nicholas | Eric Mayzel | Michelle McKinnon | Marco Ciarlariello | Rheanna Geisel | Brock Melnyk

An overview of the areas of the economy where the use of artificial intelligence (AI) may be important for Canadian businesses in the near future, and a look at the challenges of AI regulation.

Changes to List of Comparator Countries Used to Assess Pricing of Patented Medicines Affirmed on Appeal >
Mark Davis | A. Chandimal Nicholas | Kassandra Shortt

The Federal Court of Appeal's decision in *Innovative Medicines Canada v Canada (AG)* confirmed the scope of the Governor in Council's power to regulate excessive pricing of patented medicines. Specifically, the Court affirmed the validity of amendments to the list of comparator countries to be considered by the Patented Medicine Prices Review Board (PMPRB) in assessing whether prices are excessive — even though

the amendments extended beyond the mandate of the PMPRB to the ancillary purpose of cost savings.

No Need to Speculate; Injury Required: Ontario Superior Court Dismisses Certification in Proposed Product Liability Class Action >
Jordanna Cytrynbaum | Jeremy Martin | Danielle DiPardo

On August 12, 2022, the Ontario Superior Court of Justice dismissed the plaintiffs' motion to certify a proposed class action against manufacturers of valsartan: a blood pressure medication.The plaintiffs alleged that the defendants' products were negligently manufactured because they contained N-nitrosodimethylamine and N-nitrosodiethylamine (two molecules allegedly identified as being potentially carcinogenic) and sought to certify the class action on behalf of all persons who had been prescribed the defendants' valsartan products by their physicians.

Trends in the Alcohol Industry and How They Are Regulated >
Jennifer McKenzie | A. Chandimal Nicholas

The alcohol industry is adapting to changing consumption patterns, and the increased desire among consumers for more information about what they are drinking. This article discusses two recent trends in the industry – including traditional "food" types claims and no & low alcohol alternatives – and looks at how these trends are regulated.

A Bite-Sized Update on the New Restrictions on Advertising Food to Children >
Jennifer McKenzie | Eric Buist

Canadian advertisers are facing new restrictions on advertising food to children on two fronts: regulatory and self-regulatory.

Trademarks in Québec: No News Is Not Good News >
Jennifer McKenzie | Sebastian D. Beck-Watt

There are many unanswered questions about the practical application of amendments to the *Charter of the French Language*, leaving trademark owners who conduct business in Quebec uncertain as to how best to prepare.

Health Canada Announce the Independent Review of the *Cannabis Act* – Considerations for the Promotion Provisions >
Jennifer McKenzie

One of the many aspects of the *Cannabis Act* expected to undergo review are the sections on the promotion and advertising of cannabis.

Canada's Ban on Six Categories of Single-Use Plastics Means Significant Change for the Retail and Foodservice Industries >
Jennifer McKenzie

In 2022, the Canadian federal government enacted *Single-use Plastics Prohibitions Regulations* which prohibit the manufacture, import, sale, and export of the six categories of single-use plastic – or SUP – items.

New Mandatory Front of Pack Symbol for Foods High in Saturated Fats, Sugars, and/or Sodium >
Jennifer McKenzie

Regulations announced in 2022 require most prepackaged foods sold in Canada that are high in saturated fats, sugars and/or sodium to display a "front-of-package nutrition symbol." Health Canada has given the food industry to January 1, 2026, to comply.

Team News

The Cassels Regulatory Group Welcomes Carly Valentine to the Team

Carly Valentine (she/her/hers) is an associate in the Litigation and Regulatory Groups at Cassels. Carly will assist the Regulatory Group with a variety of matters including matters related to the food, beverage, and consumer product industries.

Prior to joining Cassels as an associate, Carly studied communications and worked in brand marketing. She is excited to translate her previous experiences to contribute to the Regulatory Group's work and to assist in advising clients navigate regulatory landscapes.

Hot Topics in Aboriginal and Regulatory Law Seminar

On September 20, 2023, experts from our Aboriginal Law and Regulatory Groups hosted a webinar on "Hot Topics in Aboriginal and Regulatory Law." This webinar provided an overview of recent legal trends and pragmatic and contextualized insights on a variety of critical topics including Canada's UNDRIP action plan 2023-2028, trends in the electricity and decarbonization agreements, strategic and legal considerations when pursuing judicial review, unique issues in Aboriginal Title litigation, reporting obligations under the *Extractive Sector Transparency Measures Act*, and recent cumulative effects and trends in the context of consultation and accommodation. Feel free to contact us for more information about this presentation.

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The Cassels Regulatory Group brings expertise in connection with a variety of industries that are regulated by Health Canada or at the provincial level, as well as issues of compliance, trade, and licensing in those industries. Our Regulatory Group also advises and advocates for clients in these industries acting as a trusted advisor to ensure their products reach the Canadian market and remain compliant.

For more information, please contact any member of our team. We're here to help.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.