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Paper for the House Committee

**Final report of the Subcommittee on
Food and Drugs (Composition and Labelling)
(Amendment: Requirements for Nutrition Labelling and Nutrition Claim)
Regulation 2008**

Purpose

This paper reports on the deliberations of the Subcommittee on Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008 (the Amendment Regulation).

Background

2. The existing legislation in Hong Kong does not provide for any specification on nutrition information on food labels. The formats of nutrition information presented on the labels of prepackaged food now available in the local market are not consistent.
3. After having briefed the Food Safety and Environmental Hygiene Panel (the FSEH Panel), the Administration launched a consultation exercise on nutrition labelling scheme in November 2003. Under the Administration's proposal, the mandatory labelling scheme on nutrition information would be implemented in two phases. In Phase I, food suppliers who chose on a voluntary basis to carry nutrient-related claims and other nutrition information on their prepackaged food would be required to list out the contents of energy plus nine core nutrients (i.e. protein, carbohydrates, total fat, saturated fat, cholesterol, sugars, sodium, dietary fibre and calcium). Other nutrition information might be listed on the labels voluntarily, but the amounts of any such nutrients listed must be declared. A two-year grace period would be allowed for the implementation of Phase I. In Phase II, the statutory requirements would be extended to all prepackaged food regardless of whether they carried nutrient-related claims or not. Implementation of Phase II would take place three years after the implementation of Phase I.
4. When the FSEH Panel met with representatives of the food trade, the medical sector and consumers/patients groups in April 2003 and February 2004 to gauge their

views on the Administration's proposed nutrition labelling scheme, most deputations from the food trade requested a longer grace period for the implementation of Phase I (voluntary nutrition labelling) and considered the proposed mandatory "one plus nine" nutrition labelling scheme in Phase II too stringent. The Administration subsequently engaged a consultant to conduct a Regulatory Impact Assessment (RIA) to study the various options for implementing nutrition labelling in Hong Kong.

5. In April 2005, the Administration briefed the FSEH Panel on its revised proposal under which there would be a mandatory "one plus five" labelling scheme in Phase I with a two-year grace period and a mandatory "one plus nine" labelling scheme in Phase II with a grace period for another two years. Members of the FSEH Panel noted that the majority of submissions received during the public consultation exercise were in support of the proposed labelling scheme on food nutrition and the results of RIA also showed that there would be net economic benefits to Hong Kong in implementing the proposed nutrition labelling scheme. Most members considered it unnecessary to adopt a two-phased approach for full implementation of nutrition labelling scheme. Some members urged the Administration to adopt a one-step approach to require the labelling of energy and nine core nutrients, subject to a grace period of two or three years. Most deputations from the food trade, however, considered the Phase II requirements too stringent, as other countries such as Australia and Japan only required the labelling of five to seven core nutrients.

6. In December 2007, the Administration briefed the FSEH Panel on its legislative proposal to introduce the mandatory "one plus seven" nutrition labelling scheme with a two-year grace period. While members in general were supportive of the introduction of the scheme, they had raised various issues relating to the implementation of the scheme. These issues included the format for expression of energy and nutrient value in food labels, the duration of the grace period before the commencement of the scheme and matters relating to the implementation of the small volume exemption.

Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008

7. The Amendment Regulation was gazetted on 3 April 2008 and tabled in the Legislative Council on 9 April 2008. It amends the Food and Drugs (Composition and Labelling) Regulations (Cap. 132 sub. leg. W) (the Principal Regulations) to introduce a nutrition labelling scheme for prepackaged food and to impose controls over certain nutrition claims made on the label of, or in any advertisement for, prepackaged food. The nutrition labelling scheme does not apply to infant formula, food for infants and young children and other food for special dietary uses. The principal amendments are summarized below -

- (a) all prepackaged food, other than items exempted, is required to be marked or labelled with a list of nutrients in a prescribed format (the

nutrition facts panel). The list of nutrients will set out the energy value of the food, the content of seven core nutrients, namely, protein, total carbohydrates excluding dietary fibre, total fat, saturated fatty acids, trans fatty acids, sodium and sugars, as well as the content of any nutrient for which a nutrition claim is made on the label of, or in any advertisement for, the food;

- (b) where a nutrition claim on the label of, or in any advertisement for, a prepackaged food is made in relation to any type of fat contained in the food, the content of cholesterol contained in the food is also required to be set out in the list of nutrients;
- (c) the items of prepackaged food that are exempt from the above nutrition labelling requirements are set out in Part 1 of Schedule 6 to the Principal Regulations. These exempt items include prepackaged food sold at a catering establishment which is usually bought for immediate consumption, prepackaged food which is fresh or raw in nature without any addition of ingredient and prepackaged food packed in a container which has a total surface area of less than 100 cm²;
- (d) the Amendment Regulation also provides for a small volume exemption scheme for food products under which the Director of Food and Environmental Hygiene (the Authority) may grant an exemption in respect of any prepackaged food from the nutrition labelling requirements if the Authority is satisfied that the annual sales volume of food of the same version in Hong Kong would not exceed 30 000 units; and
- (e) in addition to the listing of energy plus seven core nutrients and the nutrients for which a nutrition claim is made, food traders may, on a voluntary basis, include in food labels information of other nutrients which are not required to be labelled under the law, provided that such information is not false, misleading or deceptive.

8. The scrutiny period of the Amendment Regulation has been extended from 7 May 2008 to 28 May 2008 by a resolution of the Council. The Amendment Regulation will come into operation on 1 July 2010.

The Subcommittee

9. At the House Committee meeting on 11 April 2008, members formed a subcommittee to study the Amendment Regulation. The membership list of the Subcommittee is in **Appendix I**.

10. Under the chairmanship of Mr Bernard CHAN, the Subcommittee has held a

total of nine meetings between 18 April and 19 May 2008 with the Administration. The Subcommittee has also received views from representatives of various organizations and individuals at two of these meetings. A list of the organizations and individuals which/who have made representations to the Subcommittee is in **Appendix II**.

Deliberations of the Subcommittee

Justifications for the Amendment Regulation

11. According to the Administration, provision of nutrition information on food labels is an important public health tool to promote a balanced diet. The introduction of the mandatory nutrition labelling scheme for prepackaged food in Hong Kong aims to assist consumers in making informed food choices, encourage food manufacturers to apply sound nutrition principles in the formulation of foods and regulate misleading or deceptive labels and claims.

12. The Subcommittee generally supports the introduction of the mandatory nutrition labelling scheme for prepackaged food to facilitate consumers to make informed food choices. Members, however, have diverse views on the standards and conditions adopted for regulating nutrition claims, the exemption status of prepackaged food with nutrition claims under the small volume exemption scheme, and the duration of the grace period before the commencement of the scheme. Some members including members belonging to the Liberal Party (LP) express grave concern over the impact on food choices to Hong Kong people and the food trade. Members have also raised various issues regarding the legal and drafting aspects of the Amendment Regulation.

Labelling of core nutrients

13. Members belonging to the Democratic Party express support for the "one plus seven" nutrition labelling scheme for prepackaged food. Some other members including Mr WONG Yung-kan, Ms Emily LAU, Ms Audrey EU and Mr Alan LEONG are also in support of the scheme. The Consumer Council, the medical and dietician sector, patients groups and some other deputations also welcome the requirement of labelling energy plus seven core nutrients, as this will enable consumers and patients to make informed food choices.

14. Members belonging to LP, however, have questioned the rationale for introducing a mandatory nutrition labelling scheme requiring labelling of energy plus seven core nutrients, including trans fat. Mr Tommy CHEUNG has expressed dissatisfaction and considers it misleading for the Administration to give an impression that the proposed mandatory nutrition labelling is consistent with the nutrition labelling guidelines of Codex Alimentarius Commission (Codex). He has pointed out that, under the current Codex Guidelines on Nutrition Labelling, a

nutrition label is only required to include energy, protein, carbohydrates and fat. Mrs Selina CHOW has also pointed out that there is no single internationally accepted standard on nutrition labelling requirements.

15. Most deputations from the food trade consider that the labelling requirements under the scheme are unique to Hong Kong and too stringent. They have pointed out that the proposed labelling requirements are different from those of the major exporting countries or places supplying food products to Hong Kong such as the United States (the US), and this would impact significantly on consumer food choices.

16. The Administration has explained that the Administration has made reference to the Codex Guidelines on Nutrition Labelling in formulating the scheme. According to the Codex Guidelines, a nutrition label should include energy, protein, carbohydrates and fat, and any other nutrients that are relevant for maintaining a good nutritional status in the population concerned. Therefore, different countries could adopt different requirements having regard to their own public health needs. A table listing out the international nutrition labelling requirements on core nutrients provided by the Administration is in **Appendix III**. The Administration has further explained that the adverse health effect of trans fat has been recognized internationally, and excessive intake of trans fat could lead to clogging of arteries and increase the risk of coronary heart disease and strokes. The inclusion of trans fat as one of the core nutrients to be regulated is also consistent with the motion urging the Administration to legislate against the use of artificial trans fat in food production carried at the Council meeting held on 14 March 2007. The Administration has also advised the Subcommittee that the legislative proposal for "one plus seven" scheme is in line with the recommendation put forward by the World Health Organization (WHO) to the Codex Committee on Food Labelling meeting in April 2007.

17. In response to members' enquiries about the labelling requirements for prepackaged food products under the small volume exemption scheme and those without any exemption, the Administration has informed the Subcommittee that all prepackaged food products with nutrition claims, regardless of their annual sales volume, are required to label energy plus seven core nutrients and the claimed nutrients. For prepackaged food products without any claims that have an annual sales volume of above 30 000 units, they should also meet the labelling requirements of energy plus seven core nutrients. For prepackaged food products without claims under the small exemption scheme (i.e. sales volume of 30 000 units or below per year), compliance with the nutrition labelling requirements is not necessary.

18. The Administration has subsequently put forward a new proposal to accord flexibility for prepackaged food products with nutrition claims that have an annual sales volume not exceeding 30 000 units in complying with the nutritional labelling requirements for the Subcommittee's consideration (paragraph 41 below refers).

Labelling format

19. Members note that the Amendment Regulation allows the energy value to be expressed in either kilocalorie or kilojoule and the contents of the core nutrients to be expressed in either per 100g/ml or per serving. A few deputations including the Hong Kong Nutrition Association have expressed the view that the Administration should require the expression of nutrient content in both per 100g or per 100ml and "suggested serving size". Members generally find it acceptable to allow such flexibility in the expression of energy value and nutrient content, as this will minimize the need for re-labelling of prepackaged food and the impact on the food trade, without reducing consumers' right to make informed food choices.

Nutrition claims

Nutrient content claims

20. Some members including Mr Tommy CHEUNG and Mr Vincent FANG and the trade deputations have questioned whether the standards and conditions set for nutrition claims under the Amendment Regulation are in line with Codex. They have pointed out that Codex does not provide any standards on the labelling of trans fat content and the definition of "zero trans fat" also varies from one country to another. Given that Hong Kong has set the standard of "trans fat free" claim as not more than 0.3g/100g of solid food, all prepackaged food products from the US stating "zero trans fat" will face problems when importing into the Hong Kong market unless they are re-labelled.

21. Mr Tommy CHEUNG has further expressed the view that Hong Kong should not set a standard higher than that adopted in the US as the health problems associated with consumption of food products with trans fat there is much more serious than that in Hong Kong. He has also pointed out that over-consumption of products with 0.3g of trans fat would also damage health. He is strongly of the view that the Administration should consider giving further flexibility in the trans fat level by accepting the US food products with zero trans fat as they have already met the US labelling requirements. Mr Andrew LEUNG has queried why information given in nutrition facts panel of these food products cannot be accepted as it is if no "zero trans fat" or "trans fat free" claims are made.

22. The Administration has explained that, in regulating nutrient content claims, nutrient comparative claims and nutrient function claims, the Administration follows generally the standards and conditions stipulated in the Codex Guidelines. However, Codex presently does not have any requirements for trans fat, sugars, protein and dietary fibre. In response to the request of the food trade and as facilitation to the trade, the Administration has also included the non-Codex nutrition claims that are most common in the market (i.e. "low sugars", "trans fat free" and "low protein"). For the claims of "low sugars" and "low protein", the Administration has followed the standards adopted on the Mainland. As regards the trans fat level, the Administration has advised that it has struck a balance between the more stringent requirements (e.g. 0.1g/100g as adopted in Malaysia) and the more lax standards such as the US rounding

rule (i.e. 0.5g/serving). The Administration has taken into account the daily intake amount of 2.2g of trans fat recommended by WHO in setting the condition of 0.3g/100g in the Amendment Regulation which is considered necessary to protect consumers from over-consumption of trans fat. The Administration has further explained that the serving size of food products manufactured in the US varies from less than 15g/ml to over 200g/ml. If a member of the public consumes four servings of food (each serving can be as low as 30g) with "zero trans fat" under the US standards (meaning it may contain at most 0.5g of trans fat per serving), the member of the public concerned has almost reached the daily intake amount of 2.2g of trans fat as recommended by WHO.

23. Further explanation on the difference in labelling of trans fat required by the US and the Hong Kong scheme is in **Appendix IV**. Lists of permitted nutrient content claim and synonyms for nutrient content claims, conditions for nutrient content claims and conditions for nutrient claims without Codex conditions provided by the Administration are in **Appendices V, VI and VII** respectively.

24. At Mr Tommy CHEUNG's request, the Administration has undertaken to amend the Principal Regulations if Codex has set new standards and conditions for nutrient contents, e.g. trans fat.

25. As regards prepackaged food products with an annual sales volume of over 30 000 units and without any claims, Mr Tommy CHEUNG has pointed out to the Subcommittee the food trade's concern over the information on the trans fat level provided in the nutrition facts panel of prepackaged food products. He has explained that, given that the US's definition of "zero trans fat" (i.e. 0.5g per serving) is different from that of Hong Kong (i.e. 0.3g per 100g/ml), the US food products that are of large sales volume and without any claims would need to be re-labelled even though they are labelled with "one plus 14" core nutrients and have met the US nutrition labelling requirements.

26. The Administration has subsequently proposed for the Subcommittee's consideration that, for the labelling of the content of trans fat in the nutrition facts panel, the labelling requirements under the Amendment Regulation is deemed to be complied with if the content of trans fat is expressed in a manner that complies with the law of any jurisdiction outside Hong Kong which requires the marking and labelling of trans fat. Amendments would need to be made to section 1 of Schedule 5. The Administration has also informed the Subcommittee that it would review the arrangement in one year's time after the implementation of the nutrition labelling scheme (i.e. one year after the two-year grace period), having regard to the international development in the setting of standard for trans fat, the public's view on the labelling of trans fat in prepackaged food and the actual market situation in the labelling of trans fat. The Administration has stressed that the proposal would not change the conditions for making "trans fat free" claim stipulated in the Amendment Regulation, which are no more than 0.3 g of trans fat per 100 g of food and meeting the conditions for "low saturated fat" claim.

27. Some members including Mr Fred LI, Ms Audrey EU and Dr KWOK Ka-ki, however, have expressed disagreement to any further relaxation of the "trans fat free" claim and the suggestion of accepting the US's standard of no more than 0.5g of trans fat per serving for zero trans fat. They have pointed out that, as the daily trans fat intake recommended by WHO is less than 2.2g, any further relaxation would compromise public health. In addition, the body frame of Hong Kong people on average is different from that of the Americans.

Nutrient comparative claims and nutrition function claims

28. The Administration has explained to the Subcommittee that the main principles for setting the conditions for nutrient comparative claims are that there must be a relative difference of at least 25% and an absolute difference (depending on the type of nutrient) in the levels of the nutrient claimed between the two products being compared. According to the Administration, nutrient function claims can be made for nutrients with local Nutrient Reference Values (NRV) or required levels prescribed in the Amendment Regulation. NRVs are intended to assist consumers to evaluate the contribution of a food to their daily nutrient intake and to compose a diet suitable for their individual needs. The Administration has advised that various countries have developed or adopted their own NRVs. Given that the majority of Hong Kong people are Chinese, the Administration has adopted the same set of NRVs of the Mainland.

Small volume exemption scheme

Maximum limit of annual sales volume

29. Mr Fred LI has asked about the rationale for setting the limit of small volume exemption scheme for prepackaged food at an annual sales volume of 30 000 units. The Administration has explained that the proposed annual sales volume has struck a balance between the trade's request and consumer food choices. With small volume exemption, many ethnic food, organic food, or niche food products that are mostly imported or manufactured in small volume would be exempted from the nutrition labelling requirements.

30. Ms Audrey EU has expressed concern that the meaning of the phrase "not exceed 30 000 units" under the small volume exemption scheme might be unclear as to whether it refers to units sold or imported. The Administration has explained that, under the exemption scheme, any food importer or manufacturer of a prepackaged food may apply to the Authority for exemption under the Amendment Regulation provided that the annual sales volume of food of the same version in Hong Kong would not exceed 30 000 units.

Prepackaged food products with nutrition claims

31. Members have expressed diverse views on granting exemption status to prepackaged food products with nutrition claims. Some members including Mr Tommy CHEUNG and Mr Vincent FANG are seriously concerned about the impact of the proposal of removing the exemption status of a food product if a nutrition claim is made.

32. Mrs Selina CHOW has suggested that, to serve the purpose of assisting consumers in making informed food choices, the Administration can consider requiring the food trade to provide nutrition information of food products with nutrition claims on the website. She has also queried the rationale of not accepting a food product with nutrition claim via the small volume scheme if the food product concerned is labelled with nutrition claim which is true and complies with the labelling laws of its country of origin.

33. The Administration has explained that, from the legal point of view, it would be impossible to enforce the nutrition labelling legislation of overseas countries. The prosecution would have to prove the nutrition labelling requirements under overseas legislation which is legally undesirable. It is also inappropriate to allow overseas legislation to override local legislation. From the international trade perspective, if compliance with source countries' labelling requirements is required, it might be construed as unfair trade practice because different source countries supplying the same type of product might be adopting different requirements. From the practical point of view, a certain brand of food of Country A might be produced in Country B and packed in Country C. There would be practical difficulties in ascertaining which labelling standards should be adopted. The Administration has further explained that making nutrition information available on the website could not assist consumers in making informed food choices as they would not be able to obtain instantly information on nutrient contents of the food concerned at the time of purchase.

34. Some deputations from the food trade including the Hong Kong Retail Management Association have pointed out that, although prepackaged food items with nutrition claims account for only 2.5% of prepackaged food on sale in Hong Kong, it is estimated that there are 15 000 healthier food products that make nutrition claims, representing more than 20% of the variety of all prepackaged food items that are available in Hong Kong. It would have adverse impact on Hong Kong consumers and food traders if food products that are fully compliant with nutrition labelling requirements in their countries of origin, e.g. the US and the European Union, have to be re-labelled. Given that Hong Kong is a small market, some exporters may simply stop supplying healthier products to Hong Kong. They urge the Administration to give further flexibility in the implementation of the small volume exemption scheme and consider including prepackaged food products with nutrition claims into the scheme.

35. Some members including Mr Fred LI and Dr KWOK Ka-ki and also deputations from the medical/dietitian sector, however, have expressed worries that the small volume exemption scheme might create a loophole in that food manufacturers

could simply make a slight change to the packaging of food products in order to make the products qualify for the exemption. The Consumer Council and most deputations from the medical/dietician sector are of the view that there should be no exemption to all small volume food with nutrition claims.

36. Deputations from the food trade have explained to the Subcommittee that, having regard to the costs of re-packaging and re-labelling, it is economically not viable to vary packaging of food products simply for the sake of meeting the requirements of the small volume exemption scheme.

37. The Administration has emphasized that the main objectives of the introduction of the labelling scheme are to assist consumers in making food choices and to regulate misleading or deceptive labels and claims. The small volume exemption scheme, which is a suggestion put forward by the food trade in November 2007, is introduced as a facilitation measure for the food trade with a view to minimizing the impact on food choices. The trade has indicated that it would accept the proposal of a small volume exemption scheme where prepackaged food products with claims are not exempted. According to the Administration, the US is the only other country that implements a small volume exemption scheme under which a food product with annual sales volume of 100 000 units is exempted. The Administration has pointed out that food with claims is not necessarily healthy food. Some products with nutritional claims may highlight or provide only the information of the claimed nutrient (e.g. low fat), but fail to provide information on other nutrients (e.g. high sugars content, high sodium content or high cholesterol content, which are bad for health). According to overseas experience and nutrition experts, those products that carry inaccurate claims withdrawn from the market would be replaced by healthier products. The Administration's view is shared by some deputations from the medical and dietician sector and patients groups. These deputations have expressed the view that the health of the public is of paramount importance, even at the expense of losing 15,000 items of food products from the market.

38. Mr Fred LI has pointed out that the small volume exemption scheme is already a compromise to address the food trade's concerns over the nutrition labelling scheme. Under the US's small volume exemption scheme, food products with nutrition claims are also not exempted under the scheme. Extending the exemption status to food products with nutrition claims would be tantamount to an application of double standards by the US in respect of food products sold in the US market and those imported from the US and sold in Hong Kong.

39. Members belonging to LP have clarified that, when the food trade put forward its suggestion to the Administration in November 2007, the proposed nutrition labelling scheme did not include trans fat. The maximum limit of annual sales volume of the exemption scheme and the registration fee as suggested by the trade were 100 000 units and about \$50 to \$100 respectively.

40. Mr Vincent FANG has proposed that the exemption status should be extended

to food products carrying nutrition claims that have an annual sales volume not exceeding 30 000 units. The Administration has advised the Subcommittee that allowing food products with health claims to be exempted from the nutrition labelling requirements is against the basic principle of the legislation and would compromise the health of the general public and patients with long-term illness in particular.

41. The Administration has subsequently informed the Subcommittee that, having considered the various views and concerns expressed by members and some members of the public, it has proposed to exempt food products with low annual sales volume (i.e. 30 000 units or below) with nutrition claims in order to address also the needs of the minority sectors of the community. To protect the interest of consumers, the Administration has proposed to require these food products to be displayed for sale with a warning label informing consumers that the nutrition label and nutrition claims for these products may not comply with Hong Kong laws. Amendments will be made to the new section 4B of and the new Part 2 of Schedule 6 to the Principal Regulations. The Administration will review the operation of the warning label arrangement for the small volume exemption products with claims in one year's time after the implementation of the nutrition labelling scheme. The Administration has stressed that the latest proposal would strike a proper balance between ensuring the public's right to know and facilitating the public to make an informed food choice.

42. Members belonging to LP and members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong have expressed the view that while the implementation details of the mandatory nutrition labelling scheme are not satisfactory, they find the Administration's latest proposal acceptable. Some other members including Mr Fred LI, Mr WONG Kwok-hing and Dr KWOK Ka-ki, express objection on the ground that it would defeat the original legislative intent of the Amendment Regulation and render the Amendment Regulation ineffective. They have stressed that the small volume exemption scheme is already a compromise to address the food trade's concerns over the nutrition labelling scheme, and no further concession should be made.

43. Ms Audrey EU and Mr Alan LEONG have also expressed reservation about the latest proposal. Mr LEONG has pointed out that he has proposed earlier on an option similar to that of the Administration, but it was only meant to be a transitional arrangement whereby a longer grace period of three years would be given for the food trade to comply with the nutrition labelling requirements. He considers that the Administration's latest proposal of granting exemption on a permanent basis will create a big loophole in the Amendment Regulation. In response to Mr LEONG's enquiries, the Administration has confirmed that all prepackaged food (unless exempted) have to bear the required information as prescribed in the law, including information on ingredients, additives, allergen, use by date (or best before date), etc, for consumers' information. Such information, together with the nutrition information (or the warning label for exempted products), can be included in one single label, separate labels, or printed on the food container/packaging. The warning label, however, must in any case follow the design, form and size specified by the

Authority in the conditions imposed upon the grant of exemption, including the font size of the text of the label, demarcation line, etc. The Administration has further confirmed that section 61 of Public Health and Municipal Services Ordinance (Cap. 132) regarding false labelling will continue to apply to these exempted food products.

Implementation of the exemption scheme

44. In response to the concern raised by Ms Audrey EU and Mr WONG Yung-kan over the implementation of the scheme, the Administration has explained that small volume exemption is subject to prior approval and conditions set by the Authority. The food traders are required to report to the Authority the sales volume of the food products on a monthly basis and keep transaction records related to the exempted products for inspection by the Food and Environmental Hygiene Department (FEHD). Once the sales volume has exceeded the limit of 30 000 units per year, all food items currently being put on the market would have to be labelled in accordance with the legal requirements. Food products exempted under the small volume exemption scheme would have to be separately identified (e.g. sticking a label of "small volume exempted") when they are put on the market to show to the consumers that the food labels of these products might not comply with the legal requirements.

45. The Administration has further explained that, as a consensus reached with the food trade, when the sales volume of the food products concerned had reached 70% of the maximum permitted sales volume under the scheme (i.e. 21 000 units), FEHD would issue a notice to all importers of the food products concerned in respect of which an exemption has been granted, notifying them of the sales volume. Once the total sales volume of the same version of the prepackaged food to which the exemption applied has exceeded the limit of 30 000 units per year, the exemption will be revoked and all food products currently being put on the market would have to be labelled in accordance with the legal requirements. A revocation of exemption will take effect on the expiry of 30 days from the date on which the decision to revoke the exemption is made.

46. Mr Fred LI has expressed concern about the control of parallel imported food. The Administration has responded that food traders are required to report to FEHD the sales volume of the food products on a monthly basis, and the Centre of Food Safety staff would carry out regular inspections of food labels at retail outlets, and about 55 000 food labels would be inspected each year.

47. Ms Miriam LAU and Ms Audrey EU have expressed concern whether there is adequate appeal channel for the food importers/manufacturers. Ms EU suggested that consideration could be given to enabling an applicant for the small volume exemption scheme to appeal against the Authority's decision to the Administrative Appeals Board. The Administration has explained that, as provided in section 3(4) of Part 2 of Schedule 6 to the Amendment Regulation, the Authority shall not revoke an exemption unless the Authority notifies the grantee in writing of his intention to revoke the exemption and the grounds upon which the Authority proposes to revoke

the exemption. Before revoking the exemption, the Authority is also required to permit the grantee to make representations to the Authority in writing within the period specified in the notice and to consider the representations, if any, made by the grantee. As provided in section 3(5) of Part 2 of Schedule 6 to the Amendment Regulation, if the Authority revokes an exemption, the Authority shall, as soon as practicable, notify the grantee in writing and specify in the notice the grounds for the revocation and the date on which the revocation is to take effect. Furthermore, in practice, the major reason for refusing to grant an exemption under section 3(1) of Part 2 of Schedule 6 would be that the annual sales volume of the product has exceeded 30 000 units in any one of the past two years, which is a rather factual matter. The Administration has also pointed out that the decision of refusing to grant an application, revoking an exemption or refusing an application for renewal, are subject to judicial review. It is therefore considered unnecessary to specify in the Amendment Regulation that appeal against the decision of the Authority can be made to the Administrative Appeals Board.

48. In response to Mr Tommy CHEUNG's concern as to whether the application procedures of the exemption scheme would create operational difficulties to the trade, the Administration has confirmed that an applicant would be notified of the Authority's decision to grant the application, to require further information, or to reject the application within 14 working days. For successful applications, the notification would request the applicant to make the fee payment before a specified date for the issuance of the formal approval letter. Once payment is received from the successful applicant, the formal exemption would be issued within seven working days. For an application for renewal, the applicant would be notified of the Authority's decision to renew the exemption, to require further information, or to reject the renewal application within 14 working days. For successful renewal applications, the notification would request the applicant to make the renewal fee payment before a specified date. Once payment is received from the successful applicant, the formal exemption would be issued within seven working days. A renewal would take effect on the day following the expiration of the exemption.

Registration fee

49. Most deputations from the food trade have urged the Administration to reduce the registration fee for small volume items from \$345 per year to HK\$50 per year. Mr Tommy CHEUNG has also queried why the Administration has to set the registration fee at this level. He considers that the Administration should give regard to the impact on cost arising from the need for the food trade to conduct food tests and re-label the products.

50. The Administration has explained that full-cost recovery fee of \$345 (i.e. new application) and \$335 (i.e. renewal of exemption) for small volume exemption applications is calculated in strict accordance with the established formula approved by the Financial Services and the Treasury Bureau for calculating Government fees and charges. The staff cost incurred in processing applications is factored into the

calculation of the full cost for the issue or renewal of exemption.

Possible impact on food choices and the trade

51. The possible impact on food choices and the trade is the main subject of argument during the scrutiny process of the Subcommittee. Members belonging to LP have reiterated that they have no objection to the introduction of the nutrition labelling scheme, but they have serious concern about the impact of the scheme on consumer food choices and the trade. They have pointed out that many healthier food items with claims would be withdrawn from the market when the Amendment Regulation comes into operation as in the case of the banning of allergen in food after the enactment of the Food and Drugs (Composition and Labelling) (Amendment) Regulation 2004. Mr Tommy CHEUNG has stressed that LP is also concerned about the health of the public but does not wish to see the consumers having to sacrifice too many food choices.

52. Mr Andrew LEUNG has also queried why the nutrition labelling scheme does not follow the Mainland's nutrition labelling requirements on core nutrients (i.e. one plus four core nutrients). Mr WONG Ting-kwong has expressed concern that food products manufactured on the Mainland for export to overseas market, e.g. the US, also could not meet the labelling requirements as stipulated in the Amendment Regulation given that a more stringent standard of trans fat level is adopted in Hong Kong. He also expresses concern over the difficulties of the small and medium enterprises (SMEs) in complying with the nutrition labelling requirements. He has pointed out that SMEs would have practical difficulties in complying with the nutrition labelling requirements if the sales volume of their food products is over 30 000 units. Even if their sales volume does not exceed 30 000 units, there will be a financial burden on them in meeting with the administrative requirements of the small volume exemption scheme.

53. The Administration has responded that most of the food products that are manufactured on the Mainland for export to the US could meet the proposed nutrition labelling requirements of Hong Kong and there is no need for re-labelling. Moreover, the Administration has maintained close liaison with the relevant Mainland authorities including the Ministry of Health and the State General Administration of Quality Supervision, Inspection and Quarantine on the proposed nutrition labelling system on the subject.

54. On members' concern over the impact on food choices after the enactment of the Food and Drugs (Composition and Labelling) (Amendment) Regulation 2004, the Administration has responded that the trade has provided a list of food products that have been withdrawn from the market. The food concerned may contain food additives not permitted under the law or, in some cases, the overseas manufacturers have refused to provide the information to the food importers. As regards prepackaged food products with nutrition claims e.g. a drink with a claim of "high" vitamin C, the Administration has pointed out that these food products are not

necessarily health food. According to the experience of overseas countries which have implemented a nutrition labelling scheme, withdrawal of these food products from the market would eventually be replaced by healthier food products. On Mr WONG Ting-kwong's concern about SMEs, the Administration has explained that it has struck a balance between safeguarding public health and the interests of SMEs. Prepackaged food that is processed and sold to an ultimate consumer at the same premises, or processed at a place which is adjacent to, or in the immediate vicinity of, the premises where the food is sold to an ultimate consumer, and not offered for sale outside the premises referred to in section 14(a) and (b) of Part 1 of Schedule 6 are exempted from compliance with the nutrition labelling requirements.

55. Food trade representatives have told the Subcommittee that about 15 000 food items will be withdrawn from the market when the nutrition labelling scheme comes into operation. They have pointed out that, as Hong Kong has adopted a set of definitions and standards for measuring nutrients that is different from that used by the US, the growing range of "nutrition claim" products manufactured by the US would disappear from Hong Kong market. These US products carrying claims could not enter Hong Kong without being re-tested and re-labelled even though the US has the strictest nutrition labelling scheme in the world. This would substantially narrow the large spectrum of products already available in Hong Kong and it would also prevent the introduction of new healthy product lines.

56. Deputations from the medical/dietician sector and patient groups, however, hold a different view. They consider that proper nutrition information including detailed nutrient contents and scientifically supported nutritional and functional claims on the food labels can facilitate the healthcare professionals and the general public to make suitable food choices. Food products withdrawn from the market would be replaced quickly by other healthier food products.

57. The Administration has informed the Subcommittee that it has commissioned a consultant to conduct a RIA study in 2005 for the nutrition labelling scheme. According to RIA which is based on information provided by the trade, the product variety in the market ranges from about 20 000 to 30 000 items. The findings of the study show that, under the most stringent scenario (i.e. energy plus nine core nutrients), 5% to 10% of the prepackaged food products currently available in Hong Kong may be withdrawn from the market. Changes in product variety are also a normal trade practice, and the average annual turnover rate of food products is about 14%. Taking into account the views of the food trade, the Administration has moderated the scope of the scheme and introduced relaxation and facilitation measures, e.g. the small volume exemption scheme. The Administration has also advised that, although it was made clear during the public consultation exercise that the nutrition labelling scheme might lead to a reduction in food choices, there was general support for the nutrition labelling scheme from the public.

58. Members belonging to LP have, however, queried the validity of the opinion poll because they consider that the questions posed are too general and could be

misleading. Mr Tommy CHEUNG also doubts whether the findings of the RIA study which was carried out back in 2005 could reflect fully the implications of the nutrition labelling scheme on the food trade and consumer food choices. He has also reminded the Administration that it was recommended in the RIA study that the timing of implementation of Phase II should be subject to review and one key factor to be considered was the developments overseas.

59. Many members including Mr Bernard CHAN, Ms Emily LAU, Ms Audrey EU and Mr Alan LEONG have reiterated their view that the Administration should strike a right balance between enabling consumers to make informed food choice and facilitating the food trade. They stress the need for the Administration to give assurance to the public about the impact on consumer food choices. They have requested the Administration to provide more information to justify its estimation, by solid data and sound reasoning, that only 5% to 10% of food products would be withdrawn from the market when the nutrition labelling scheme comes into operation.

60. The Administration has explained to the Subcommittee that the analysis in the RIA study suggested that the costs associated with implementing the proposed nutrition labelling scheme were likely to be significant for some small manufacturers, retailers and importers. In particular, retailers and importers of niche products would likely be affected significantly if they were selling goods that could not be substituted easily by suitably labelled products. A number of such niche products with low sales revenue and profit could cease to be exported to Hong Kong. These products might amount to between 5% to 10% of product variety on sale in Hong Kong under the most stringent option of the proposed labelling requirements (i.e. "energy plus nine core nutrients"). If applying the estimate of 5% -10% to the total number of 30 000 products available on the market (which is already the upper end of the consultant's estimate), the impact on food choice will be from 1 500 to 3 000 items.

Grace period

61. Members belonging to LP and the food trade are strongly of the view that the duration of the grace period should be extended to three years. Mr Tommy CHEUNG and Mr Vincent FANG have pointed out that, under the revised nutrition scheme put forward by the Administration in 2005, it would be implemented in two phases, i.e. a total of four years before full implementation.

62. The Administration has clarified that, when the proposal for nutrition labelling scheme was initially put forward in 2003, the proposed scheme was "one plus nine" and would be implemented in two phases. However, there were calls for implementing the scheme in one-go when the revised scheme was put forward in 2005.

63. Mr Fred LI, the Consumer Council and deputations from the medical and dietician sector share the same view that further extension of grace period to three years is not acceptable.

64. The Subcommittee notes that Mr Vincent FANG would propose to amend the commencement date of the Amendment Regulation to 1 July 2011.

Legal and drafting aspects of the Amendment Regulation

Section 2 - Interpretation

65. Ms Audrey EU has queried what would constitute a nutrition claim under the Amendment Regulation. Having discussed with the legal adviser to the Subcommittee, the Administration would move section 5 of Schedule 5, which sets out the matters that do not constitute a nutrition claim, to section 2 of the Amendment Regulation. It will be stated clearly that any declaration of nutrient content provided in the nutrition facts panel of a prepackaged food product does not constitute a nutrition claim.

66. On the interpretation of "trans fatty acids", Dr Joseph LEE has pointed that there are different names of "trans fatty acid" used by food manufacturers e.g. trans fat. He is concerned whether this will give rise to any enforcement difficulties of the Amendment Regulation. In the light of Dr LEE's concern, the Administration has agreed to include the various names of "trans fatty acids" into the technical guidelines for the food trade.

New regulation 4B - Nutrition labelling of prepackaged food and nutrition claim

67. On the new regulation 4B(4)(a), Mr Tommy CHEUNG and Ms Audrey EU have expressed concern that the phrase "in the manner required by the Authority" in respect of exemption of small volume food products is too broad and imprecise. They consider that the Administration should state explicitly the conditions which the food traders are required to comply with under the exemption scheme.

68. In light of members' concern, the Administration has agreed to set out clearly the requirements relating to labelling of the food products that are exempted under the small volume exemption scheme and displaying them for sale. The food shall be displayed with a label indicating that the small volume exemption has been so granted, and the exemption number assigned by the Authority should also be clearly marked on the relevant label or displayed in close proximity to the place where the food is displayed for sale. The Administration would propose amendments to the new regulation 4B of, and Part 2 of Schedule 6 to, the Principal Regulations accordingly.

69. Members note that the new regulation 4B does not apply to infant formula, food for infants and young children and other food for special dietary uses. Mr Abraham SHEK is of the view that it is necessary to define the phrase "other food for special dietary uses" as referred to in the new section 4B(6)(c) for the sake of clarity. In the light of Mr SHEK's concern, the Administration has agreed to provide a definition of special dietary uses and examples of food products for special dietary uses in the technical guidelines for the food trade. The Administration has also

assured members that layman terms will be used in drawing up the technical guidelines.

Schedule 6 - Items exempt from the nutrition labelling requirements

70. Members note that fruit, vegetables, meat and fish packaged in a container which contains no other ingredient and to which no other ingredient has been added would be exempted under Part 1 of Schedule 6 to the Principal Regulations. Having considered members' views that some fruit packs may contain a small packet of sauce which is not mixed with the fruit, the Administration has agreed to amend sections 6 and 10 of Part 1 of Schedule 6 to the effect that fruits, vegetables, meat and fish would be exempted from the nutrition labelling requirements even if they are packed in a container which contains ingredients packed in a separate container having a total surface area of less than 100cm².

71. As regards the definition of "food of the same version", Mr Fred LI has cited an example of a box of biscuits which contains several individually packed biscuits and enquired about how the sales volume will be counted. Ms Audrey EU has also expressed concern over the possibility of abuse by making a slight change to the packaging. She is of the view that it is desirable to define the phrase "food of the same version" for the sake of clarity.

72. According to the Administration, the annual sales volume of a prepackaged biscuit refers to boxes of prepackaged biscuit sold to consumers rather than individually packed biscuits contained in each box. The Administration has explained that the possibility of abuse is considered rather low having regard to the relatively small financial benefits to be gained under the scheme.

73. In response to Mr WONG Yung-kan's enquiry as to whether food products under the same brand but with different countries of origin will be counted as different versions of food under the exemption scheme, the Administration has advised that products of the same type with a different country of origin would not be considered as food of the same version for the purpose of the small volume exemption scheme.

74. After taking into consideration members' views and the suggestion of the legal adviser to the Subcommittee, the Administration has agreed to add a new subsection (1A) to section 1 of Part 2 of Schedule 6 to state clearly that, in determining whether certain prepackaged foods are of the same version for the purpose of small volume exemption, the Authority would take into account all relevant matters including -

- (a) the ingredient of the foods;
- (b) the volume, weight and packing size of the foods;
- (c) the flavour of the foods;

- (d) the manufacturer and packer of the foods; and
- (e) the container of the foods.

75. In response to Mr Tommy CHEUNG's query on whether the proposed amendment would have the effect of narrowing the scope of the provision, the legal adviser to the Subcommittee has advised that the proposed amendment would improve the clarity of the provision.

76. In response to the comments made by the legal adviser to the Subcommittee that the scope of the Authority's power under section 1(4) and section 2 of Part 2 of Schedule 6 should be made more specific, the Administration has agreed to amend new section 1 of Part 2 of Schedule 6. The Administration has explained that, when a new exemption is granted for small volume products, the Authority may impose such conditions as the Authority thinks fit. The Authority may in respect of a renewed exemption for small volume products impose any condition in addition to or instead of any condition previously imposed when the exemption was granted.

77. Mr Tommy CHEUNG has expressed concern about the drafting of the phrase "renewal of the exemption in such manner as the Authority may determine" under section 2(2) of Part 2 of Schedule 6. The Administration has explained that it refers to a prescribed form to be completed by the applicant. At the request of Mr CHEUNG, the Administration has agreed to provide to the Subcommittee an undertaking of a performance pledge time for processing renewal of exemption applications (paragraph 48 above refers).

78. Mr Tommy CHEUNG has expressed concern over the legal responsibility of food retailers procuring exempted small volume food items from the importers who have been granted exemption from the Authority. He is worried that retailers may not be aware of the expiry of the exemption and continue to put the food items concerned on the shelves for sale. The Administration has responded that section 1(4) of Part 2 of Schedule 6 provides that the Authority may impose such conditions as the Authority thinks fit. One of the conditions to be imposed on the importer or manufacturer to whom the exemption has been granted is that the importer or manufacturer concerned should inform the distributors and retailers that the exempted product should be separately identified indicating the exemption status of the products when they are put on sale. They should also notify the Authority of any changes to their particulars, or to the names and addresses of the distributors/retailers during the validity period of the exemption.

Schedule 8 - Conditions for nutrient content claims

79. In response to Mr Tommy CHEUNG's question as to whether fruit yogurt is regarded a solid or liquid food, the Administration has explained that, in line with international practice, semi-solid food is regarded as solid food. The Administration would include examples of solid and liquid food in the technical guidelines for the

food trade.

Amendments to be proposed

80. The Administration will move a motion to amend section 1 of Schedule 5 relating to labelling of the content of trans fat mentioned in paragraph 26. In addition, the Administration will move another motion proposing the amendments referred to in paragraphs 41 and 65 to 76, as well as technical amendments to section 5 of the Amendment Regulation and the new section 4(3) of Part 1 of Schedule 5 to the Principal Regulations.

81. Mr Fred LI will propose amendments to the Amendment Regulation to incorporate the amendments to be introduced by the Administration in paragraphs 65 to 76 only to improve the legal and drafting aspects of the Amendment Regulation while the mandatory nutrition labelling scheme originally put forward by the Administration will be retained. Mr Vincent FANG will propose to amend the commencement date of the Amendment Regulation to 1 July 2011 and to reduce the registration fees for new applications and renewal of exemption for small volume prepackaged food from \$345 and \$335 to \$80 and \$50 respectively.

82. The proposed resolutions of Mr Vincent FANG, Mr Fred LI and the Administration have been issued to all Members vide LC Paper No. CB(3)659/07-08 on 23 May 2008.

Advice sought

83. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 2
Legislative Council Secretariat
27 May 2008

**Subcommittee on
Food and Drugs (Composition and Labelling) (Amendment: Requirements
for Nutrition Labelling and Nutrition Claim) Regulation 2008**

Membership list

Chairman	Hon Bernard CHAN, GBS, JP
Members	Hon James TIEN Pei-chun, GBS, JP Hon Fred LI Wah-ming, JP Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP Hon SIN Chung-kai, SBS, JP Hon WONG Yung-kan, SBS, JP Hon Howard YOUNG, SBS, JP Hon Miriam LAU Kin-ye, GBS, JP Hon Emily LAU Wai-hing, JP Hon TAM Yiu-chung, GBS, JP Hon Abraham SHEK Lai-him, SBS, JP Hon Tommy CHEUNG Yu-yan, SBS, JP Hon Audrey EU Yuet-mee, SC, JP Hon Vincent FANG Kang, JP Hon WONG Kwok-hing, MH Dr Hon Joseph LEE Kok-long, JP Hon Jeffrey LAM Kin-fung, SBS, JP Hon Andrew LEUNG Kwan-yuen, SBS, JP Hon Alan LEONG Kah-kit, SC Dr Hon KWOK Ka-ki Hon WONG Ting-kwong, BBS

(Total : 22 Members)

Clerk	Miss Flora TAI
Legal Adviser	Ms Connie FUNG
Date	18 April 2008

**List of organizations/individuals which/who have given oral/written views to the
Subcommittee on Food and Drugs (Composition and Labelling)
(Amendment: Requirements for Nutrition Labelling and Nutrition Claim)
Regulation 2008**

(As at 23 May 2008)

- * 1. Alliance for Renal Patients Mutual Help Association
- * 2. American Chamber of Commerce in Hong Kong
- 3. Asian Federation of Dietetic Association
- 4. British Chamber of Commerce
- * 5. Care For Your Heart
- * 6. Ms CHAN Shu-ying, Tuen Mun District Council member
- * 7. Mr CHIU Kam-lung
- * 8. Mr Eric CHOY
- * 9. Civic Party
- * 10. Committee on Home-School Co-operation
- * 11. Consumer Council
- * 12. Diabetes Hong Kong
- * 13. Dietitian Local Registration Taskforce
- 14. Direct Selling Association of Hong Kong
- 15. Mrs Jan Dixon
- * 16. Etak International Limited
- * 17. Federation of Hong Kong Industries
- * 18. Professor Richard Fielding, School of Public Health, The University of Hong Kong
- * 19. Ms Ellen Friedlander
- * 20. Good Food Watch
- * 21. Professor Georgia S Guldán, Department of Biochemistry, Food and Nutritional Sciences Programme, The Chinese University of Hong Kong
- 22. Hong Kong Association for the Study of Obesity
- 23. Hong Kong Chinese Importers' & Exporters' Association
- * 24. Hong Kong College of Cardiology
- 25. Hong Kong College of Community Medicine

- * 26. Hong Kong Doctors Union
 - * 27. Hong Kong Dietitians Association
 - 28. Hong Kong Food Council Limited
 - * 29. Hong Kong Food Science and Technology Association Limited
 - * 30. Hong Kong General Chamber of Commerce
 - * 31. Hong Kong Health Food Association
 - * 32. Hong Kong Medical Association
 - * 33. Hong Kong Nutrition Association Limited
 - * 34. Hong Kong Practising Dietitians Union
 - * 35. Hong Kong Retail Management Association
 - * 36. Hong Kong Suppliers Association Limited
 - 37. HKU SPACE Human Nutrition and Dietetics Alumni
 - 38. Professor Albert LEE, Centre for Health Education and Health Promotion, The Chinese University of Hong Kong
 - 39. Retail Task Force of the Business Facilitation Advisory Committee
 - * 40. SUPERVALU International
- * Deputations/individuals which/who have made representations to the Subcommittee at its meetings on 5 May 2008.

International Nutrition Labelling Requirements on Core Nutrients

Countries/ Places	Energy, Protein, & Fat	Carbohydrates ⁽⁶⁾	Saturated Fat	Sodium	Sugars	Cholesterol	Dietary Fibre	Calcium	Other Core Nutrients	Total	Specified Energy Value & Nutrient Content Expression	
											Per 100 g/ml vs. Per serving	kilo-calories (kcal) vs. kilo-joules (kJ)
Codex	•	• (Available)								4	Per 100 g/ml	kcal and kJ
<i>Mandatory Labelling for all pre-packaged food</i>												
Australia/NZ	•	• (Available)	•	•	•					7	Per 100 g/ml <u>and</u> Per serving	kJ
Canada⁽¹⁾	•	• (Total)	•	•	•	•	•	•	4	14	Per serving	kcal
USA⁽²⁾	•	• (Total)	•	•	•	•	•	•	5	15	Per serving	kcal
<i>Claim-based Labelling</i>												
EC⁽³⁾	•	• (Available)	•	•	•		•			8	Per 100 g/ml	kcal and kJ
Japan	•	• (Total)		•						5	Per 100 g/ml <u>or</u> Per serving	kcal
Singapore⁽⁴⁾	•	• (Available)								4	Per 100 g/ml <u>and</u> Per serving	kcal or kJ
Malaysia	•	• (Available)								4	Per 100 g/ml <u>and</u> Per serving	kcal or kJ
Mainland⁽⁵⁾	•	• (Available)		•						5	Per 100 g/ml <u>or</u> Per serving	kJ

Notes:

(1) **Canada** : Other 4 core nutrients required for mandatory labelling are iron, vitamin A, vitamin C, and trans fat.

(2) **US** : Other 5 core nutrients required for mandatory labelling are iron, vitamin A, vitamin C, trans fat, and fat calories.

(3) **European Community (EC)** : The labelling for sugars, saturated fat, dietary fibre and sodium are only required if nutrition claims for any of these 4 nutrients is made. EC announced on 30.1.2008 its proposal to introduce a mandatory nutrition labelling scheme which will require the labelling of energy, fat, saturated fat, carbohydrates, sugars and salt (sodium) on the nutrition labels.

(4) **Singapore** : The nutrition labelling voluntary guidelines further recommend the listing of 4 other core nutrients (saturated fat, sodium, cholesterol, dietary fibre).

(5) **The Mainland** : The new scheme will take effect on 1 May 2008.

(6) The value of available carbohydrates is derived by subtracting dietary fibre from total carbohydrates

Labelling of Trans Fat on Nutrition Labels

This paper explains the difference in labelling of trans fat as “0 g” as required by the US and the Hong Kong’s nutrition labelling laws.

2. Under the Amendment Regulation, the absolute amount of the “core nutrients” (energy, protein, carbohydrates, total fat, saturated fat, trans fat, sodium and sugars) and any claimed nutrients contained in the food have to be provided on the nutrition label (in terms of kilocalorie, kilojoule, gram, milligram or microgram).

3. Under the nutrition labelling scheme in Hong Kong, food products containing less than 0.3 g of trans fat per 100 g can be labelled as containing 0 g of trans fat per 100 g in the nutrition panel. In the US system, the corresponding rule is 0.5 g per serving. In other words, the value of trans fat may be declared as “0 g” on the nutrition label of food products sold in the US, as long as the actual amount is within the limit of “0.5 g per serving”.

4. Under the US system, the serving size varies among different types of food. The differences in the reference amounts for serving sizes vary to a significant extent, e.g. 15 g for mayonnaise spread, 30 g for cookies, 240 ml for milk and 245 g for soup. The limit of “0.5g” for trans fat however applies equally to all serving types. In other words, assuming that there are two pieces of cookies in the 30g-serving (which is labelled as “0 g trans fat”), consumption of five pieces cookies (i.e. 2.5 servings) may already contribute to 1.25 g of trans fat, equivalent to more than 50% of trans fat intake limit for an individual with 2000 kcal daily energy intake, which is 2.2 g.

5. Below are some examples for illustration –

	Reference serving size in US	Could be labelled as “0 g of trans fat” in US if the trans fat content is below
(a) Milk	240 ml	0.2 g per 100 ml
(b) Soup	245 g	0.2 g per 100 g
(c) Mayonnaise	15 g	3.3 g per 100 g
(d) Cookies	30 g	1.7 g per 100 g

Under Hong Kong’s nutrition labelling scheme, only food with no more than 0.3 g per 100 g of trans fat could be labelled as “0 g” of trans fat. In other words, example (a) (milk) and (b) (soup) above could meet the requirement in Hong Kong while example (c) (mayonnaise) and (d) (cookies) may not.

Permitted Nutrient Content Claim

Component	Description of the claim
Energy	(1) “Low” (2) “Free”
Total Fat	(1) “Low” (2) “Free”
Saturated Fat	(1) “Low” (2) “Free”
Trans Fat	(1) “Free”
Cholesterol	(1) “Low” (2) “Free”
Sugars	(1) “Low” (2) “Free”
Sodium	(1) “Low” (2) “Very low” (3) “Free”
Protein	(1) “Low” (2) “Source” (3) “High”
Vitamins and Minerals <i>(those with specified conditions)</i>	(1) “Source” (2) “High”
Dietary Fibre	(1) “Source” (2) “High”

Synonyms for Nutrient Content Claims (Examples)

Claim	Synonyms	Signs / Symbols
Low	<ul style="list-style-type: none"> • Little • Low source • Few • Contains a small amount of 	
Very low (Sodium only)	<ul style="list-style-type: none"> • Extremely low • Super low 	
Free	<ul style="list-style-type: none"> • Zero / 0 • No • Contains no • Without • Off • Does not contain 	<ul style="list-style-type: none"> • ✕
Source	<ul style="list-style-type: none"> • Contains • Provides • Has • With 	<ul style="list-style-type: none"> • ✓
High	<ul style="list-style-type: none"> • High source • Good source of • A valuable source of • Rich in • Plenty of 	

CONDITIONS FOR NUTRIENT CONTENT CLAIMS

Component	Description of the claim	Conditions
Energy	(1) with the word “Low”	(a) Solid food containing not more than 40 kcal (170 kJ) of energy per 100 g of food; or (b) liquid food containing not more than 20 kcal (80 kJ) of energy per 100 mL of food.
	(2) with the word “Free”	(a) Liquid food containing not more than 4 kcal of energy (17 kJ) per 100 mL of food.
Total Fat	(1) with the word “Low”	(a) Solid food containing not more than 3 g of total fat per 100 g of food; or (b) liquid food containing not more than 1.5 g of total fat per 100 mL of food.
	(2) with the word “Free”	(a) Solid food containing not more than 0.5 g of total fat per 100 g of food; or (b) liquid food containing not more than 0.5 g of total fat per 100 mL of food.
Saturated Fat	(1) with the word “Low”	(a) Solid food containing – (i) not more than 1.5 g of saturated fat and trans fat combined per 100 g of food; and (ii) saturated fat and trans fat, the sum of which contributes not more than 10% of energy; or (b) Liquid food containing – (i) not more than 0.75 g of saturated fat and trans fat combined per 100 mL of food; and (ii) saturated fat and trans fat, the sum of which contributes not more than 10% of energy.
	(2) with the word “Free”	(a) Solid food containing not more than 0.1 g of saturated fat and trans fat combined per 100 g of food; or (b) liquid food containing not more than 0.1 g of saturated fat and trans fat combined per 100 mL of food.
Trans Fat	(1) with the word “Free”	(a) Solid food containing – (i) not more than 0.3 g of trans fat per 100 g of food; (ii) not more than 1.5 g of saturated fat and trans fat combined per 100 g of food; and (iii) saturated fat and trans fat, the sum of which contributes not more than 10% of energy.

Component	Description of the claim	Conditions
		<p>(b) Liquid food containing –</p> <p>(i) not more than 0.3 g of trans fat per 100 mL of food;</p> <p>(ii) not more than 0.75 g of saturated fat and trans fat combined per 100 mL of food; and</p> <p>(iii) saturated fat and trans fat, the sum of which contributes not more than 10% of energy.</p>
Cholesterol	(1) with the word “Low”	<p>(a) Solid food containing –</p> <p>(i) not more than 0.02 g of cholesterol per 100 g of food;</p> <p>(ii) not more than 1.5 g of saturated fat and trans fat combined per 100 g of food; and</p> <p>(iii) saturated fat and trans fat, the sum of which contributes not more than 10% of energy.</p> <p>(b) Liquid food containing –</p> <p>(i) not more than 0.01 g of cholesterol per 100 mL of food;</p> <p>(ii) not more than 0.75 g of saturated fat and trans fat combined per 100 mL of food; and</p> <p>(iii) saturated fat and trans fat, the sum of which not more than 10% of energy.</p>
	(2) with the word “Free”	<p>(a) Solid food containing –</p> <p>(i) not more than 0.005 g of cholesterol per 100 g of food;</p> <p>(ii) not more than 1.5 g of saturated fat and trans fat combined per 100 g of food; and</p> <p>(iii) saturated fat and trans fat, the sum of which contributes not more than 10% of energy.</p> <p>(b) Liquid food containing –</p> <p>(i) not more than 0.005 g of cholesterol per 100 mL of food;</p> <p>(ii) not more than 0.75 g of saturated fat and trans fat combined per 100 mL of food; and</p> <p>(iii) saturated fat and trans fat, the sum of which contributes not more than 10% of energy.</p>

Component	Description of the claim	Conditions
Sugars	(1) with the word “Low”	(a) Food, solid or liquid, containing not more than 5 g of sugars per 100 g/ mL of food.
	(2) with the word “Free”	(a) Food, solid or liquid, containing not more than 0.5 g of sugars per 100 g/ mL of food.
Sodium	(1) with the word “Low”	(a) Food, solid or liquid, containing not more than 0.12 g of sodium per 100 g/mL of food.
	(2) with the word “Very low”	(a) Food, solid or liquid, containing not more than 0.04 g of sodium per 100 g/mL of food.
	(3) with the word “Free”	(a) Food, solid or liquid, containing not more than 0.005 g of sodium per 100 g/mL of food.
Protein	(1) with the word “Low”	(a) Food, solid or liquid, containing protein which contributes not more than 5% of energy.
	(2) with the word “Source”	(a) Solid food containing not less than 10% of the Chinese NRV of protein per 100 g of food; or (b) liquid food containing not less than 5% of the Chinese NRV of protein per 100 mL of food; or (c) Food, solid or liquid, containing not less than 5% of Chinese NRV per 100 kcal (or 12% of Chinese NRV per 1 MJ).
	(3) with the word “High”	(a) Solid food containing not less than 20% of the Chinese NRV of protein per 100 g of food; or (b) liquid food containing not less than 10% of the Chinese NRV of protein per 100 mL of food; or (c) Food, solid or liquid, containing not less than 10% of Chinese NRV per 100 kcal (or 24% of Chinese NRV per 1 MJ).
Vitamins and Minerals <i>(those with Chinese NRV)</i>	(1) with the word “Source”	(a) Solid food containing not less than 15% of the Chinese NRV of the vitamin or mineral concerned per 100 g of food; or (b) liquid food containing not less than 7.5% of the Chinese NRV of the vitamin or mineral concerned per 100 mL of food; or (c) Food, solid or liquid, containing not less than 5% of Chinese NRV per 100 kcal (or 12% of Chinese NRV per 1 MJ).
	(2) with the word “High”	(a) Solid food containing not less than 30% of the Chinese NRV of the vitamin or mineral concerned per 100 g of food; or (b) liquid food containing not less than 15% of the Chinese NRV of the vitamin or mineral concerned per 100 mL of food; or (c) Food, solid or liquid, containing not less than 10% of Chinese NRV per 100 kcal (or 24% of Chinese NRV per 1 MJ).

Component	Description of the claim	Conditions
Dietary Fibre	(1) with the word “Source”	(a) Solid food containing not less than 3 g of dietary fibre per 100 g of food; or (b) liquid food containing not less than 1.5 g of dietary fibre per 100 mL of food.
	(2) with the word “High”	(a) Solid food containing not less than 6 g of dietary fibre per 100 g of food; or (b) liquid food containing not less than 3 g of dietary fibre per 100 mL of food.

Summary on Conditions for Nutrient Content Claims: Claims Without Codex Conditions

Claim	HK	Codex	Mainland
Trans fat Free	(a) Solid food containing – (i) not more than 0.3 g of trans fat per 100 g of food; (ii) meet condition for “low saturated fat” claim (b) Liquid food containing – (i) not more than 0.3 g of trans fat per 100 mL of food; (ii) meet condition for “low saturated fat claim	Not defined	Not defined
	USA	EU	Australia/ New Zealand
	Not defined (Rounding rule* for 0 g of trans fat: 0.5 g per serving, with serving size varies from less than 5g/ml to over 200 g/ml)	Not defined	(a) Solid food: (i) No detectable trans fat; and (ii) containing no more saturated fat than 1.5 g per 100 ml; or (iii) no more than 28% saturated fat as a proportion of the total fat content

			<p>(b) Liquid food:</p> <p>(i) No detectable trans fat; and</p> <p>(ii) containing no more saturated fat than 0.75 g per 100 ml; or</p> <p>(iii) no more than 28% saturated fat as a proportion of the total fat content</p>
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Remark:

- Similarly, trans fat free claim is not defined in Taiwan, while the rounding rule for 0 g of trans fat is not more than 0.3g of trans fat per 100 g/ ml of food.
- As supplementary information, trans fat free claim is permitted in Malaysia, and the condition is less than 0.1 g of trans fat per 100 g/ ml; and that for Canada is less than 0.2 g of trans fat per serving, in addition to the requirement that the food must meet the condition for "low saturated fat" claim

Claim	HK	Codex	Mainland
Low Sugars	Food, solid or liquid, containing not more than 5 g of sugars per 100 g/ mL of food. (Same as Mainland condition)	Not defined	Food, solid or liquid, containing not more than 5 g of sugars per 100 g/ mL of food
	USA	EU	Australia/ New Zealand
	Not defined	(a) Solid food: containing not more than 5 g of sugars per 100 g of food (b) Liquid food: containing not more than 2.5 g of sugars per 100 ml of food	(c) Solid food: containing not more than 5 g of sugars per 100 g of food (d) Liquid food: containing not more than 2.5 g of sugars per 100 ml of food
Claim	HK	Codex	Mainland
Low Protein	Food, solid or liquid, containing protein which contributes not more than 5% of energy (Same as Mainland condition)	Not defined	Food, solid or liquid, containing protein which contributes not more than 5% of energy
	USA	EU	Australia/ New Zealand
	Not defined	Not defined	Not defined