

立法會
Legislative Council

LC Paper No. CB(2)1783/07-08
(These minutes have been seen
by the Administration)

Ref : CB2/SS/3/07

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

Minutes of meeting
held on Friday, 18 April 2008, at 3:25 pm
in the Chamber of the Legislative Council Building

- Members present** :
- Hon Bernard CHAN, GBS, JP (Chairman)
 - Hon James TIEN Pei-chun, GBS, JP
 - Hon Fred LI Wah-ming, JP
 - Hon Mrs Selina CHOW LIANG Shuk-ye, 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
- Member absent** :
- Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP

Public Officers attending : Item II

Food and Health Bureau

Ms Olivia NIP
Deputy Secretary for Food and Health (Food)

Mrs Angelina CHEUNG
Principal Assistant Secretary for Food and Health (Food)1

Food and Environmental Hygiene Department

Dr Constance CHAN Hon-ye
Controller, Centre for Food Safety

Dr Philip HO Yuk-yin
Consultant (Community Medicine) (Risk Assessment and Communication)

Department of Justice

Ms Leonora IP
Senior Government Counsel

Miss Emma WONG
Government Counsel

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)2

Staff in attendance : Ms Connie FUNG
Assistant Legal Adviser 3

Ms Alice LEUNG
Senior Council Secretary (2)1

Ms Anna CHEUNG
Legislative Assistant (2)2

Action

I. Election of Chairman

Mr James TIEN, Member of the highest precedence among members of the Subcommittee, presided over the election of Chairman. Mr TIEN called for

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nominations for the chairmanship of the Subcommittee. Mr Bernard CHAN was nominated by Mr Abraham SHEK, and the nomination was seconded by Mr Fred LI. Mr CHAN accepted the nomination. Mr TIEN called for other nominations

2. Mr Tommy CHEUNG was nominated by Mr Vincent FANG and the nomination was seconded by Ms Miriam LAU. Mr CHEUNG accepted the nomination.

3. As there were two nominations for the chairmanship, Mr James TIEN announced a vote by secret ballot. Mr TIEN announced that Mr Bernard CHAN and Mr Tommy CHEUNG had received 11 votes and 10 votes respectively, and declared Mr CHAN elected as Chairman of the Subcommittee.

II. Meeting with the Administration

[Ref: HF CR 1/1886/05, LC Paper No. LS70/07-08, Appendix III to LC Paper No. CB(2)1645/07-08(01), LC Paper Nos. CB(2)1645/07-08(02) to (05) and LC Paper No. CB(2)1667/07-08(01)]

4. The Subcommittee deliberated (index of proceedings attached at **Annex**).

Admin

5. The Administration was requested to -

- (a) provide information on the impact of implementing the mandatory nutrition labelling scheme on food choice (including the estimated percentage of food products imported from the Mainland that had to be re-labelled for meeting the nutrition labelling requirements), food price and the business of small food enterprises;
- (b) provide information on the public consultation work in respect of the nutrition labelling scheme; and
- (c) review the drafting of the phrase "not exceed 30 000 units" under the small volume exemption scheme to ensure its clarity of meaning, i.e. "30 000 units sold in market".

(Post-meeting note: The Administration's response providing information on the impact of implementing the mandatory nutrition labelling scheme on food choice and the public consultation work was circulated to members vide LC Paper No. CB(2)1739/07-08 issued on 28 April 2008.)

III. Any other business

Legislative timetable

Action

6. Members agreed that the Chairman should move a motion at the Council meeting on 7 May 2008 to extend the scrutiny period of the Amendment Regulation to 28 May 2008. Members noted that the deadline for giving notice of amending the Amendment Regulation would be 21 May 2008 and the Subcommittee would be required to give a written report to the House Committee on 16 May 2008.

Meeting with deputations

7. Members agreed that the Subcommittee should receive views on the Amendment Regulation from the organizations listed in Appendix IV to the Members' Brief at the next meeting. The Chairman invited members to notify the Clerk if they wished to invite other organizations. Members also agreed that the next meeting would be scheduled for Monday, 5 May 2008 from 4:30 pm to 8:30 pm to meet with the Administration and deputations.

(Post-meeting note: The Subcommittee subsequently decided by circulation of papers that it would hold two meetings on Monday, 5 May 2008 from 8:30 am to 10:30 am and from 4:30 pm to 8:30 pm in order to allow more time for the Subcommittee to meet with the deputations and discuss with the Administration.)

8. There being no other business, the meeting ended at 5:38 pm.

Council Business Division 2
Legislative Council Secretariat
30 April 2008

**Proceedings of the meeting of the
Subcommittee on Food and Drugs (Composition and Labelling)
(Amendment: Requirements for Nutrition Labelling and Nutrition Claim)
Regulation 2008
on Friday, 18 April 2008, at 3:25 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000550	Mr James TIEN	Election of Chairman	
000551 - 003048	Chairman Admin	Opening remarks Briefing and powerpoint presentation by the Administration on the Amendment Regulation [Legislative Council Brief (File Ref: HF CR 1/1886/05)] (presentation materials issued vide LC Paper no. CB(2)1680/07-08 on 21 April 2008)	
003049 - 003138	Mr Andrew LEUNG Chairman	Suggestion of inviting the food trade to give views on the Amendment Regulation	
003139 - 003948	Mr Fred LI Admin	Mr Fred LI raised the following queries – (a) whether prepackaged drinks would be subjected to the regulation of the Amendment Regulation; (b) what was the rationale for setting the limit of small volume exemption scheme for food products at an annual sales volume of 30 000 units; and (c) whether regulation could be avoided for food products making nutrition claims without using the words of "低糖" or "low sugars" etc. The Administration's responses as follows - (a) prepackaged drinks would be subjected to the regulation; (b) the proposed annual sales volume had struck a balance between the trade's request and consumer choices; and (c) the food products would be subjected to regulation if words carrying similar meaning were used.	
003949 - 004325	Mrs Selina CHOW Admin	Mrs Selina CHOW queried about the standard adopted by the Administration in working out its "one plus seven" nutrition labelling scheme, given that there was no single internationally accepted standard on nutrition labelling requirements.	

Time marker	Speaker	Subject	Action required
		<p>The Administration's explanation that the Administration had made reference to the Guidelines on Nutrition Labelling issued by the Codex Alimentarius Commission (Codex). However, different countries could adopt different requirements having regard to their own public health needs.</p>	
004326 - 004938	Mr James TIEN Admin Chairman	<p>Mr James TIEN's enquiries of the rationale not to give exemption status to a food product with a nutrition claim made in a foreign language and about the restrictions under the small volume exemption scheme in the United States (the US).</p> <p>The Administration's responses as follows -</p> <ul style="list-style-type: none"> (a) some members of the public might understand the nutrition claims made in that foreign language; and (b) the annual sales volume of the US's small volume exemption scheme was 100 000 units under which the exemption status of a food product would also be removed if a nutrition claim was made. 	
004939 - 010030	Ms Audrey EU Admin	<p>Ms Audrey EU's queries about the meaning of "food of the same version" for the purpose of the small volume exemption scheme, the possibility of abuse by making a slight change to the packaging and its implementation.</p> <p>The Administration's responses as follows -</p> <ul style="list-style-type: none"> (a) products of the same flavour, same packing size or same bar code would normally be considered as food of the same version for the purpose of the scheme; (b) the possibility of abusing the scheme was considered rather low having regard to the relatively small financial benefits to be gained under the scheme; (c) as a consensus reached with the food trade, when the sales volume of the food concerned had reached 70% of the maximum permitted sales volume under the scheme (i.e. 21 000), the Food and Environmental Hygiene Department (FEHD) would issue a notice to all importers with the exemption granted, notifying them of the sales volume; 	

Time marker	Speaker	Subject	Action required
		<p>(d) once the total sales volume of the prepackaged food to which the exemption had been granted had 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; and</p> <p>(e) a revocation of exemption would take effect on the expiry of 30 days from the date on which the decision to revoke the exemption was made.</p>	
010031 - 011143	Mr Andrew LEUNG Admin Chairman	<p>Mr Andrew LEUNG's expression of concerns about –</p> <p>(a) the impact on food choices after the enactment of the Amendment Regulation;</p> <p>(b) confusion to the public having regard to the flexibility in labelling format e.g. per 100 g/ml or per serving format; and</p> <p>(c) possible withdrawal of health food with nutrition claims from Hong Kong market.</p> <p>His further query as to why the proposed nutrition labelling scheme did not follow the Mainland's nutrition labelling requirements on core nutrients (i.e. one plus four core nutrients).</p> <p>The Administration's responses as follows –</p> <p>(a) close liaison with the relevant Mainland authorities including the Ministry of Health and the State General Administration of Quality Supervision, Inspection and Quarantine had been made on the proposed nutrition labelling system;</p> <p>(b) a prepackaged food product with a nutrition claim, e.g. a drink with “high” vitamin C, was not necessarily a health food if it contains high sugars at the same time but did not provide such information to consumers; and</p> <p>(c) allowing flexibility in energy unit (i.e. either kilocalorie or kilojoule) and the nutrition labels in either per 100 g/ml or per serving format, which was a proposal from the food trade, would minimize the need for re-labelling of the food products, without reducing consumers' right to make informed choices.</p>	

Time marker	Speaker	Subject	Action required
011144 - 012050	Ms Emily LAU Admin Chairman	<p>Ms Emily LAU's expression of her wish that the Administration could strike a right balance between enabling consumers to make informed food choice and facilitating business.</p> <p>The Administration was requested to provide information on the impact of implementing the mandatory nutrition labelling scheme on food choice (including the estimated percentage of food products imported from the Mainland that had to be re-labelled for meeting the nutrition labelling requirements), food price and the business of small food enterprises.</p>	<p>Admin to provide information (see para. 5(a) of minutes)</p>
012051 - 013030	Mr Tommy CHEUNG Admin Chairman	<p>Mr Tommy CHEUNG's expression of concern about the impact on food choice and cost arising from the need for the food trade to conduct food tests and to re-label the products.</p> <p>His further advice that, though the prepackaged food products with nutrition claims that had an annual sales volume not exceeding 30 000 units only represented 2.5% of all prepackaged food products, they represented about 25% of the types of prepackaged food products on sale in market.</p>	
013031 - 013936	Mr Vincent FANG Admin Chairman	<p>Mr Vincent FANG's clarification that the Liberal Party was supportive of introducing a mandatory nutrition labelling scheme but was concerned about the impact of the proposal of removing the exemption status of a food product if a nutrition claim was made, and that the trade was also not supportive of such a proposal.</p> <p>The Administration was requested to provide information on the public consultation work in respect of the nutrition labelling scheme.</p>	<p>Admin to provide Information (see para. 5(b) of minutes)</p>
013937 - 014710	Mr WONG Yung-kan Admin	<p>Mr WONG Yung-kan's enquires as to whether food products under the same brand but with different countries of origin would be counted as different versions of food under the exemption scheme and whether the exemption status would apply equally to food products imported from South East Asian countries and the Mainland.</p> <p>The Administration's responses as follows –</p> <p>(a) if the products were of different flavours, packing sizes or bar codes, they would not be considered as food of the same version for the purpose of the small volume exemption scheme; and</p>	

Time marker	Speaker	Subject	Action required
		(b) the exemption scheme applied equally to all prepackaged food, irrespective of their countries of origins, or manufactured locally.	
014711 - 015040	Mr Fred LI Admin	<p>Mr Fred LI's questions about how the annual sales volume would be counted if a box of prepackaged biscuit contained a number of individually packed biscuits and how parallel imported food products would be controlled.</p> <p>The Administration's responses as follows –</p> <p>(a) the annual sales volume referred to the boxes of prepackaged biscuit sold to consumers rather than individually packed biscuits contained in each box; and</p> <p>(b) food traders would have to report to FEHD the sales volume of the food items on a monthly basis and the Centre of Food Safety (CFS) staff would carry out regular inspections of food labels at retail outlets and about 55 000 food labels would be inspected each year.</p>	
015041 - 015400	Mr Tommy CHEUNG Admin	<p>Mr Tommy CHEUNG's question about the current Codex guidelines on nutrition labelling, and his concerns about the grace period allowed for the trade to comply with the mandatory nutrition labelling requirements and whether food products manufactured on the Mainland which had met the "1+14" nutrition labelling requirements of the US needed to be re-labelled for sale in Hong Kong.</p> <p>The Administration's responses as follows –</p> <p>(a) the Codex Guidelines on Nutrition Labelling required that a nutrition label should include energy, protein, carbohydrates and fat, and any other nutrients that were relevant for maintaining a good nutritional status in the population concerned;</p> <p>(b) the legislative proposal for "1+7" scheme was in line with the recommendation put forward by the World Health Organization to the Codex Committee on Food Labelling meeting in April 2007;</p>	

Time marker	Speaker	Subject	Action required
		<p>(c) the food products that were manufactured on the Mainland for export to the US could meet the proposed nutrition labelling requirements of Hong Kong and there was no need for re-labelling; and</p> <p>(d) when the proposal for nutrition labelling scheme was initially put forward, it was proposed that the scheme ("1+9") would be implemented in two phases. However, there were calls for implementing the scheme in one-go when the revised scheme ("1+7") was put forward.</p> <p>Mr CHEUNG's remark that it was misleading for the Administration to give an impression that the proposed mandatory nutrition labelling was consistent with the Codex Guidelines.</p>	
015401 - 020200	Mrs Selina CHOW Admin	<p>Mrs Selina CHOW's expression of worry that many food products would be withdrawn from the market as in the case after the enactment of the Food and Drugs (Composition and Labelling) (Amendment) Regulation 2004.</p> <p>Mrs CHOW's suggestion that, to serve the purpose of assisting consumers in making informed food choices, the Administration could consider requiring the food trade to provide nutrition information of food products with nutrition claims on the website.</p> <p>The Administration's responses as follows –</p> <p>(a) the trade had provided a list of food products that had been withdrawn from the market after the enactment of the Food and Drugs (Composition and Labelling) (Amendment) Regulation 2004, and the reasons for their withdrawal were mainly because the food concerned might contain food additives not permitted under the law or, in some cases, the overseas manufacturers refused to provide the information to the food importers; and</p> <p>(b) 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.</p>	

Time marker	Speaker	Subject	Action required
020201 -020600	Ms Audrey EU Mr Vincent FANG Admin	<p>Ms Audrey EU's 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 referred to units sold or imported.</p> <p>Mr Vincent FANG's enquiry as to whether the food trade was required to put a label on the food approved under the small volume exemption scheme.</p> <p>The Administration's responses as follows –</p> <p>(a) under the exemption scheme, any food importer or manufacturer of a prepackaged food might 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; and</p> <p>(b) the food trade was required to put a label on the food products so that consumers were able to know that the products were exempted from the nutrition labelling scheme.</p>	Admin undertook to review the drafting (see para. 5(c) of minutes)
020601 - 021159	Chairman Mr Fred LI Mr Andrew LEUNG Mr Vincent FANG Ms Miriam LAU Mr WONG Yung-kan Clerk Admin	<p>Agreement of the Subcommittee to extend the scrutiny period of the Amendment Regulation.</p> <p>Arrangements for the next meeting to receive views from deputations and further discussion with the Administration.</p>	Clerk to follow up (see para. 7 of minutes)