

**方便營商諮詢委員會**

**Business Facilitation Advisory Committee**

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Ms Flora Tai  
Clerk to Sub-committee on  
Food and Drugs (Composition and Labelling)  
(Amendment : Requirements for Nutrition  
Labelling and Nutrition Claim) Regulation 2008  
Legislative Council  
Legislative Council Building  
8 Jackson Road  
Central, Hong Kong

By fax: 2509 9055  
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Dear Ms Tai,

**Written submission**

Thank you for the invitation dated 23 April 2008 for submission on the Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008 (Amendment Regulation).

The Retail Task Force (RTF) of the Business Facilitation Advisory Committee (BFAC) has been working with the trade and the Administration on the most effective way to introduce the proposed nutrition labelling scheme for pre-packaged food in Hong Kong (the scheme). Both the BFAC and the RTF also have had extensive discussion on the subject. While we are pleased that the Administration has moderated its original proposal and offered a small volume exemption scheme to facilitate the trade, we understand that the trade still has some outstanding concerns with the implementation details. We hope that the Sub-committee would fully consider our views and the trade's views in vetting the Amendment Regulation.

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Whilst we all agree that the scheme will provide the needed nutrition information for the public to lead a healthy life style, the BFAC and RTF are concerned with the significant impact of the scheme on the trade. In a regulatory impact assessment study commissioned by the Administration, the consultant estimated that about 190 SMEs would go out of business because of the scheme. A survey carried out by the trade showed that 100% of the pre-packaged food imported from the Mainland is not in compliance with the proposed labelling requirements. There is a high likelihood that more than a few of the SMEs with Chinese food products as their main product line will have a hard time surviving, further substantiating the SME closure number estimated by the consultant. The trade estimated that up to 15 000 of those healthier and more nutritious products that make nutrition claims, representing more than 20% of the variety of all pre-packaged food products that are available in Hong Kong, might be removed from the Hong Kong food market arising from the implementation of the scheme. The trade also expressed concern that new products might bypass the Hong Kong market.

To avoid any unintended consequences arising from the scheme, the RTF believes that a pragmatic approach to implementation is important and that sufficient flexibility must be given to –

- the management of the small volume exemption scheme
- allow the small volume items to make nutrition claims
- allow food products to make non-Codex nutrition claims
- minimize the logistics involved in handling food items put on shelf before the effective date of the scheme

#### Small volume exemption

We support the exemption given to small volume items under the scheme now put up by the Administration. It is a reasonable step to ensure the continued supply of food items favoured by minorities in our community and health food which are sold in small volume now but are what we would hope our community will consume more in future. We appreciate that certain administrative procedures must be put in place to implement the small volume exemption. It is, however, of utmost importance that the procedures must not create more cost and paperwork to the SMEs in order not to defeat the whole purpose of the exemption. The trade envisages problems in complying with certain administrative procedures, especially the audit

requirement for each product. To reduce its compliance cost, the trade also considers it justified for the Administration to reduce the proposed annual fee for the issue and renewal of permit under the small volume exemption scheme.

#### Nutrition claims by small volume items

Health food items are beginning to gain acceptance in the market but as of now, most are still selling in small volume. Hopefully, with the exemption clause, they will remain profitable enough to stay in the market. Understandably, all health food must make nutrition claim in order to attract consumers, hopefully leading to a healthier food choice. This is in line with the spirit of providing nutrition information to consumers. If the small volume health food is not allowed to make nutrition claim, it will again defeat the purpose of the small volume exemption.

#### Non-Codex nutrition claims

Many of the small volume healthy food items make nutrition claims such as low/no trans fat, natural source of Omega 3, cholesterol free, etc., which are relatively neutral and factual statements but are not allowed under the scheme. We believe the trade's proposal to expand the scope of allowable nutrition claims would facilitate consumer in identifying healthier food and maintain a wide variety of product choices in Hong Kong. As long as such claims are supported by scientific evidence, are true and not misleading and are for the interest of public health, we consider that it is well justified to expand the list of allowable claims which in effect would help consumers make healthier choices.

#### Shelf life of pre-packaged food products

The shelf life of pre-packaged food products ranges from one day to five years. Under the new scheme, the trade will already be burdened with much coordination and preparatory work such as testing and re-labelling. To alleviate the regulatory burden and minimize the logistics involved in handling food items put on shelf before the effective date of the scheme, we support the trade's proposal to provide a defence clause such that food products marked or labelled before a specified date will not have to comply with the new regulations. This will at least remove the burden of dealing with food items that are already on shelf before the scheme is effective.

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The retail sector is an important segment of our economy, providing both service and employment to our community. The lightly regulated environment in the past has allowed a large number of entrepreneurs and SMEs to start business in our sector. However, the sector has to shoulder additional compliance costs and regulatory burden as a result of the introduction of a myriad of new legislations in recent years (*such as the regulation of proprietary Chinese medicine, regulation of Volatile Organic Compounds, regulation on labelling of food additives and allergen on prepackaged food, etc.*). The retail sector is gravely concerned about the cumulative effect of a series of new regulations to be introduced by the Administration and the impact on Hong Kong's status as a free trade centre. The maintenance of reasonable regulations therefore would be crucial to the future of the retail sector.

It is our sincere wish that the Sub-committee and the Administration will give due consideration to our views and the trade's views in vetting the Amendment Regulation.

Yours sincerely,



(Yu Pang-chun)  
Convener

Retail Task Force  
Business Facilitation Advisory Committee

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