

Submission

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

The Administration's latest proposal relating to prepackaged food products with nutrition claims and trans fat level (LC Paper No. CB(2) 1970/07-08(01)).

Thank you for inviting this comment on the latest proposals from the Administration.

1. Paragraph 2: Public concerns about the impact of the labeling scheme on food choice

1.1 The trade's stance on this has been all along to maximize the likely impact of these amendments in the eyes of the public, to minimize their costs and potential profit loss. An extensive campaign driven by the retail trade, involving the aggressive promotion of petitions at supermarket checkouts to all customers, highly misleading and in some cases deliberately false advertisements both at point of sale and in local newspapers, and organized activities by Consulates-General from a number of food exporting countries, largely protecting their nations export markets, has resulted in misinformation sufficient to pressure the Administration to reconsider their amendments designed to protect the health of the Hong Kong population. The degree of effort that has gone into this suggests that there is a lot more at stake in the eyes of the trade and consulates, than just Hong Kong's markets. This campaign of fear, misinformation and lies is straight from the manual written by Big Tobacco when moves were made to restrict tobacco in Hong Kong and elsewhere. That tobacco companies now control many of the world's largest producers of pre-packaged foods (e.g. Altria (aka Philip Morris), owners of Kraft Foods; RJRNabisco (formerly RJ Reynolds)), and that they have long held out against attempts to more clearly label their products as they did for so long against warnings on tobacco products is purely coincidental. They are not the only culprits.

1.2 The trade and members of the Liberal Party might however, this time, have the consumers best interests at heart. The trade and LP members are undoubtedly very familiar with the recent US research that shows that increasing the number options in a retail outlet results in more customer attention but declining sales as customers become

too confused to complete a purchase decision. Neither the retailer nor the customer benefits from too much “choice”.

2. Paragraph 3.

2.1 Nutrition labeling should help consumers make better-informed food choices. The Administration proposal to exempt items with sales volume below 30,000 units per year that carry nutrition claims is therefore wholly unacceptable for two reasons. First, most products that carry health or nutrition claims are likely to fall into the small-volume category. These products carry premium pricing which is dependent to a large extent on their nutritional or health claims: a regular line of a famous branded British breakfast cereal (price HK\$33) bought in a local supermarket has less fat, 20% less sodium, less protein and the same amount of carbohydrate and fibre as the organic line of the same product – which also carries more prominent health claims – and retails for HK\$66; An attractively packaged brand of “high calcium organic” soy milk from Australia cost 45% more than an ordinary variety (which makes no health or nutrient claims) announces on the front “dietary fibre for overall wellbeing” (this is a *liquid*, remember), “omega-3 for a healthy heart”. The nutrient information is, however, mostly obscured by a local Hong Kong label detailing the best before date, country of origin and local distributor.

Removing this label reveals that this soya milk that is so good for your heart, that one serving *contains 225mg of sodium - 16% of the daily sodium intake*. This product, despite its claim, is definitely not good for your heart, despite having added omega-3, and contains almost no fibre. Two points deserve mention: 1. The product is unlikely to improve heart health, but unless you are very familiar with cardiovascular epidemiology, there is a good chance you will not know this; 2. Significant nutritional information from the country of origin is partly obscured by local labeling, adhered by the imported presumably. The second reason the amendments should not allow small-volume exemption is that Mrs. Chan from Sham Shui Po or a secondary student who is beginning to make healthier decisions about their diet will be misled by the failure of the product to be properly labeled. Many shoppers probably do not have a degree from an Ivy League university like many ex-patriate mothers living on the Peak who are concerned about their food, but surely deserves the right to protection, even at the cost of some food items preferred by ex-pats for their picnic hampers having to be replaced by more honest ones. The net benefit to the community of the original amendments

will be positive and in six months be accepted by all but a very small minority, as always happens with all Hong Kong's public health legislation, despite the predictable vociferous objections from vested interests.

2.2 The Administration now recommends the application to all small-volume items of a label announcing the product does not comply with Hong Kong law. I urge lawmakers to check the labeling on a variety of product lines in Hong Kong supermarkets. You will see that they all already carry locally applied labels specifying contents that have been applied, apparently deliberately, with the intent to obscure nutritional information on the packaging from the exporting country. The Administration's proposal will provide importers with yet more means to obscure even more information for the shopper. The administration should therefore include in its amendments a regulation prohibiting importers from obscuring existing product nutrient content information by any means.

2.3 The only acceptable condition in which an exemption label may be used is as follows: that the Subcommittee *requires that the exemption warning label proposed by the administration be on the FRONT of the product*, and no other location, and be of a minimum 12 point font size (for many older people, 10 point font size is very difficult to resolve). Simply specifying that the label must be "prominently displayed" is inadequate, open to argument and will result in the label being applied either underneath where it is not seen, or over the existing nutritional label, making matters worse. It should be specified that any labels attached to the product by the importer for any reason must be placed in such a way that no nutritional information (excepting nutrient or health *claims*) is obscured.

3. Paragraph 4:

3.1 If the exemption label is to be displayed on the front of the product, then such a label may be acceptable *as a temporary expedient* but should be reviewed annually as nutritional labeling laws are changing everywhere towards greater transparency.

3.2 Label wording: the label should bear the words “Nutrition labeling exempted *due to small sales volume*. Nutritional label, nutrition claims *and health claims* for this product may not comply with Hong Kong laws *and may be misleading.*”

3.3 The additional specification of why the product is exempt “due to small sales volume” provides information to shoppers that this is not exempt for other reasons that the trade may represent as positive (such as being “more healthy”) by point of sale or other advertising, for example.

3.4 The additional specification “and health claims” provides additional information to shoppers who may consider that nutrition claims (e.g. from our soya milk drink “Dietary fibre”) are unrelated to health claims (e.g. “for overall wellbeing”).

3.5 The additional specification of “and may be misleading” indicates that the shopper needs to exercise caution when considering this product.

The same information should be included in Chinese characters.

4. Paragraph 5

4.1 The inclusion of additional wording would require the label size to be a minimum of 8cm x 4cm. Anything smaller would be unacceptable as font size would be too small for senior citizens to read without the aid of reading glasses, which they might not take with them when shopping.

5. Paragraph 6

No comment

6. Paragraph 7

6.1 Review exemption labels after one year. This is a de facto extension of the grace period to three years as requested by the trade and so the Administration’s proposal should be entirely acceptable to them.

7. Summary

In summary, the following points are emphasized:

1. There should be no exemptions for small volume items carrying health or nutrition claims.
2. If the trade and its representatives are unhappy with the costs of relabeling nutritional information, the simplest solution for the importer is to simply **cover the offending claim with a blank sticker**. This immediately resolves the problem.
3. If exemptions are allowed for small volume items carrying health/nutrition claims, *the only acceptable alternative is that all exempted products must carry a warning label **on the front of the product** and not elsewhere.*
4. Any labels attached under existing regulations, or for any other reasons by importers, exporters or manufacturers **must not be allowed to obscure the nutritional information** already carried on the product, as currently occurs.
5. The wording of any exemption labels should be amended as specified in paragraph 3.2-3.5
6. The minimum size of the exemption label be 8cm x 5cm to ensure legibility for those who have visual impairments.

I thank the subcommittee for considering this submission.

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Saturday, 24 May 2008