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**Panel on Food Safety and Environmental Hygiene**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 13 April 2010**

**Implementation of the Nutrition Labelling Scheme**

**Purpose**

This paper gives an account of the past discussions by the Panel on Food Safety and Environmental Hygiene ("the Panel") on the implementation of the Nutrition Labelling Scheme.

**Background**

2. The Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008 ("the Amendment Regulation"), which introduces the Nutrition Labelling Scheme for prepackaged food, will come into operation on 1 July 2010 after a two-year grace period. The Nutrition Labelling Scheme requires all prepackaged food to label the content of energy plus seven core nutrients, namely: (i) protein, (ii) carbohydrates, (iii) total fat, (iv) saturated fat, (v) trans fat, (vi) sodium, and (vii) sugars, as well as any nutrient for which a claim is made, and regulates different types of nutrition claims.

3. To facilitate the food trade and to minimise the impact on food choice, a number of exemptions from the nutrition labelling requirements are provided in the Amendment Regulation, e.g. exemption for prepackaged food packed in a container which has a total surface area of less than 100 cm<sup>2</sup>. In addition, a small volume exemption ("SVE") scheme has been introduced to exempt food products with annual sales volume of 30 000 units or below and do not carry nutrition claims. Food manufacturers/importers need to apply to the Director of Food and Environmental Hygiene ("DFEH") for SVE, which is subject to conditions set by DFEH, including the requirement of monthly reporting of sales volume at the importer's/manufacturer's level. Traders will be notified when the sales volume has reached 70% of the 30 000 level, and once the sales volume exceeds the limits,

i.e. 30 000 units per year, all food items currently being put on the market will have to be labeled in accordance with the legal requirements within 30 days. Sales volume refers to those at the manufacturer or importer level, i.e. number of units that were sold to the retailers or distributors, and does not refer to those actually sold out by the retailers to the ultimate consumers.

### **Past discussion**

4. On 22 June 2009, the Administration briefed the Panel on the actions taken by the Administration in preparation for implementing the Nutrition Labelling Scheme. A total of 14 deputations also attended the meeting to give views on the matter.

5. Members were advised that in response to the trade's request to grant approval to all products eligible for SVE by the end of 2009 as certain major retailers would not accept delivery of products that did not comply with the Nutrition Labelling Scheme from 1 January 2010, the Centre for Food Safety ("CFS") of the Food and Environmental Hygiene Department planned to proceed with the special arrangements as follows -

- (a) application forms would be available in mid-August 2009 and CFS would begin processing SVE applications on 1 September 2009;
- (b) applications would be processed on a first-come-first-served basis. CFS would respond to the applications as soon as possible, and for applications submitted before 31 October 2009, the applicants would be informed of the result no later than 18 December 2009, provided that all necessary information was submitted; and
- (c) successful applicants would be required to pay the exemption fee within a specified period in July 2010 for the exemption to take effect on 1 July 2010.

In order to have an overview of the impact of the Nutrition Labelling Scheme on the availability of prepackaged food in the market, CFS would commission an independent consultant to conduct several market surveys before and after the commencement of the Scheme. The first survey would begin before October 2009.

6. Members were further advised that subject to the Panel's support, CFS was willing to consider giving more time to retailers, beyond the normal 14 days, to provide explanation as to why the information in the nutrition labels of the food products they offered for sale fell outside the tolerance limits and/or why the nutrition claims contained in the products concerned did not conform with the stipulated conditions for nutrition content claims, at the early commencement stage of the Amendment Regulation, before ordering them to take the food concerned off the shelves if their explanation was deemed unsatisfactory by CFS.

7. Concern was raised about the capacity of the local laboratories to provide quality nutrient testing service.

8. The Administration advised that there were currently at least seven local laboratories that were capable of providing nutrient testing service, and CFS had been keeping close liaison with these laboratories, in order to keep in view the market situation. According to the latest feedback from these laboratories, their current workload for nutrient testing was below their maximum capacity and they were able to provide laboratory testing service for energy, the seven core nutrients, and some other nutrients, e.g. dietary fibre, cholesterol, vitamins. The laboratories also indicated that they would enhance their capacity or send testing requests to their Mainland/overseas partners should the demand for service increase. To encourage more local accredited laboratories to explore providing quality nutrient testing service, CFS had co-organised with the Hong Kong Accreditation Service a special seminar on the nutrition labelling test methods in April 2009.

9. On whether CFS would accept test results performed by overseas laboratories using internationally recognised nutrient testing methods, the Administration advised that it was not possible to do so as all Hong Kong laws, including the Amendment Regulation, required the test results from the Government Laboratory ("GL") for enforcement.

10. Regarding the complaints made by some trade representatives about the wide discrepancies in the results of nutrition tests conducted by local private laboratories, the Administration considered that this might be due to the fact that the laboratories concerned did not adopt the appropriate testing methods which were elaborated in the "Method Guidance Notes on Nutrition Labelling and Nutrition Claims", or had done so but failed to faithfully adopt all the testing procedures in order to lower costs and/or shorten testing time. CFS attached great importance to the quality of nutrient testing service provided by private laboratories. In this connection, an experience sharing session on nutrient testing for local laboratories would shortly be held by GL. Local laboratories encountering difficulties in analysing certain food matrices should get in touch with CFS as soon as possible to overcome the technical problems.

11. Hon Vincent FANG urged CFS to allow food products which had obtained exemption status under the SVE scheme to retain nutrition claims, so as to assist consumers in making informed food choices and avoid making Hong Kong a laughing stock to the international community if the nutrition claims on these food products had to be blackened out. The Administration pointed out that to allow such was against the legislative intent of the Amendment Regulation and would undermine consumers' rights. To avoid blackening out the nutrition claims on food labels, the trade might wish to re-design the packaging of those food products which they wished to seek exemption under the SVE scheme.

12. In response to the retailers' request on allowing them to continue to sell those food products which were exempted from nutrition labelling under the SVE scheme after the sales volume of the food concerned had exceeded the 30 000-unit

limit, the Administration advised that it was willing to give more time to retailers to sell the remaining stock at the early commencement stage of the Amendment Regulation if this was supported by the Panel. To help traders keep track of the sales volume of the food products which had obtained exemption status under the SVE scheme, a computer system would be set up to alert CFS on notifying the exemption grantees and other stakeholders, such as the retailers, when the sales volume had reached 70% of the 30 000 level. Consideration was being made to notify traders when the sales volume had reached 90% of the 30 000 level.

### **Relevant papers**

13. Members are invited to access the Legislative Council website (<http://www.legco.gov.hk>) for details of the relevant papers and minutes of the meeting.

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