

**Director of Audit's Report No. 57, Chapters 3 and 4
6 December 2011**

**Secretary for Food and Health
Opening Remarks**

- First of all, I would like to thank the Audit Commission for auditing the work of the Centre for Food Safety (CFS) on regulating food labelling. I accept the recommendations made in the Report.
- Concerning the recommendations in the Report which are related to the value-for-money audit, we will work closely with the Public Accounts Committee to take follow up actions. We note that the Audit Commission has also made other recommendations, including those related to policy matters. As these recommendations are different in nature from those arising from the value-for-money audit, we will continue to discuss with Members through other appropriate channels under the established mechanism, such as the relevant Panels.
- We are committed to enhancing the effectiveness of the Nutrition Labelling Scheme (the Scheme) so that members of the public could select healthier food based on the information available on the nutrition labels.
- The Administration has also maintained close liaison with the trade through various channels on the implementation of the Scheme and adopted a number of measures to assist them in complying with the Scheme.
- With extensive public education and publicity programmes launched by CFS, consumers have gradually understood the importance of making good use of nutrition labels.
- According to a survey conducted by the Bauhinia Foundation Research Centre in June this year, nearly 80% of the respondents were aware of the implementation of the Nutrition Labelling Scheme in Hong Kong. Over 60% of the respondents would “frequently” or “sometimes” check the nutrition labels or nutrition claims before purchasing prepackaged food items. All in all, the survey agreed that the Nutrition Labelling Scheme had made a good start in promoting awareness, as well as in its acceptability and credibility and was worth supporting.
- To facilitate the public to make use of the nutrition information on prepackaged food to select suitable food items, CFS has launched a mobile application “Nutrition Calculator” (“NuCal”) in October 2011. With “NuCal” the public

can set up a personal database on food items for recording nutrition information of their favourite prepackaged food items. The estimated level of nutrient intake can be worked out by inputting the amount of food consumed. Users may then compare it with the upper limit of the daily intake and make necessary adjustments as appropriate. As at the end of November 2011, “NuCal” has recorded about 26 000 downloads.

Food Labelling

- The Report covers roughly the first year of operation after the nutrition labelling legislation took effect. As it is only a short period of time after the implementation of the Scheme, it is inevitable that CFS would need to fine-tune and improve its enforcement strategy in light of its operational experience.
- The Nutrition Labelling Scheme came into operation on 1 July 2010. At the time when the legislation was enacted by the Legislative Council in 2008 and over the subsequent two-year grace period, quite a number of Legislative Councillors and trade members voiced their concern to the Government that the legislation would have more impact on many small and medium enterprises (SMEs), particularly the small scale ones and shops selling food for ethnic minorities. They suggested that flexibility in enforcement should be exercised in the first year of implementation. Accordingly, CFS focused more on publicity and education by arranging staff visits to these shops and distributing multi-language leaflets to ethnic shops so that they would have a more in-depth understanding of the legislation. CFS also offered further support to the ethnic shops through the relevant consulates in Hong Kong.
- Regarding the Audit observation that the majority of food samples came from large supermarkets, I would like to point out that this was a well-thought-out strategy formulated by CFS for the implementation of the Scheme at its initial stage. Large chain supermarkets take up a lion share of prepackaged food sold in the market, out-numbering those sold in other food retail outlets. The sales volume of prepackaged food in these chain supermarkets is huge, involving a large number of importers, suppliers as well as distributors and with a good variety of items. If we could ensure the early compliance with the Scheme by these chain supermarkets, it would be in the best interest of the public.
- CFS commissioned a consultant to carry out a survey about three to four months before the nutrition labelling legislation took effect. According to the survey, prepackaged food available in local supermarkets accounted for about 70% of market shares but only about 65% of prepackaged food in supermarkets complied with the nutrition labelling legislation. As such, it is an appropriate enforcement strategy for CFS to take more samples from supermarkets for

inspection at the initial stage of the implementation of the Scheme to ensure that the most popular prepackaged food items comply with the requirements concerned.

- It might not be in the wider public interest for CFS to direct its enforcement actions specifically against SMEs, including small groceries, market stalls and ethnic shops while neglecting large chain supermarkets immediately after the commencement of the legislation.
- CFS takes the enforcement work of nutrition labelling seriously. Before the audit review, the Food and Environmental Hygiene Department (FEHD) invited the Corruption Prevention Group of the Independent Commission Against Corruption (ICAC) in November 2009 to examine the enforcement work of nutrition labelling requirements and to make recommendations on areas for improvement. ICAC submitted a report to CFS in November 2010. After further discussions with ICAC, FEHD implemented the recommended measures in April 2011. This shows that CFS has adopted a vigorous, proactive and serious approach in carrying out its duties.
- CFS has accepted ICAC's suggestions by adopting a risk-based approach in selecting premises for food label inspection. Under the risk-based approach, retail outlets are classified as high, medium and low risk based on four criteria: shop management, scale of business, type of food sold and track records. With the high compliance rate of large chain supermarkets after the implementation of the Scheme, CFS has changed its sampling strategy since April 2011 and set 50%, 30% and 20% as the percentage of prepackaged food to be taken for inspection from high, medium and low risk outlets respectively. It takes time to refine our strategy. Besides, we would not like to see SMEs and small shops being hit hard all of a sudden. It so happens that the time covered by the Report coincides with the time when the new strategy was introduced. The Audit Commission also agreed to the recommendations made by the Corruption Prevention Group of ICAC.
- Separately, the Audit Commission opined that CFS had not adopted a risk-based approach in selecting food samples for testing.
- I would like to point out that CFS and the Government Laboratory (GL) accord top priority to testing related to food-safety incidents and harmful substances of higher risk so as to protect public health. As a result, the number of samples tested for compliance with nutrition labelling requirements will be relatively lower. Our testing target, which has been made known to the public, is about 500 samples a year. In order to collect a wide variety of food samples at the early stage after the enactment of the legislation, CFS might not have tested samples for all the "1+7" core nutrients. To be cost-effective, CFS has

initially focused its sampling on products with nutrition claims including “low sugar” and “low fat” etc in the first year of implementation. CFS accepts the recommendations made by the Audit Commission and will provide the details of the testing results in the future.

- The issue of font size of food labels being too small has also been raised in the Report. In this respect, CFS has uploaded a set of draft guidelines onto the CFS website to consult the trade, with the objective of ensuring that consumers can read clearly the information on nutrition labels.
- As for the number and percentage of suspected non-compliant cases stated in the Report, it is difficult to make an objective comparison between those provided by the Audit Commission and those by CFS as their strategies, sampling plans, standards and testing criteria are different. However, CFS has actively followed up the cases referred by the Audit Commission. Details will be provided by the Director of Food and Environmental Hygiene in due course.

Nutrition labelling of infant and special dietary foods

- The Government has all along attached great importance to the safety of infant formula and carried out analysis of harmful substances based on risk assessment. Each year, CFS takes samples at import, wholesale and retail levels for chemical and microbiological testing. From 2007 to 2010, a total of 960 samples of milk powder (including 590 samples of infant formula) were taken for testing with satisfactory results.
- When drawing up the Scheme, we have already stated that it would not apply to infant formula or follow-up infant formula, or food for infants and young children because these foods are being regulated under different Codex standards.
- Nonetheless, CFS will continue to improve the food surveillance programme to include more infant formula and follow-up infant formula sold in Hong Kong in our chemical analysis work. As for the nutrition labels, nutrition claims and other claims of prepackaged food products for infants and young children, CFS is currently conducting a joint study with the Consumer Council (CC) to understand the local situation better before drawing up some concrete recommendations for the trade. It is expected that the findings of the study will be available in early 2012.
- For labelling of infant formula and follow-up infant formula, manufacturers and distributors must comply with the Food and Drugs (Composition and Labelling) Regulations (Cap 132W) and exercise self-discipline in compliance

with the WHO Code and requirements in the relevant World Health Assembly (WHA) resolutions in their marketing practices.

- The Department of Health (DH) set up a task force in June 2010 to develop the Hong Kong Code. The task force is working on the details and coverage of the Hong Kong Code with due regard to the details and scope of regulation recommended in the WHO Code and the WHA resolutions. The drafting work is expected to be completed shortly. DH will then consult the trade and collect the views of relevant parties. It is expected that the Hong Kong Code will be implemented within 2012.
- CFS will work closely with DH to actively consider incorporating requirements on nutritional composition and labelling of infant formula and follow-up infant formula sold in Hong Kong into the Hong Kong Code, and to monitor the compliance of the trade.
- Subject to the response of the trade to the Hong Kong Code, the Government will consider whether it is necessary to introduce legislation governing nutritional composition and labelling of infant foods.
- Codex has not established compositional requirements for all types of special dietary foods since there is a wide range of foods for special dietary use. CFS will study the current situation regarding labelling of these foods and make recommendations on the priority of regulating these products. In fact, the dietary needs of most people with different health conditions can be met by conventional food, which is already regulated under the Public Health and Municipal Services Ordinance and its food-related regulations.
- We are aware of the public concerns on infant and special dietary foods and will set the priority for legislative work when we review our legislation.
- For the suspected cases of labels or advertisements carrying false description or misleading elements as raised by the Audit Commission, CFS has sent letters to the relevant traders to seek scientific evidence for consideration of enforcement actions.
- Lastly, we would like to thank the Audit Commission for their observations. We will take follow-up actions actively and further enhance our enforcement efforts in food labelling.