

**Public Accounts Committee of the Legislative Council
Meeting on 6 December 2011
Speaking notes of Mr Benjamin Tang, Director of Audit**

- First of all, I welcome the Secretary for Food and Health's acceptance of the recommendations made in the Director of Audit's Report (Audit Report) and his undertaking to take active follow-up actions.
- Regarding the Secretary for Food and Health's opening remarks that some of the recommendations in the Audit Report relate to policy matters and differ in nature from the recommendations normally made in value for money audits, I think there is a need for clarification.
- As mentioned in paragraph 1.15 of Chapter 3 of the Audit Report, Audit has conducted a review of the Centre for Food Safety (CFS)'s work in the regulatory control of food labelling. The Audit Report has also made a number of recommendations in this regard, but they do not relate to policy matters.
- Regarding Chapter 4 of the Audit Report, Audit fully understands that under the existing policy, the nutrition labelling scheme does not apply to infant and special dietary foods. However, as stated in paragraph 2.3 of the Audit Report, as early as 2005, the Administration undertook to review the need for introducing nutrition labelling requirements covering these foods in the future, though the relevant Panel of the Legislative Council (LegCo) was not informed of the timetable of the review at that time. Therefore, in the current audit review, Audit has also examined the adequacy of the nutrition labelling of infant and special dietary foods. The objective is to provide input to the Administration on whether there is a need to introduce nutrition labelling requirements covering such foods. This point is clearly stated in paragraph 1.15 of Chapters 3 and 4 of the Audit Report.
- Parts 2 to 4 of Chapter 4 of the Audit Report pointed out that there were various inadequacies in the nutritional composition and labelling of infant and special dietary foods marketed in Hong Kong. There is a need for the Administration to take actions to address the issues as a matter of urgency. Therefore, Audit has recommended in Part 5 that the Administration should conduct a review to critically consider introducing appropriate law or regulations to govern nutritional composition and labelling of infant and special dietary foods marketed in Hong Kong (see paragraph 5.3(a)).
- The Secretary for Food and Health has stated in his opening remarks that when considering the need to introduce appropriate law or regulations, the Administration will, under the established mechanism, discuss with LegCo Members through appropriate channels, such as the relevant Panels. Audit hopes that the Administration and LegCo Members will critically consider the audit observations and recommendations in Chapters 3 and 4 of the Audit Report when discussing the relevant matters.

Food labelling

- The Secretary for Food and Health has pointed out in his opening remarks that the Audit Report covers roughly the first year of operation after the nutrition labelling legislation took effect. As this is only a short period of time after the implementation of the nutrition labelling scheme, it is inevitable that the CFS would need to fine-tune and improve its enforcement strategy in the light of its operational experience. Audit fully agrees with this point. As stated in paragraph 1.17 of Chapter 3 of the Audit Report, the audit review has found areas which call for early attention. Audit has made timely recommendations to address the issues in order to facilitate the Administration to make improvements.
- The Secretary for Food and Health has also pointed out that the majority of food samples came from large chain supermarkets at the initial implementation stage of the nutrition labelling scheme. He considers it a well-thought-out strategy formulated by the CFS because large chain supermarkets take up a lion share of prepackaged food sold in the market, out-numbering those sold in other food retail outlets. Besides, there is a good variety of items sold in the supermarkets. It would be in the best interest of the public if early compliance with the scheme could be ensured. Audit agrees that the adoption of such strategy is reasonable at the initial implementation stage of the scheme. However, as inspections carried out by the CFS revealed that supermarkets had quickly complied with the requirements of the nutrition labelling scheme, the CFS should have taken early action to ensure that its limited inspection resources were effectively utilised. The CFS should have adjusted and improved its inspection strategy and adopted a more risk-based approach in its inspection work, so that retail outlets with a higher risk of non-compliance were also covered. In this connection, Audit's observations are in line with those of the Independent Commission Against Corruption in its assignment report submitted to the CFS in 2010.
- Regarding the Secretary for Food and Health's comment that it is difficult to make an objective comparison between the test results provided by Audit and those by the CFS due to differences in their strategies, sampling plans, standards and testing criteria, I think there is a need for clarification.
- As mentioned in paragraph 2.6 of Chapter 3 of the Audit Report, Audit's compliance tests were similar to those of the CFS. They comprised both visual checking and laboratory testing.
- For visual checking, Audit noted that the CFS mainly focused its checking on large chain supermarkets. Audit therefore deliberately selected some smaller retail outlets (e.g. wet market stalls, ethnic shops, snack shops and grocery shops) for checking. The objective was to help the Administration understand that these smaller retail outlets had a higher risk of non-compliance.

- For laboratory testing, the methodology, standards and testing criteria adopted by Audit were largely the same as those of the CFS. To carry out an independent laboratory testing, Audit commissioned a local university to provide accredited laboratory services. Same as those of the CFS, most of the food samples were purchased from large chain supermarkets. The tolerance limits Audit adopted were also the same as those adopted by the CFS for considering enforcement action (see paragraph 2.9). The main difference was that Audit selected food samples based on risk assessment while the health inspectors of the CFS exercised discretion in selecting food samples. The health inspectors were also not required to document their justifications for the food products selected. Furthermore, Audit selected more nutrients per food sample for testing. For example, in Audit's laboratory testing, about 90% of the food samples were tested for four or more nutrients. On the other hand, in the CFS's tests, for 70% of the samples, only one nutrient was selected for chemical analysis.

Nutrition labelling of infant and special dietary foods

- We appreciate that the CFS takes food samples at import, wholesale and retail levels for chemical and microbiological testing each year. However as stated in Notes 14 and 21 of Chapter 4 of the Audit Report (pages 26 and 48), the CFS's chemical testing only covers testing for food additives, contaminants, toxins and other harmful residues, whereas microbiological testing covers testing for bacteria and viruses. As pointed out in paragraph 3.3(a) of Chapter 4 of the Audit Report, the CFS has not selected any infant and special dietary foods for verifying the correctness of the nutrition information declared.
- We also appreciate that the CFS is currently conducting a joint study with the Consumer Council on the nutrition labels, nutrition claims and other claims of prepackaged food products for infant and young children. However, as stated in paragraph 3.3(a) of Chapter 4 of the Audit Report, the joint study does not include infant and follow-up formulae.
- Finally, Audit welcomes the Administration's undertaking to actively consider incorporating requirements on nutritional composition and labelling of infant and follow-up formulae sold in Hong Kong into the Hong Kong Code, and to monitor the compliance of the trade. Besides, 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.