

**立法會**  
**Legislative Council**

LC Paper No. CB(2)22/15-16  
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by the Administration)

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**Panel on Food Safety and Environmental Hygiene**

**Minutes of meeting**  
**held on Tuesday, 14 July 2015, at 2:00 pm**  
**in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon Tommy CHEUNG Yu-yan, GBS, JP (Chairman)  
Hon Steven HO Chun-yin, BBS (Deputy Chairman)  
Hon Vincent FANG Kang, SBS, JP  
Hon WONG Kwok-hing, BBS, MH  
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN  
Hon Starry LEE Wai-king, JP  
Hon CHAN Hak-kan, JP  
Hon WONG Kwok-kin, SBS  
Hon Alan LEONG Kah-kit, SC  
Hon WONG Yuk-man  
Hon Claudia MO  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon CHAN Chi-chuen  
Hon CHAN Han-pan, JP  
Dr Hon Kenneth CHAN Ka-lok  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon Helena WONG Pik-wan  
Dr Hon CHIANG Lai-wan, JP  
Hon CHUNG Kwok-pan  
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
- Member attending** : Hon Paul TSE Wai-chun, JP
- Members absent** : Hon Cyd HO Sau-lan, JP  
Dr Hon LEUNG Ka-lau  
Hon CHEUNG Kwok-che  
Dr Hon KWOK Ka-ki

**Public Officers : Item II  
attending**

Dr KO Wing-man, BBS, JP  
Secretary for Food and Health

Mr Kenneth CHAN Siu-yum  
Principal Assistant Secretary for Food and Health (Food) 1

Dr HO Yuk-yin, JP  
Consultant (Community Medicine) (Risk Assessment  
and Communication), Centre for Food Safety  
Food and Environmental Hygiene Department

Dr LEE Siu-yuen, JP  
Assistant Director (Food Surveillance and Control),  
Centre for Food Safety  
Food and Environmental Hygiene Department

Mr LI Ka-kei  
Assistant Director (Operation) 1  
Food and Environmental Hygiene Department

Mr Howard CHAN Wai-kee, JP  
Deputy Director of Environmental Protection (2)  
Environmental Protection Department

Mr WONG Hon-meng  
Assistant Director (Waste Reduction and Recycling)  
Environmental Protection Department

Mr Ricky CHENG Wing-kei  
Assistant Secretary for Food and Health (Food) 2

**Item III**

Professor Sophia CHAN Siu-chee, JP  
Under Secretary for Food and Health

Mr Kenneth CHAN Siu-yum  
Principal Assistant Secretary for Food and Health (Food) 1

Dr HO Yuk-yin, JP  
Consultant (Community Medicine) (Risk Assessment  
and Communication), Centre for Food Safety  
Food and Environmental Hygiene Department

Item IV

Professor Sophia CHAN Siu-chee, JP  
Under Secretary for Food and Health

Miss Diane WONG Shuk-han  
Principal Assistant Secretary for Food and Health (Food) 2

Mr LI Ka-kei  
Assistant Director (Operations) 1  
Food and Environmental Hygiene Department

**Clerk in attendance** : Ms Alice LEUNG  
Chief Council Secretary (2) 2

**Staff in attendance** : Ms Wendy LO  
Senior Council Secretary (2) 2

Miss Emma CHEUNG  
Legislative Assistant (2) 2

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- I. Information paper(s) issued since the last meeting**  
(LC Paper Nos. CB(2)1766/14-15(01), 1855/14-15(01) and (02),  
CB(2)1860/14-15(01) and CB(2)1889/14-15(01))

Members noted that the following papers had been issued since the last meeting -

- (a) Administration's response to Dr Helena WONG's letter dated 6 May 2015 concerning the detection of excessive pesticides residues in tea leaves and floral tea samples available in Taiwan market;
- (b) Letters dated 29 June 2015 respectively from Dr Helena WONG and Dr KWOK Ka-ki concerning the safety issues in relation to the use of coloured powder in large-scale activities following the fire incident in the Formosa Water Park in New Taipei City of Taiwan on 28 June 2015;
- (c) Referral arising from the meeting between Legislative Council ("LegCo") Members and Central and Western District Council

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members on 27 November 2014 regarding the nuisance caused by liquor-licensed premises in Central and Western District; and

- (d) Administration's response to Dr Helena WONG's letter dated 5 May 2015 concerning the food safety surveillance on products imported by sea.

**II. Public consultation on the proposed regulation of safety of edible oil**

(LC Paper Nos. CB(2)1861/14-15(01) and (02))

2. Secretary for Food and Health ("SFH") advised that the Administration aimed to introduce legislative proposals on regulation of edible fats and oils and recycling of "waste cooking oils" to safeguard public health and promote environmental protection, as detailed in the Administration's paper (LC Paper No. CB(2)1861/14-15(01)). With the aid of power-point presentation, Assistant Director (Food Surveillance and Control), Centre for Food Safety, Consultant (Community Medicine) (Risk Assessment and Communication), Centre for Food Safety ("C(CM)(RAC)/CFS"), Assistant Director (Waste Reduction and Recycling), Environmental Protection Department and Assistant Director (Operations) 1, Food and Environmental Hygiene Department ("AD(Ops)1/FEHD") further briefed members on the legislative proposals.

*(Post-meeting note: The softcopy of the power-point presentation materials was issued to members vide LC Paper No. CB(2)1914/14-15(01) on 14 July 2015.)*

3. Members noted the background brief on the subject (LC Paper No. CB(2)1861/14-15(02)) prepared by the LegCo Secretariat.

4. The Chairman declared that he owned a company with business in recovering used cooking oils. At the suggestion of the Chairman, members agreed that the Panel should hold a special meeting to receive views from deputations on the Administration's legislative proposals on regulation of edible fats and oils and recycling of "waste cooking oils" before the end of the consultation period.

Regulation of edible fats and oils

*Proposed safety standards for edible fats and oils*

5. Mr WONG Kwok-hing supported the Administration's proposal to

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regulate edible fats and oils. However, he noted from media reports that the proposed regulatory standard for Benzo[a]pyrene ("B[a]P") in edible fats and oils in Hong Kong was more stringent than that of the Mainland but laxer than those set by the European Union ("EU"), Korea and Taiwan. He expressed concern that the adoption of different safety standards by overseas jurisdictions would render the proposed regulatory control of edible fats and oils ineffective to safeguard public health.

6. Dr Helena WONG said that the Democratic Party supported the strengthening of the regulation of safety standards for edible fats and oils and recycling of "waste cooking oils". She enquired about the rationale for proposing a statutory limit of 5µg/kg on B[a]P in edible fats and oils. Mr WONG Yuk-man queried whether a lower standard was set to facilitate the import of oils from the Mainland.

7. SFH explained that while tightening the safety standards of edible fats and oils would afford better protection to public health, it would also limit the supply of edible fats and oils. In setting the safety standards for edible fats and oils, the Administration had to strike a proper balance between protecting public health and maintaining stable supply of edible fats and oils in Hong Kong. Having considered the practices adopted by different jurisdictions, the Administration proposed to tighten the statutory limit on B[a]P in edible fats and oils from the current action level of 10µg/kg to the statutory safety standard of 5µg/kg in order to strike a balance. The Administration would take into account the public views received during the consultation period and other relevant considerations before finalizing the legislative proposals on the appropriate safety standards to be set for edible fats and oils.

8. C(CM)(RAC)/CFS supplemented that the Administration had considered the "ALARA" (as low as reasonably achievable) principle in regulating contaminants in food and the Codex standards in proposing the regulatory standard for B[a]P in Hong Kong. The food surveillance results (2012 - 2014) of the Centre for Food Safety ("CFS") showed that about 1% of the edible fat and oil samples contained a B[a]P level greater than 10µg/kg i.e. the current local action level and Mainland standard. If the statutory limit on B[a]P in edible fats and oils was tightened to 5µg/kg, about 5% and 9% of the samples (about 25% and 36% for peanut oil samples) would exceed 5µg/kg and 2µg/kg i.e. the EU and Korean standards respectively. The Chairman was of the view that the safety standards of edible fats and oils should not be set too high in order to maintain the stable supply of oil products in Hong Kong.

9. Mr WONG Yuk-man said that more than one-fourth of edible oils were imported from the Mainland. Noting from a Mainland media report that

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some manufacturers could process the so-called "gutter oils" in a way to meet the standards of individual harmful substances and pass the safety tests conducted by the relevant Mainland authorities, Mr WONG expressed concern on how the Administration could prevent the import of processed "gutter oils" from the Mainland if importers of edible fats and oils were only required to provide an official certificate or a certificate issued by an officially recognized independent testing institution certifying that the imported edible fats and oils fulfilled the relevant requirements. C(CM)(RAC)/CFS advised that there was no universal testing standard to identify the so-called "gutter oils" in the international community. Regulatory authorities could only focus on testing for or identifying harmful substances possibly present in the oils, and used the testing results as a reference indicator of whether the oils concerned were fit for human consumption, but it was impossible to determine whether they were "gutter oils". If the harmful substances in the oils did not exceed the statutory levels, the consumption of the oils would be of low concern for human health.

10. Mr WONG Yuk-man further asked why CFS had conducted tests on peroxide value in oils if peroxide value was not a safety indicator but only a quality parameter to indicate the oxidation level of edible fats and oils. C(CM)(RAC)/CFS advised that having considered the merits and shortcomings of conducting tests on peroxide value in lard, the Administration proposed to refer to the practices of some jurisdictions and set statutory standards for peroxide value and acid value in lard, with a view to enhancing the quality of lard in the market.

11. Mr Alan LEONG enquired whether it was possible that after certain refining process, "gutter oils" or "substandard oils" would be able to meet the proposed safety standards of edible fats and oils and whether such kind of oils was harmful to health. The Chairman doubted whether such kind of oils was fit for human consumption even if they met the proposed safety standards.

12. C(CM)(RAC)/CFS said that theoretically, "gutter oils" or "substandard oils" might be able to meet the standards of individual harmful substances after processing. SFH pointed out that apart from safety issues, the general public would have concerns about the hygiene condition of oils. They would probably refuse to use such kind of oils even if the oils were able to meet the statutory safety standards after processing. Therefore, the Administration proposed a stringent control on the overall production and supply chain of edible fats and oils in the local market, and also required that edible fats and oils imported into and exported from Hong Kong must meet the same food safety standards.

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13. Noting that the Administration proposed to tighten the statutory limits of arsenic and lead in edible fats and oils, Dr Helena WONG enquired whether the Administration would take the opportunity to review the Food Adulteration (Metallic Contamination) Regulations (Cap. 132V) ("the Regulations") which regulated the levels of metallic contamination in food to strengthen the regulation of heavy metals in food. C(CM)(RAC)/CFS advised that CFS had set up a working group under the Expert Committee on Food Safety to offer views on the legislative amendments to the Regulations. The Administration would put forward the detailed legislative proposals once ready. SFH advised that the working group would conduct a comprehensive review of the Regulations taking into account the present day food safety requirements and other relevant considerations. As the review might take some time to complete, the Administration preferred to first take forward the legislative proposals on regulation of edible fats and oils and recycling of "waste cooking oils" if the two legislative exercises could not be conducted concurrently. In response to Dr Helena WONG's enquiry, C(CM)(RAC)/CFS added that as arsenic and lead were ubiquitous in the environment, it was impossible to remove them entirely from food products.

*Regulation of used cooking oils*

14. Mr Michael TIEN expressed support for the Administration's proposal to establish safety standards for edible fats and oils and to strengthen the regulation of "waste cooking oils" through legislative means. Referring to the existing and the proposed statutory limits of lead, erucic acid and aflatoxins in edible fats and oils, Mr TIEN said that the cost of refining edible oils was expected to increase for compliance with stricter standards and the retail price of cooking oils would be pushed up. He expressed concern that restaurants and food premises would reuse cooking oils more often for food processing in order to save cost. He asked how the Administration would monitor the quality and safety of cooking oils used by restaurants.

15. Ms Starry LEE also expressed concern on whether the proposed regulation of edible fats and oils would cover the cooking oils used by restaurants and food premises. She enquired about the regulatory control of cooking oils in other jurisdictions.

16. SFH advised that the quality of cooking oils were affected by many factors, such as the cooking method and the number of times that the oils had been used. It was difficult to determine under what circumstances that the cooking oils should not be used again. Nonetheless, the proposed safety standards for edible fats and oils would apply to all edible oils no matter they were used or not. The Administration would conduct random checks on the quality of cooking oils used by restaurants and food premises and would

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provide more guidance to the trade on the safety use of cooking oils through publicity. Ms Starry LEE further enquired about the inspection work and publicity initiatives taken by the Administration in this regard.

17. C(CM)(RAC)/CFS advised that as some harmful substances might be generated when the cooking oils were repeatedly used, the Administration had made recommendations to the trade years ago on the safety use of cooking oils. Some restaurants and food premises had also prepared internal guidelines on this. In response to public concerns on the safety of used cooking oils, the Administration would further prepare a guideline for the reference of the trade. He stressed that the proposed safety standards for edible fats and oils would also apply to used cooking oils. The trade could judge whether the cooking oils could be used again by the colour of oils and records of use, etc. CFS had conducted random checks on cooking oils used by the food restaurants and food premises. He added that the Administration had make reference to the Codex definition of "edible fats and oils" to ensure that Hong Kong's regulatory regime was aligned with international practices.

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18. The Deputy Chairman requested the Administration to provide information on the number of inspections conducted in the past few years on the quality and safety of cooking oils used by restaurants, the inspection results and the follow-up actions (including the enforcement actions, if any) taken by the Administration against non-compliance cases. SFH undertook to provide the requisite information after the meeting.

19. The Chairman suggested that the Administration should conduct some research studies to find out under what circumstances that cooking oils should not be used again and advise the trade on the compliance of the relevant safety requirements. SFH advised that the Administration would explore the feasibility of conducting relevant studies in collaboration with academic institutions to provide reference to the trade.

#### Strengthening regulation of recycling of "waste cooking oils"

20. Mr WONG Kwok-hing welcomed the proposed regulation of recycling of "waste cooking oils" by requiring the collectors, recyclers, importers and exporters concerned to obtain licences and to keep proper documentary records of the flow of "waste cooking oils". However, he noted that some restaurants and food premises had expressed concerns that the new safety requirements for edible fats and oils would increase their operational cost. They were also worried that a few large "waste cooking oil" collectors would monopolize the waste oil recovery market. Some small restaurants and food premises would dispose of "waste cooking oils" illegally if they had difficulty in engaging collectors to handle "waste cooking oils".



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21. SFH advised that the proposed licensing system for the handling of "waste cooking oils" to be regulated by the Environmental Protection Department ("EPD") should be able to prevent "waste cooking oil" producers like restaurants and food premises from handing over "waste cooking oils" to a party without a licence. While restaurants and food premises had to ensure that cooking oils used for food processing should meet the new safety requirements and this might increase their operational cost, the recycling of "waste cooking oils" would probably not incur any extra costs for them. Regarding the recovery of waste oils, SFH advised that there were sayings that the recovery of waste oils for processing into edible oils by illegal collectors would be curbed upon the implementation of the proposed legislation. The recovery price for "waste cooking oils" would likely drop as some collectors (e.g. those recovered waste oils for industrial use) would not be able to offer competitive price to collect "waste cooking oils" from restaurants. Nevertheless, it was expected that the trade would continue to sell "waste cooking oils" for recycling purpose as they had no incentive to keep them.

22. The Deputy Chairman expressed concern on whether the implementation of the licensing system would increase the operational cost of "waste cooking oil" collectors. Deputy Director of Environmental Protection (2), Environmental Protection Department ("DDEP(2)/EPD") advised that the recovery price for "waste cooking oils" would depend on market situation. The licensing system might have some impact on the operational costs of "waste cooking oil" collectors and recyclers as they had to fulfill additional conditions. But the impact on operators was unlikely to be substantial as such costs would only constitute a small part of the overall operational costs.

23. Mr Paul TSE enquired whether the Administration would provide incentives to encourage local "waste cooking oil" recyclers (such as local biodiesel manufacturers) to recycle all "waste cooking oils" produced by local restaurants and food premises, so as to prevent "waste cooking oils" from re-entering the local food chain. He also asked whether the Government departments would use more biodiesel or request outsourced service providers to use locally-produced biodiesel in government contracts.

24. DDEP(2)/EPD advised that the proposed regulation of recycling of "waste cooking oils" aimed to encourage the collection and proper handling of local "waste cooking oils". As "waste cooking oils" were "green waste" which could be exported to other countries for industrial purpose, EPD also proposed that importers and exporters of "waste cooking oils" must secure a licence and had to obtain a permit issued under the Waste Disposal Ordinance (Cap. 354) to cover all import or export shipments of "waste cooking oils". He advised that the Government had been encouraging all departments to use

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biodiesel which was produced from recycling of "waste cooking oils". The Government would award a new contract in 2015 for purchasing biodiesel and would continue to promote the use of biodiesel among government departments.

25. Noting that the proposed regulation on recycling of "waste cooking oils" did not cover used cooking oils generated during the cooking process by individuals or households, Mr Paul TSE raised concern on whether it would create loopholes for collectors to recover such kind of cooking oils for illegal purpose. DDEP(2)/EPD advised that given the small amount of "waste cooking oils" involved and the difficulty in separating them from other kitchen waste, the Food and Environmental Hygiene Department ("FEHD") and EPD did not plan to regulate the recycling of such kind of cooking oils for the time being. The Administration welcomed public views in this regard.

26. The Chairman enquired about the legislative timetable for the implementation of the proposed regulatory framework on edible fats and oils and recycling of "waste cooking oils". SFH advised that the Administration would finalise the details of the legislative proposals after the public consultation, with a view to introducing the legislation into the next term of LegCo as early as possible.

**III. Nutrition and health claims on infant formula, follow-up formula and pre-packaged foods for infants and young children under the age of 36 months**

(LC Paper Nos. CB(2)1861/14-15(03) and (04))

27. Under Secretary for Food and Health ("USFH") briefed members on the public views collected on the proposed regulatory framework on nutrition and health claims on formula products (i.e. infant formula and follow-up formula) and foods for infants and young children under the age of 36 months ("IYC foods"), as detailed in the Administration's paper (LC Paper No. CB(2)1861/14-15(03)). With the aid of power-point presentation, C(CM)(RAC)/CFS briefed members on the gist of the Administration's proposed regulatory framework.

*(Post-meeting note: The softcopy of the power-point presentation materials was issued to members vide LC Paper No. CB(2)1914/14-15(02) on 14 July 2015.)*

28. Members noted the background brief on the subject (LC Paper No. CB(2)1861/14-15(04)) prepared by the LegCo Secretariat.

Proposed regulatory framework on nutrition and health claims

29. Noting from the Administration's paper that nutrition and health claims on IYC foods were allowed in certain overseas jurisdictions when specific conditions were met, Mr Vincent FANG opined that the Administration's proposal to prohibit nutrition claims and health claims on formula products was too stringent and unreasonable. In his view, the prohibition of nutrition claims and health claims on formula products would undermine parents' right to access information on formula products to make an informed choice. He pointed out that there were divergent views expressed by deputations and individuals attending the Panel meeting on 10 February 2015 on the proposed regulation on nutrition and health claims on formula products and IYC foods, and criticized that the Administration should not only consider the written submissions received during the public consultation exercise. Mr FANG said that the Liberal Party opposed the introduction of the proposed regulatory framework. He asked whether Hong Kong was the first place to impose a complete ban on claims on formula products and IYC foods.

30. USFH clarified that nutrition claims, nutrient function claims and other function claims were allowed on IYC foods under the proposed regulatory framework. In considering the regulatory approaches to be adopted in Hong Kong, the Government, apart from having considered the results of the public consultation, had studied the overseas practices and local circumstances, including the current legislation, local public health policies and concerns, current market situation and consumer behaviours, etc. Although certain nutrition or health claims were allowed in some overseas jurisdictions at present, their perspectives might be different from that of Hong Kong. The situation of Hong Kong was quite unique in terms of the huge amount of promotion of formula products and marketing activities conducted by formula products suppliers. A local study conducted by the Department of Health in 2010 found high prevalence of unbalanced diet in young children and over-consumption of formula products was one of the unfavourable practices, which might be a result of intensive marketing drive. Having considered that nutrition and health claims on formula products were mainly useful in promotion and marketing but not essential information on the products, the Administration proposed to prohibit nutrition and health claims on formula products.

31. In response to Mr Vincent FANG's enquiry regarding the legislative timetable, USFH advised that the Administration would take into account members' views received on the proposed regulatory framework before finalizing the details of the legislative proposals.

32. The Deputy Chairman agreed that there should be regulatory control on nutrition and health claims made on formula products and IYC foods.

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However, different views had been put forward by the deputations with regard to the extent of regulation. He urged the Administration to balance the views received from different stakeholders during the public consultation period in proposing the regulatory framework. The Deputy Chairman said that overseas experiences showed that allowing claims to be made on formula products would provide incentives for manufacturers to invest in research and product development. He was concerned that manufacturers might not have commercial incentives to enhance the quality of their products intended for consumption by infants in Hong Kong if nutrition and health claims were prohibited on formula products in Hong Kong.

33. USFH reiterated that the Government had considered a basket of factors as mentioned above in considering the regulatory approaches to be adopted in Hong Kong. With the implementation of the Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2014 to better regulate the nutrition composition of infant formula and nutrition labelling of formula products and IYC foods, and the adoption of the proposed regulatory framework, the regulatory regime on formula products in the local market would be brought on par with the international standards. As many manufacturers were international enterprises, the Administration believed that they would continue to put in resources to develop their products.

34. Dr Kenneth CHAN supported the adoption of a more restrictive approach to regulate claims on formula products and IYC foods to better protect the infants and young children. He considered that nutrition and health claims must be scientifically substantiated and the advertisements of formula products and IYC foods should not carry false and misleading information. As regards the five overarching principles in formulating the proposed regulatory framework, he noted that some interest groups, health professionals and academia did not support overarching principle (iii) (i.e. nutrition claims and nutrient function claims should be permitted in IYC foods) and considered that nutrition claims and nutrient function claims should not be permitted for IYC foods. Dr CHAN asked why the Administration still proposed to allow nutrition claims, nutrient function claims and other function claims on IYC foods.

35. USFH explained that having considered that nutrition and health claims were allowed in general foods and individual IYC food products were not a main source of nutrition for infant and young children who could consume a wide variety of food during the weaning period, it was considered reasonable to allow nutrition claims and health claims to be made on IYC foods as well. She stressed that nutrition and health claims on IYC foods should meet specific content conditions and health claims must be scientifically substantiated and had undergone a credible evaluation process by the relevant authority.

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36. Prof Joseph LEE queried the rationale for the Administration to adopt different approaches to regulate nutrition claims and health claims on formula products and IYC foods, i.e. to prohibit nutrition claims and health claims on formula products but allow nutrition claims, nutrient function claims and other claims on IYC foods if specific claim conditions were met. In his view, the Administration should adopt the same regulatory control over claims on formula products and IYC foods to avoid causing confusion to the public.

Regulating the advertising of formula products and IYC foods

37. Mr WONG Kwok-hing supported a restrictive approach to prohibit claims on formula products and IYC foods. He considered that the frequent use of claims on formula products and IYC foods in the advertising activities (especially TV advertisements) conducted by formula products suppliers to expand market share often inflated the advantages of formula products over the superiority of breastfeeding. The advertisements were misleading to parents and caretakers and also caused undue influence to mothers on their decision on whether or not to breastfeed. Mr WONG expressed concern that the grace periods of 18 months and two years respectively proposed for the trade to prepare for the implementation of the new compliance requirements for formula products and IYC foods were too long. He asked whether the Administration would shorten the grace periods in order to minimize the negative impact of the advertisements of formula products and IYC foods on consumers' choices.

38. Mr CHAN Chi-chuen considered that the proposed regulatory framework should not be too stringent and impose a complete ban on claims. He expressed concern on whether the regulatory control regarding the claims made on the packaging and those made in the advertisements of formula products and IYC foods would come into force at the same time. He considered that apart from traditional media (such as printed materials, television and radio), the Administration should consider regulating claims made in those advertisements placed on new media platforms (such as social networking web sites).

39. USFH advised that CFS had consulted the trade and make reference to past experiences in proposing the two grace periods for the trade to prepare for the new compliance requirements for formula products and IYC foods respectively. As time was needed to process the claim applications for IYC foods, the grace period for IYC foods was longer. The Administration considered the proposed length of the two grace periods reasonable, taking into account the time required for handling the existing products by the trade and other relevant considerations.

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40. USFH further said that the proposed regulatory framework would govern the nutrition and health claims made on the packaging of formula products and IYC foods and those in the advertisements relating to these products. Regarding whether a similar transitional arrangement was warranted for advertisements, the Administration would further consult stakeholders before finalizing the Administration's position on this in the law drafting process. The Administration would also study whether there was a need to regulate advertising of formula products and IYC foods in new media.

**IV. Enforcement against illegal outside seating accommodation by restaurants**

(LC Paper Nos. CB(2)1861/14-15(05) and (06))

41. USFH briefed members on the implementation and effectiveness of the enhanced regulatory measures and enforcement actions against illegal extension of business area by restaurants and other food premises, as detailed in the Administration's paper (LC Paper No. CB(2)1861/14-15(05)). Members noted that there was no imminent need to pursue the simplification of the appeal mechanism at this moment, and FEHD would vigilantly monitor the situation. Members also noted the background brief on the subject (LC Paper No. CB(2)1861/14-15(06)) prepared by the LegCo Secretariat.

42. Referring to the Administration's paper, Mr WONG Kwok-hing said that in 2013, there were 242 and 70 licence suspension and cancellation cases respectively. In 2014, there were 209 and 23 licence suspension and cancellation cases respectively. He asked why the number of licence suspension and cancellation cases had dropped.

43. AD(Ops)1/FEHD explained that there had been a significant reduction in the number of appeal cases against licence suspension and cancellation in 2014 when compared with that in 2013. The reduction might be partly due to the department's decision not to suspend the operation of the decision of licence suspension or cancellation for recalcitrant offenders even though appeals against such decisions were pending determination by the Licensing Appeals Board or the Municipal Services Appeals Board. The arrangement had helped curb attempts on the part of licensees to abuse the appeal mechanism.

44. Mr WONG Kwok-hing further asked whether the Administration would consider allowing extension of business area by food premises if there was sufficient open area in front of the shop for extension without causing obstruction to vehicular and pedestrian traffic. AD(Ops)1/FEHD advised that

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FEHD had been co-ordinating and approving applications for outside seating accommodation ("OSA") for restaurants meeting the relevant requirements relating to building safety, fire safety, planning, land use and transport. The OSA Working Group set up under the Economic Analysis and Business Facilitation Unit of the Financial Secretary's Office had reviewed the procedures involved in handling OSA applications with a view to facilitating the applications for setting up OSAs at suitable locations. USFH advised that FEHD had in fact consulted the District Councils ("DCs") on proposals to designate spots for alfresco dining, yet most of them had indicated that there were no suitable spots for alfresco dining in their districts.

45. Dr Kenneth CHAN expressed concern that only 344 applications for OSA had been approved by FEHD between January 2002 and April 2015. He asked whether the Administration could expedite the application procedures or handle the applications proactively by enhancing the communication among stakeholders to facilitate the consultation process of OSA applications. The Deputy Chairman shared the concern about the small number of OSA applications approved by FEHD. The Chairman expressed concern that FEHD had to consult many Government departments in processing applications for OSA and would reject an application if any objection was raised by the departments concerned, thus making it difficult for restaurant operators to set up OSAs.

46. AD(Ops)1/FEHD advised that upon the recommendation of the OSA Working Group, FEHD had enhanced the mechanism for considering objections to OSA applications from the public by seeking the relevant departments' comments in regard to complaint and enforcement statistics related to the restaurant under an OSA application. When the OSA application met with objections raised by concerned departments other than local objections, a joint departmental meeting with the applicant would be convened at which the relevant departments would discuss their concerns/objections with the applicant direct. He explained that as there were not many locations suitable for setting up OSAs in Hong Kong, the number of applications for OSAs was relatively small. USFH assured members that FEHD would continue to enhance the procedures in handling OSA applications and facilitate communication among stakeholders during the consultation process.

47. The Deputy Chairman considered that FEHD should put forward more concrete proposals on alfresco dining for the consideration of DCs, such as exploring the feasibility of providing alfresco dining at designated areas during a specific period of time to alleviate nuisance caused to the community. He also suggested that FEHD should consider designating areas for provision of alfresco dining when it planned for the development of new districts.

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48. USFH explained that most of the complaints about extension of business area by food premises in fact came from DCs. The opposition to proposals on alfresco dining therefore had to be addressed at the district level. While FEHD could make suggestions on provision of alfresco dining in new districts, support from the DC concerned would need to be obtained to implement the proposal. She said that FEHD would facilitate applications for alfresco dining when DCs identified suitable spots for this purpose in their districts. AD(Ops)1/FEHD added that FEHD had suggested different locations for alfresco dining for the consideration of DCs but most of them indicated that there were no suitable spots for alfresco dining in their districts. FEHD would normally consult the relevant departments, instead of the DC concerned, when processing applications for OSAs from licensed restaurants.

**V. Any other business**

49. There being no other business, the meeting ended at 4:23 pm.

Council Business Division 2  
Legislative Council Secretariat  
14 October 2015