

**立法會**  
**Legislative Council**

LC Paper No. CB(2) 2548/03-04(01)

Ref : CB2/SS/7/03

**Subcommittee on  
Food and Drugs (Composition and Labelling)  
(Amendment) Regulation 2004**

**Background brief prepared by the Legislative Council Secretariat**

**Purpose**

This paper briefs members on the concerns raised by the Panel on Food and Environmental Hygiene when the Administration's proposals to amend the Food and Drugs (Composition and Labelling) Regulations (Cap. 132 sub. Leg. W) (the Regulations) was discussed.

**The Administration's proposals presented to the Panel on Food and Environmental Hygiene**

2. The Administration briefed the Panel on Food and Environmental Hygiene at the meeting on 22 January 2001 on its proposals to improve the existing labelling legislation on pre-packaged food -

- (a) food labels should declare the presence of substances which were known to cause allergy in some individuals;
- (b) food labels should specifically indicate the type of the food additives used, either in the additives' full name or identification number;
- (c) the format required in marking the "best before" and "use by" date should be made more flexible to the trade and clearer to consumers;  
and
- (d) the labeling requirements on alcoholic drinks should be strengthened.

3. According to the Administration's paper provided for the meeting on 22 January 2001, a public consultation of about two months had been conducted from mid October to late December 2000. At the end of the consultation period, the Administration received 29 written submissions. The views collected indicated that there was general support from the trade, the medical professionals and the consumers. Some members of the trade suggested a longer grace period and greater flexibility in key words used on food labels. The Administration considered that most of these suggestions were technical in nature and these would be given due consideration when drafting the amendment regulation. A summary of the views received by the Administration during that period is in **Appendix I**.

4. The Administration proposed a 18-month grace period for the proposed amendments to take effect.

### **Concerns raised by Panel members**

#### Meeting on 22 January 2001

5. When consulted by the Administration at the meeting on 22 January 2001, members of the Panel did not raise objection to the legislative proposals. Nevertheless, some members sought clarification on the following issues -

- (a) whether food premises and supermarkets were required to provide booklets on identification numbers of additives for reference by consumers;
- (b) whether all importing countries were required to comply with the proposed labelling requirements; and
- (c) whether Hong Kong could require the exporting country to label its food produce according to the labelling requirements of Hong Kong or that of the international community, even if that country did not have such labelling requirement, in order to save the cost and efforts for importers to comply with the new labelling requirements.

6. The Administration's responses are as follows -

- (a) a person who was allergic to certain substances should check with his/her doctor the identification number of food additives causing allergy to him/her. The Administration would discuss with the trade the provision of information booklet on identification numbers at food premises;

- (b) Hong Kong had notified the World Trade Organization and its member states the proposed legislative timetable and details of the proposed requirements. No objection had been received during the notification period. A grace period of 18 months would be allowed for implementation of the revised legislation; and
- (c) any new labelling requirement must be reasonable and consistent with international practice. It must also be related to food safety and the exporting countries had to be informed in advance of the implementation of the proposed labelling requirements.

7. Members also made the following suggestions on the food labelling legislation on pre-packaged food -

- (a) penalties should be introduced for selling pre-packaged food after expiry of the "best before" date marked on the food label;
- (b) the "manufacture date" should also be included on food labels especially for alcoholic drinks; and
- (c) the input ingredients of alcoholic drinks should be declared on the labels as some ingredients such as barley could cause allergies.

8. The Administration responded that -

- (a) it was not aware of any other countries which had introduced penalties for the sale of food after expiry of the "best before" date. Nevertheless, it was an offence under the Food and Drugs (Composition and Labelling) Regulations if non-compliance with the labelling requirements posed a health hazard to consumers. The retailer concerned was liable to a maximum fine of \$50,000 and imprisonment for six months upon conviction; and
- (b) the feasibility of the suggestions at paragraph 7(b) and (c) would depend on the international practice. If Hong Kong introduced its own labelling requirements which were not adopted by other countries, importers would have to bear the extra costs for meeting the additional labelling requirements, which would have implications on the retail prices.

Special meeting on 28 March 2002

9. When the issue of control and surveillance of food products containing banned substances was discussed at the special meeting of the Panel on Food and Environmental Hygiene on 28 March 2002, some members made the following suggestions on food labelling -

- (a) labelling requirement of food additives should be tightened up; and
- (b) the Administration should step up publicity on the usefulness of food labels and provide internet and telephone hotlines for enquiries on food products suspected to contain banned substance.

10. The extracts from the minutes of the Panel meetings on 22 January 2001 and 28 March 2002 are attached in **Appendices II and III** respectively for members' reference.

Council Business Division 2  
Legislative Council Secretariat  
28 May 2004

## **Appendix I**

*(Annex B to LC Paper No. CB(2)741/00-01(04))*

Summary of Views Collected from the Consultation Exercise on  
Proposed Amendments to  
*Food and Drugs (Composition and Labelling) Regulations*

**Number of written opinions received: 29**

**Number of enquires (without giving comments) received: 49**

### **Summary of views received**

#### **(A) Labelling of Allergic Substances**

- (a) Opinions received in general supported the proposal.
- (b) There are 13 supporting submissions. Supporting reasons cited include –
  - It helps to protect health of individuals who are allergic to certain food ingredients.
  - It is in line with the recommendation made by Codex.
  - It helps consumers to make an informed choice.
- (b) There are 3 submissions objecting the proposal. Objecting reasons cited include –
  - Most of HK's major trading partners have not implemented similar requirement.
  - It is costly in compliance.
- (c) We have also received comments related to the proposal, which include–
  - Other known allergic substances such as honey, certain herbal products, phenylalanine should also be labelled.

#### **(B) Labelling of Details of Food Additives Used**

- (a) Opinions received in general supported the proposal.
- (b) There are 17 supporting submissions. Supporting reasons cited include –
  - Adoption of international code for labelling of food additives will help harmonization of world trade.

- Adoption of INS number will simplify identification of food additives used.
  - It helps consumers to make an informed choice.
  - It helps medical professionals to give advice to their patients/clients.
- (b) There is 1 submission objecting the proposal for the following reason –
- Compliance cost to the trade outweighs potential benefits to consumers.
- (c) We have also received comments related to the proposal, which include –
- EU’s code (i.e. INS with prefix “E”) should also be accepted means for declaration of food additives.
  - Accepted Chinese translations for additive names should be flexible.
  - Chinese names of additives should be standardized.

(C) More Flexible Date Marking Format

- (a) Opinions received in general supported the proposal.
- (b) There are 15 supporting submissions. Supporting reasons cited include –
- It increases flexibility of the trade.
  - It provides clearer information to the consumers.
- (b) There are 4 submissions objecting the proposal. Objecting reasons cited include –
- Compliance cost to the trade outweighs potential benefits to consumers.
  - There is difficult to comply with in cases of printing all the required words in small areas such as caps of bottled products.
  - Should not require dates marked in numerical format in the sequence of “day-month-year” to declare the exact order adopted. Such declaration is only required for numerical dates marked in other sequence.
- (c) We have also received comments related to the proposal, which include –
- Supplementation of “best before date” with “production date”.
  - Size, colour, location and method of date marking should be

standardized.

- “d/m/y” for declaration of order of date marking sequence adopted should be accepted.

(D) Strengthening of Labelling Requirement for Alcoholic Drinks

- (a) Opinions received in general supported the proposal.
- (b) There are 16 supporting submissions. Reasons cited include –
- Beverage alcohol with low alcoholic content would deteriorate over time and should therefore be required to label durability periods.
  - Liquor with high alcoholic content should continue to be exempted from ingredient labelling as fermentation and distillation process transform the original ingredients used in the production of spirits products.
- (b) We have received 1 submission objecting the proposal, for the following reason –
- It is costly in compliance.
- (c) We have also received some comments related to the proposal. They include –
- Alcoholic drinks should label their alcoholic strength.
  - Alcoholic drinks should display health warnings on their labels.
  - Name and address of importer and country of origin should be labelled.

(E) Grace Period

We have received 3 submissions requesting for extension of grace period. Suggested grace periods include 24 and 36 months.

Extract from minutes of meeting of the  
LegCo Panel on Food Safety and Environmental Hygiene  
on 22 January 2001

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**V. Food labelling**

(LC Paper No. CB(2) 741/00-01(04))

34. DD(FPH) gave a PowerPoint presentation on the existing food labelling requirements, enforcement of the requirements and Government's proposals to enhance the requirements. He said that the Administration had completed consultation with the trade and the public in late December 2000 on the proposed legislative amendments. The views collected were generally in support of the proposals, and there were suggestions of a longer grace period and greater flexibility in key words used on food labels. The Administration would take these comments into account when considering the implementation details.

*(Post-meeting note: The presentation materials were circulated to members vide LC Paper No. CB(2) 757/00-01 (02).)*

Discussion

35. Referring to paragraph 8 of the Administration's paper, Mr IP Kwok-him asked whether the proposed requirement of declaring eight categories of allergenic substances on food labels was in line with international practice. DFEH responded that the proposed requirement followed international practice and was based on the recommendation of the Codex Alimentarius Commission of the United Nations.

36. Mr IP Kwok-him asked whether the existing legislation governing food labelling on pre-packaged food also applied to soup ingredients and vegetables sold at supermarkets. DFEH replied that the existing legislation applied to all pre-packaged food. DD(FPH) added that the pre-packaged food mentioned by Mr IP should also have a "use by" date on the labels.

37. Noting that it was not an offence under existing legislation to sell pre-packaged food after the "best before" date marked on the food label, Mr TAM Yiu-chung asked whether the Administration would consider introducing penalties for such practices. He said that many consumers could not differentiate "use by" date from "best before" date. DD(FPH) explained that the "use by" date was usually used for food which was easily perishable.



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Consumption of such food after expiry of the "use by" date would pose considerable risk to health. The "best before" date was used for other kinds of food to indicate the period for which the quality of the food remained in the best condition. It did not mean that the food would necessarily perish after this date or would pose a risk to health.

38. On the suggestion of introducing penalties for the sale of pre-packaged food after expiry of the "best before" date, DD(FPH) said that this would involve amending the Public Health and Municipal Services Ordinance (Cap. 132) and the relevant regulations. He said that the legal advice obtained by the Administration was that Cap.132 was concerned with the protection of public health. It would be an offence under the Food and Drugs (Composition and Labelling) Regulations if non-compliance with the labelling requirements posed a health hazard to consumers, and the retailer concerned would be liable to a maximum fine of \$50 000 and imprisonment for six months upon conviction. DD(FPH) added that he was not aware of any other countries which had introduced penalties for the sale of food after expiry of the "best before" date. He said that the Administration would keep this matter in view.

39. The Chairman said that at some retail outlets, pre-packaged food was sold at a discount after expiry of the "best before" date. He asked if there were restrictions on the sale of food where the "best before" date had expired for some time. DD(FPH) advised that there was currently no statutory requirement in this respect. However, FEHD could conduct random checks to ensure compliance with the labelling requirements, and samples of pre-packaged food with an expired "best before" date were collected for laboratory test. If the results of the tests indicated that a food item had perished, the seller concerned would be prosecuted under section 54 of Cap. 132. He said that consumers should read food labels carefully, with special attention to the durability period of food and the list of ingredients.

40. In response to Miss CHAN Yuen-han, DFEH said that the current proposal on the date marking format for the "best before" or the "use by" date of food produce was in line with international practice.

41. Miss CHAN Yuen-han asked whether the Administration would introduce measures to enable consumers to know the ingredients of food items like fish balls and Chinese New Year food which were not pre-packaged. DFEF clarified that the present proposal was for pre-packaged food. If the labelling requirements were to be extended to other types of food, consideration should be given to operational practicality. She said that to safeguard public health, FEHD staff conducted surprise inspections on retail shops and collected samples of food items, including those not pre-packaged, for laboratory tests to protect public health.

42. Miss CHAN Yuen-han asked about the extent of sampling checks

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conducted by FEHD and the effectiveness of this food surveillance system. DFEH replied that each year, 50 000 to 60 000 food labels were inspected. She said that this figure was large compared with overseas countries. DFEH said that while Government was responsible for providing information and enforcing the law, consumers also had the responsibility to seek information and acquire a better understanding on the food they consumed. DD(FPH) added that given the large amount and great variety of food on sale, it was difficult for FEHD to conduct checks on all food on sale. He pointed out that consumers should ask for more information from retailers in case of doubt. They should also report problems with any food items to FEHD so that FEHD could take action.

43. Mr Michael MAK said that biscuits with individual wrappings had very limited space for labelling. He asked whether the proposal of listing out the eight categories of allergenic substances also applied to such food produce. DD(FPH) replied that according to the current proposal, any of the eight substances, if contained in a food item, should be declared on the list of ingredients of the food label irrespective of the packaging format of the food item. He added that when implementing the requirement, the Administration would allow a grace period for the food trade.

44. Mr Michael MAK suggested including the "manufacture date" in addition to the "best before" date on food labels especially for alcoholic drinks. DD(FPH) replied that similar suggestion had been received during the consultation exercise, and its feasibility would depend on the acceptance of the trade and the community having regard to international practice.

45. Mr Michael MAK also asked about the reasons for exempting drinks with alcoholic strength by volume of more than 10% from the marking and labelling requirements. DD(FPH) explained that drinks with alcoholic strength by volume of less than 10% would deteriorate over time but not for drinks with alcoholic strength by volume of more than 10%. It was therefore necessary to mark a "best before" date on the label of drinks with alcoholic strength by volume of less than 10%. He further said that labelling of the ingredients of alcoholic drinks should not be required because the input ingredients could change significantly during the manufacture process and the composition of the final product might also change over time. Moreover, there was not a commonly accepted method for testing the ingredients of alcoholic drinks.

46. Mr Michael MAK suggested that the input ingredients of alcoholic drinks should be declared on the labels as some ingredients such as barley might cause allergies. He said that FEHD could conduct sampling tests to verify the declared ingredients. He considered that even though other countries might not have adopted such labelling practice for alcoholic drinks, Hong Kong could take the lead in this respect.

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47. DD(FPH) explained that should Hong Kong decide to impose such labelling requirement, all of the imported alcoholic drinks would have to comply with the requirement. He reiterated the technical problems in connection with the labelling and testing of the ingredients of alcoholic drinks as the input ingredients could differ significantly from output ones. He said that this matter had been under international discussion and an internationally acceptable standard would be required for enforcement. FEHD would keep a close watch on any changes in international practices before proposing new measures in this regard. DEFH added that the court would only accept evidence supported by laboratory tests results and there would be difficulties given that the input ingredients would change during the manufacturing process. Deputy Secretary for the Environment and Food (DS(EF)) also pointed out that if Hong Kong introduced its own labelling requirements which were not adopted by other countries, importers would have to bear the extra costs for meeting the additional labelling requirements. Since most food in Hong Kong was imported from other countries, the extra costs would have implications on the retail prices.

48. Referring to paragraph 10 of the paper, Mr Tommy CHEUNG said that consumers might not understand the meaning of the identification number of additives under the International Numbering System for Food Additives adopted by Codex. He asked whether food premises and supermarkets would be required to provide booklets on identification numbers for reference by consumers. DFEH replied that a person who was allergic to certain substances should check with his/her doctor the identification number of food additives causing allergy to him/her. The Administration would also discuss with the food trade to see if food premises and supermarkets could make available booklets on the International Numbering System for Food Additives for consumers' reference.

49. Mr Tommy CHEUNG asked whether all importing countries were required to comply with the proposed labelling requirements and whether a grace period would be allowed. DFEH said that as a member of the World Trade Organization (WTO), Hong Kong had notified WTO and its member states the proposed legislative timetable and details of the proposed requirements. She said that no objections had been received during the notification period. The Administration intended to introduce the relevant legislative amendments to LegCo in mid 2001 and a grace period of 18 months would be allowed.

50. Mr Tommy CHEUNG sought clarification as to whether Hong Kong could require the exporting country to label its food produce, even if that country did not have such labelling requirement, in order to comply with the labelling requirements of Hong Kong or that of the international community. He said that this could save importers much cost and efforts that would

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otherwise be needed for compliance with the proposed statutory labelling requirements. DFEH replied that it would depend on whether the labelling requirement was reasonable and consistent with international practice. It must also be related to food safety and the exporting countries had to be informed in advance of the implementation of the proposed labelling requirements. She was of the view that importers could exert pressure on their suppliers.

51. Referring to the recent food crises such as cholera found in soft shell turtles and in cockles imported from Thailand, Mr WONG Yung-kun asked what measures the Administration would take to regulate the import of meat and seafood. He suggested that the Administration could require importers to declare the country of origin of seafood and meat to facilitate consumers to make informed choices. He also considered that Government should disseminate information on the types of marine fish which had been found to have ciguatoxin and those seafood which were found unsafe for consumption.

52. DFEH responded that the present proposals on labelling requirements were mainly concerned with substances that would cause allergy to some individuals. However, the concerns raised by Mr WONG were more related to the presence of toxic substance and food borne disease in seafood. She said that it was difficult to trace the origin of marine fish with toxic load. Nevertheless, she noted that Agriculture, Fisheries and Conservation Department had established contact with the exporting countries/places to better understand the conditions of their fishing ground such as the water quality. DD(FPH) added out that as far as prevention of allergic substances was concerned, declaration of the country of origin would not help.

53. DS(EF) supplemented that labelling of fresh food was a very complicated issue and very few countries had such requirements. He explained that the Administration considered it more important to indicate on pre-packaged food labels the presence of any of the eight substances that would cause allergy.

54. The Chairman asked whether the sale in supermarkets of dumplings packed in styrofoam containers without labels on the ingredients was in breach of the food labelling requirements. DD(FPH) explained that pre-packaged food referred to food packaged in such a way that the contents therein could not be altered without opening or changing the packaging. DFEH added that the food labelling requirements only applied to food which was already packaged and sealed from the place of manufacture to the retail outlet. Food only covered with plastic food wrap should not be regarded as pre-packaged food and the labelling requirement would not apply.

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**Extract from minutes of special meeting of the  
LegCo Panel on Food Safety and Environmental Hygiene  
on 28 March 2002**

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**I. Control and surveillance of food products containing banned substances**  
[LC Papers Nos. FS 04/01-01, FS 05/01-02, CB(2) 1466/01-02(01) & (02),  
CB(2) 1476/01-02 (01) and CB(2)1717/01-02 (01)]

*Suggestions to strengthen the food surveillance programme*

19. Dr LO Wing-lok pointed out that in Hong Kong, a small budget of some \$30 million was made for food safety control while the Food and Drug Administration accounted for about 25 cents of every consumer dollar spent in the United States. Dr LO made the following the suggestions for the improvement of the food surveillance programme -

- (a) tightening up the labelling requirement of food additives, stepping up publicity on the usefulness of food labels and providing telephone hotlines for enquiries on food products suspected to contain banned substances;
- (b) enhancing the effectiveness of food surveillance activities by including experts from outside in the teams; and
- (c) introducing a notification system for importers to declare the substances contained in the food products they imported.

20. In view of the popularity of food products from Japan and South Korea, Mr Michael MAK suggested that FEHD should enable members of the public to make enquiries with FEHD by the internet or telephone hotline on food products which were suspected to contain banned substances.

21. DD(F&PH) responded that the Administration would consider members' suggestions. She said that FEHD had all along been answering public enquiries on food safety issues, and telephone hotlines had already been provided for such enquiries. She added that FEHD would continue to promote public awareness and publicise food surveillance results for public information.

22. DD(F&PH) further said that under the proposed legislative amendments relating to food labelling, food labels should specify -

- (a) the presence of substances which were known to cause allergy in some individuals; and

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- (b) the type of food additives (including preservatives, colouring matters and artificial sweeteners) used, either in the additives' full name or identification code number.

In addition, the format required in marking the "best before" or "use by" date on food labels should be made more flexible to the trade and the information must be clear to consumers. The labelling requirements on alcoholic drinks would also be strengthened.

23. DD(F&PH) further said that the Administration would enhance communication with the trade on the current control of food additives, etc. under the laws in Hong Kong. Mr Tommy CHEUNG expressed support for the Administration to strengthen communication with the trade. Mr CHEUNG suggested that in addition to a notification system, the Administration should consider requiring importers to sign a disclaimer confirming that the food products they imported did not contain banned substances.

24. DD(F&PH) responded that the Administration also recognised the need to require importers to take up responsibility for ensuring compliance of their food products with the related regulatory provisions, and for providing more information to consumers. She said that as there were hundreds of banned artificial sweeteners, there would be difficulty and constraints in enforcing a disclaimer system.

25. In response to Mr Tommy CHEUNG's comments that there was still room for improvement in the Administration's handling of food incidents, DD(F&PH) said that the Administration would introduce improvement measures as appropriate. She added that as stevioside was permitted to be used as a sweetener in places such as Japan, South Korea, Mainland China and Taiwan, FEHD would conduct surveillance targetted at food products imported from these places.

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