

立法會 CB(2)1763/07-08(01)號文件
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Deposition by the University of Hong Kong School of Public Health to the Bills Committee of
Legco reading the Food & Drugs (Composition & Labelling) (Amendment: Requirements for
nutritional and Nutritional Claim Regulation 2008).

May 5th, 2008

"Companies would rather not have customers know how they have to operate in today's overabundant and competitive food economy... To expand sales under these conditions, food companies lobby government agencies, forge alliances with health professionals, market directly to children, sell junk food as health food, and get laws passed that favour corporate health over human health. In the normal course of doing business, food companies contribute to changes in society that encourage eating more food, more often, in more places, and that discourage choices of more healthful foods in reasonable amounts." (Nestle, 2007, p ix)

Introduction:

The HKU School of Public Health strongly supports the introduction of the tabled amendments on nutritional labeling and nutritional claims to the Ordinance (Cap.132) on a) misleading nutrition claims, and arising from these, b) prohibiting small volume exemption for products making nutritional claims. The tabled amendments represent a fair compromise between measures on the one hand offering greater protection to the public, against unhealthy food constituents and misleading marketing claims, while on the other hand permitting market access for producers and suppliers, and consumer choice. We offer the following arguments to support of our position:

1. **Chronic disease linked to poor diet:** Hong Kong faces pressure to contain increasing costs from population ageing. Chronic disease, including cancers and circulatory diseases, which account for most deaths and health care costs, are consistently linked to diets high in processed foods, sodium, sugar and fat. Appropriate eating is necessary for health. People need to know what they are eating, what the foods they buy contain. However, many health claims on foods mislead the public and serve to market the product irrespective of the health consequences. Up to 85% of a sample of medicines, health foods and therapies for sale in Hong Kong made such misleading claims (Lai-Yeung, 2004).

It is therefore an important part of controlling the impacts and costs from ill health to individuals and society that food be clearly and accurately labeled. Exemption for any product making unsubstantiated nutritional claims, most of which are designed to appeal to shoppers concerned about health, is therefore unacceptable.

KEY POINT: For people who choose to eat, accurate nutritional information is particularly important, especially those most likely to seek truly healthier foods; therefore no products making health-related claims should be exempt from providing clear and accurate information on nutrition content. Those products carrying claims that are substantiated by nutritional information should be considered to have conformed to the requirements.

2. Many health and nutrition claims are misleading: Most pre-packaged foods potentially affected by the amendments will fall into two categories: either they make no claims to be more beneficial to health than other products, in which case they will not be affected by the amendments, or they make claims that should be justified. Many products making health claims in one respect are often unhealthy in other respects to maintain palatability. So, "low fat" products are often high in sugar and sodium to make up for the loss of taste that comes from removing the fat. Low-sodium products are often very high in fat or sugar to compensate. It is these products that make misleading claims the labelling amendments should rightly capture. The amendments therefore offer protection to the shopper.

KEY POINT: Many processed foods making health claims do so without justification. The amendments will protect against these false claims by requiring contents to be fully listed.

3. Choice depends on information, not just product availability: The argument of "healthy customer choice" is widely used by industry to mean greater market access

with fewer restrictions on what and how products are marketed. Similarly, arguments framing food choices as individual responsibility mislead because preference is clearly manipulated through marketing towards products that benefit industry, not customers. Providing a range of products does not itself ensure improved choice. Providing clear, accessible, accurate and relevant information at point of sale means shoppers will be able to exercise choice.

For information to be useful to consumers, it needs to be clear, unambiguous, accessible, and factually correct.

Products withdrawn by retailers under the ordinance will be quickly replaced with others that fill the market gap or will remain available a slightly higher price; packaging accounts for only 8% of a product's cost (Nestle, 2007). The net effect will be an improvement of the range of healthier products. The term "organic" is not a nutritional claim, does not appear in Schedule 8 of the proposed amendments. Hence, organic produce will remain unaffected, unless it also claims some health benefit. Most ethnic foods do not make nutritional claims, and so will remain unaffected. However, it is important that those individuals who have health problems, such as lactose or gluten intolerance, or diabetics, can continue to identify foods that are lactose, gluten or sugar-free and are not disadvantaged by the legislation.

KEY POINT: Nutritional content must be clear, unambiguous, accessible and truthful if so customers can make truly informed food choices. The industry worries that if consumers have this information, they will begin to exercise their choice and certain unhealthy products will then experience declining sales as a result.

4. **Limitations of labeling from country of origin:** Claims that pre-existing labelling specified by country of origin already provides customers with adequate nutritional information are limited, as all the foods making unjustified health claims exemplify.

Also, food-labelling standards vary widely because of significant pressures from food producers who lobby hard for distorted recommendations that help maintain high sales volumes. Attempts to make diets healthier are opposed by industry at every turn. This results in significant influence on national nutritional recommendations as the USA food pyramid illustrates. Examples are the different levels of sodium featuring in the RDA of the USA (2.4g daily) and UK (1.6g daily). Industry involvement in national and international food standards agencies, such as Codex Alimentarius specifically to ensure benefit to the industry is well documented (Nestle 2007, Lawrence, 2004).

KEY POINT: Products labeled in the country of origin usually fail to adequately meet the requirements for clear, unambiguous, accessible and truthful labeling due to significant lobbying by industry.

Summary:

1. The healthiest diet is one high in fruits, vegetables and unprocessed grains and cereals, and low in meats, eggs and dairy products, refined fats and sugars and processed foods. This information has been advocated for over 50 years by health agencies worldwide but is buried by intense industry marketing. Any move to reduce both the total amount of energy and the proportion of processed food consumed will benefit population health and eventually help reduce health care costs. Many packaged foods making health claims are no more beneficial than other products, and many are significantly worse in terms of some nutrients.
2. The most profitable foods are processed - so called "value-added" foods. The cheapest additives used to process foods are water, salt, sugars and fats and therefore these are most widely used. Health claims on packaging attract customers and increase sales. The tabled amendments will enable shoppers to be fully informed about these often hidden additives.
3. Nutritional and health claims tap into consumer preferences for less processed foods. Claims should be clear, unambiguous, accessible and truthful. Currently, many food content labels fail to meet these criteria. The proposed amendments go some way to providing this information in a form shoppers can use or restricting products that make unsupportable claims.

4. Small volume items no less likely to make unjustified health or nutritional claims. It is important therefore that the amendments proposed DO NOT allow exemption for any product not able to provide nutritional information to meet its health claim, irrespective of sales volume. Product range will not be significantly affected
5. Finally, industry (HKRMA) emphasizes the importance of customer choice as a reason not to adopt the amendments. However, industry supports choice only as a means to increase market opportunity; its stance on the amendments in fact opposes customers exercising that choice. Nutritional information is needed for the protection of shoppers and the tabled amendments will help to improve choice for shoppers.

References and further reading

Nestel M. *Food Politics: How the food industry influences nutrition and health*. 2007. Berkley, USA. UC Press.

Lawrence F. *Not on the label: What really goes into the food on your plate*. 2004. Penguin. Middlesex.

Lai-Yeung TWL. Combating deceptive advertisements and labeling on food products – an exploratory study of the perceptions of teachers. *International Journal of Consumer Studies*, 2004, 28, 117-126.

http://www.businessweek.com/globalbiz/content/apr2008/gb20080418_486236.htm

<http://search.japantimes.co.jp/cgi-bin/nn20071029a7.html>