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**Panel on Food Safety and Environmental Hygiene**

**Background brief prepared by  
the Legislative Council Secretariat for the meeting on 12 July 2011**

**Implementation of the Nutrition Labelling Scheme**

**Purpose**

This paper gives an account of the past discussions by the Panel on Food Safety and Environmental Hygiene ("the Panel") on the implementation of the Nutrition Labelling Scheme ("the Scheme").

**Background**

2. The Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008 ("the Amendment Regulation"), which introduces the Scheme for prepackaged food, came into operation on 1 July 2010 after a two-year grace period. The Scheme requires all prepackaged food to label the content of energy plus seven core nutrients, namely: (i) protein, (ii) carbohydrates, (iii) total fat, (iv) saturated fat, (v) trans fat, (vi) sodium, and (vii) sugars, as well as any nutrient for which a claim is made, and regulates different types of nutrition claims.

3. To facilitate the food trade and to minimize the impact on food choice, a number of exemptions from the nutrition labelling requirements are provided in the Amendment Regulation, e.g. exemption for prepackaged food packed in a container which has a total surface area of less than 100 cm<sup>2</sup>. In addition, a small volume exemption ("SVE") scheme has been introduced to exempt food products with annual sales volume of 30 000 units or below which do not carry nutrition claims. Food manufacturers/importers need to apply to the Director of Food and Environmental Hygiene ("DFEH") for SVE, which is subject to

conditions set by DFEH, including the requirement of monthly reporting of sales volume at the importer's/manufacturer's level. Traders will be notified when the sales volume has reached 70% of the 30 000 level, and once the sales volume exceeds the limit, i.e. 30 000 units per year, all food items currently being put on the market will have to be labeled in accordance with the legal requirements within 30 days. Sales volume refers to those at the manufacturer or importer level, i.e. number of units that were sold to the retailers or distributors, and does not refer to those actually sold out by the retailers to the ultimate consumers.

### **Past discussions by the Panel**

4. The Panel was briefed at its meeting on 22 June 2009 on the actions taken by the Administration in preparation for implementing the Scheme, including the measures to facilitate legal compliance by the food trade and the publicity and education campaign for the Scheme. A total of 14 deputations attended the aforesaid meeting to give views on the matter. On 13 April 2010, the Panel was further briefed on the preparatory actions taken by the Administration for implementing the Scheme, in particular the measures to enhance the public understanding of the Scheme.

### Trade facilitation measures

5. Concerns were raised by members about the impact of the Scheme on the importation of new prepackaged food products into Hong Kong and whether the trade would be allowed a grace period to make necessary adjustments after the commencement of the Scheme. According to the Administration, the impact should be minimal. Many overseas countries had already required all prepackaged foods to label their nutrition information, and the content of some of which was more stringent than the requirements in the Amendment Regulation. If a retailer was found not complying with the Amendment Regulation during the early stage of implementation, enforcement action would not be taken in the first instance. Instead, the Centre for Food Safety ("CFS") would issue a letter to the retailer requiring him/her to give an explanation within 21 days on why he/she failed to comply with the new law. If the explanation given by the retailer was found unsatisfactory, a warning letter would then be issued to the retailer who would be required to comply with the new law within 60 days.

### Small volume exemption

6. There was a call for allowing food products which had obtained exemption status under the SVE scheme to retain nutrition claims, so as to assist consumers in making informed food choices and avoid making Hong Kong a laughing stock to the international community if the nutrition claims on these food products had to be blackened out. The Administration pointed out that to allow such was against the legislative intent of the Amendment Regulation and would undermine consumers' rights. To avoid blackening out the nutrition claims on food labels, the trade might wish to re-design the packaging of those food products which they wished to seek exemption under the SVE scheme.

7. Members pointed out the retailers' request for allowing them to continue to sell those food products which were exempted from nutrition labelling under the SVE scheme after the sales volume of the food concerned had exceeded the 30 000-unit limit. The Administration advised members that it was willing to give more time to retailers to sell the remaining stock at the early commencement stage of the Amendment Regulation if this was supported by the Panel. To help traders keep track of the sales volume of the food products which had obtained exemption status under the SVE scheme, a computer system would be set up to alert CFS on notifying the exemption grantees and other stakeholders, such as the retailers, when the sales volume had reached 70% of the 30 000 level. Consideration was being made to notify traders when the sales volume had reached 90% of the 30 000 level.

8. Members enquired whether traders could be waived from applying for SVE if the annual sales volume of the food concerned was very small in order to facilitate the staging of food fair and promotion events for market testing purpose. The Administration's explanation was that the inclusion of the SVE scheme for food products with annual sales volume of 30 000 units or below in the Amendment Regulation was made in response to the call by the trade to facilitate the staging of food fair and promotion events held usually for market testing purpose. As such, the Administration saw no justification for lowering the annual sales volume eligible for SVE for the time being.

### Nutrient testing service provided by local laboratories

9. The capacity of the local laboratories to provide quality nutrient testing service was of concern to members. The Administration pointed out that currently, at least seven local laboratories were capable of providing nutrient testing service, and CFS had been keeping close liaison with these laboratories, in order to keep in view the market situation. According to the latest feedback from these laboratories, their current workload for nutrient testing was below their maximum capacity and they were able to provide laboratory testing service

for energy, the seven core nutrients, and some other nutrients, e.g. dietary fibre, cholesterol, vitamins. The laboratories also indicated that they would enhance their capacity or send testing requests to their Mainland/overseas partners should the demand for service increase. To encourage more local accredited laboratories to explore providing quality nutrient testing service, CFS had co-organized with the Hong Kong Accreditation Service a special seminar on the nutrition labelling test methods in April 2009.

10. Members asked whether CFS would accept test results performed by overseas laboratories using internationally recognized nutrient testing methods. According to the Administration, it was not possible to do so as all Hong Kong laws, including the Amendment Regulation, required the test results from the Government Laboratory for enforcement.

11. Regarding the complaints made by some trade representatives about the wide discrepancies in the results of nutrition tests conducted by local private laboratories, the Administration advised members that a working group comprising the trade and laboratory service providers was set up by CFS in 2009 to facilitate compliance with the new law. During recent meetings of the working group, such concern was no longer raised by the trade. CFS would adopt a sampling plan for nutrition labeling compliance testing which would require at least 12 individually prepackaged consumer units to be taken randomly from the same lot in question and then combined to make a composite sample. Analysis results of the composite sample would be estimate of the lot nutrient content.

#### Market survey

12. In order to understand the impact of the Scheme on food choice of consumers, the Panel was advised that CFS had commissioned an independent consultant to find out the quantity of different types of prepackaged food products (including ethnic food, organic food and niche food products) available in various retail outlets before and after the commencement of the Scheme, and to assess the change in market situation

13. The Panel noted from the Administration that the first and second surveys were conducted from October 2009 to January 2010 and in March 2010 respectively. Among the 2 360 prepackaged food products randomly selected, the first survey found that 47% had either already complied with the requirement in the Amendment Regulation, or had already obtained SVE. In the second survey this figure further increased to 57%. The third survey would commence in April 2011, and the whole survey project was expected to be completed by the end of 2011.

### Publicity and education campaign

14. Members enquired about the actions to be taken to gauge behavioural changes in choosing prepackaged food products after the implementation of the Scheme. The Administration explained that with the steer of the Task Force on Nutrition Labelling Education, which comprised members from various professional bodies, consumer group, food trade, academic and government departments, CFS formally launched the Publicity and Education Campaign on Nutrition Labelling in March 2009 and would assess its effectiveness through quantitative indicators (e.g. the number of people visiting websites/attending workshops and the number of publicity materials distributed). To provide a benchmark for comparison, a baseline survey was conducted in the summer of 2008 to assess public knowledge, attitude and practice regarding nutrition labelling. CFS would also conduct another survey in 2011 for comparison with the baseline survey to evaluate the changes in public knowledge, attitude and practice regarding nutrition labelling.

15. Members called upon the Administration to step up publicity to ensure that the message about the implementation of the Scheme could reach target audience such as housewives. According to the Administration, a wide range of communication means had been employed to ensure that the information on the new law reached target groups effectively. Activities including group briefing sessions, roving exhibitions, health talks, mass media programmes (e.g. newspaper articles, Announcement of Public Interest on television and radio), etc. were conducted.

### **Relevant papers**

16. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

**Relevant papers on the Nutrition Labelling Scheme**

Meeting	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	22.6.2009 (Item II)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">CB(2)1917/08-09(01)</a>
	13.4.2010 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">CB(2)1225/09-10(01)</a> <a href="#">CB(2)1230/09-10(05)</a>
Legislative Council	19.1.2011	[Question 20] Asked by: Hon Frederick FUNG <a href="#">Implementation of Nutrition Labelling Scheme</a>

Council Business Division 2  
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