

**For Discussion
on 11 June 2013**

LegCo Panel on Food Safety and Environmental Hygiene

Mechanism for Monitoring Falsely Described Food

Purpose

This paper outlines the Government's efforts in handling and following up on suspected cases of falsely described food.

Background

2. At the meeting of this Panel on 28 May 2013, Members expressed concerns about media reports on the sale of beef meat balls which contained no beef in some restaurants and shops in Hong Kong, and the suspected sale of fake dried fish maw in some shops.

Work of the Centre for Food Safety and the Customs and Excise Department

3. The Centre for Food Safety (CFS) under the Food and Environmental Hygiene Department (FEHD) is responsible for ensuring that food for sale in Hong Kong is fit for human consumption. CFS adopts the risk analysis framework promulgated by international food safety authorities in regulating food safety, under which hazards associated with food or food ingredients are evaluated and potential risk

to the population is assessed, facilitating the formulation of the Food Surveillance Programme which focuses on risk and food safety. Under the Programme, samples of food items are taken at the import, wholesale and retail levels for testing for the purpose of assessing food risks. If any food is found to be hazardous to health upon assessment, CFS will take vigorous follow-up action. Over the past three years, CFS took 405 samples of meat balls for microbiological and chemical testing (including testing on preservatives, colouring matters and antibiotics etc.). Apart from two samples of pork balls which were found to contain a preservative not permitted to be used in meat and meat products, the remaining samples were all found satisfactory. On the other hand, CFS took 19 samples of dried fish maw for chemical testing during the aforementioned period (including testing on preservatives, colouring matters and metallic contamination). One sample of dried fish maw was found to contain an excessive level of preservative whilst the others were all found satisfactory.

4. CFS carries out regulatory and enforcement work in accordance with the provisions on food safety, food standards and labelling requirements under the Public Health and Municipal Services Ordinance (Cap. 132) and its subsidiary legislation. If in the course of its work (such as food surveillance, handling of complaints and food incidents etc.), CFS comes across cases involving false trade descriptions, it will refer them to C&ED for follow-up (see paragraphs 7-9 below).

5. Under Section 52 of the Public Health and Municipal Services Ordinance (Cap. 132), if any person sells to the prejudice of a purchaser any food which is not of the nature, or not of the substance, or not of the quality, of the food demanded by the purchaser, he shall be guilty of an offence and liable to a maximum penalty of a fine of \$10,000 and imprisonment for three months. Between 2010 and 2012, FEHD

instituted prosecutions under the provision against 372 cases, mainly involving foreign substance in food, undercooked food and deteriorated food products etc. (see details at Annex). If CFS encounters cases relating to the Trade Descriptions Ordinance (Cap. 362), the cases will also be referred to C&ED for follow-up action.

6. Besides, the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W) (the Regulations) under the Public Health and Municipal Services Ordinance stipulate that the labelling of prepackaged foods shall specify information such as the name or designation of food, list of ingredients, indication of “best before” or “use by” date, statement of special conditions for storage or instructions for use, and name and address of manufacturer or packer. Offenders will be subject to a maximum penalty of a fine of \$50,000 and imprisonment for six months. From July 2010 to 2012, CFS checked a total of 130 474 labels of prepackaged food products to assess compliance with the general food labelling requirements as mentioned above. Of these labels, 209 were found to be non-compliant, including 59 cases where ingredients were not properly listed (see details at Annex). In addition, the Regulations regulate misleading or deceptive nutrition labels and claims of prepackaged foods. Those who do not comply with the relevant provisions will be subject to a maximum penalty of a fine of \$50,000 and imprisonment for six months. Between July 2010 (when the Regulations came into force) and 2012, CFS examined 24 056 nutrition labels of prepackaged foods, of which 246 were found to be non-compliant (see details at Annex). If CFS encounters cases related to the Trade Descriptions Ordinance (Cap. 362) while enforcing the provisions of the Regulations, it will refer such cases to C&ED for follow-up.

7. C&ED is responsible for enforcing the Trade Descriptions Ordinance (Cap. 362) and its eight pieces of subsidiary legislation which aim at protecting consumers by prohibiting false trade descriptions, false, misleading or incomplete information and misrepresentations in respect of goods provided in the course of trade. Under the Trade Descriptions Ordinance (Cap. 362), any person who supplies any goods with a false trade description in the course of any trade or business, or has in his possession for sale any goods bearing a false trade description, commits a criminal offence and the maximum penalty on conviction is a fine of \$500,000 and imprisonment for five years.

8. C&ED has been operating a Product Monitoring Scheme since March 2009 to safeguard consumer interests. Through risk assessment and closely monitoring the market situation, C&ED draws samples of various consumer goods (including food products) that are the subject of public concerns from the market place for inspection to prevent the sale of products with false claims and to crack down on activities contravening the Trade Descriptions Ordinance (Cap. 362). C&ED procures product samples for testing by Government Laboratory for law enforcement purpose.

9. There had been cases in the past, where C&ED successfully instituted prosecutions against cases of food products in breach of the Trade Description Ordinance (Cap. 362). These included cases of canned whelk meat claimed to be canned abalone, dried whelk slices claimed to be dried abalone slices, beef tendon claimed to be deer tendon, eggs produced in China being passed off as eggs produced in Thailand and the Netherlands, and strawberries from China being passed off as those from Japan and Korea, etc. Between 2010 and 2012, C&ED took prosecutions against 125 cases involving false trade descriptions of food products.

Follow-up on recent suspected cases of falsely described food

10. CFS and C&ED have promptly followed up on newspaper reports about shops selling beef meat balls suspected to contain no beef. Separately, C&ED has also taken follow-up action under the Trade Descriptions Ordinance (Cap. 362) in respect of suspected cases of dried fish maw. The investigations are still underway and the relevant departments will seek legal advice from the Department of Justice on the information collected, before making a decision on the next step. As such, we are unable to provide further information at this stage.

Advice sought

11. Members are invited to note the Government's efforts in handling and following up on suspected cases of falsely described food.

Food and Health Bureau

Customs and Excise Department

Trade Controls Branch

Food and Environmental Hygiene Department

Centre for Food Safety

June 2013

**Prosecutions instituted by the Food and Environmental Hygiene
Department (FEHD) under Section 52 of
the Public Health and Municipal Services Ordinance (Cap. 132)**

Nature of Case	2010	2011	2012
Foreign substance in food	99*	121	114
Undercooked food	10*	6	8
Deteriorated food products	6	3	6
Total	114*	130	128

* One of these cases involved food that contains foreign substance and is undercooked.

**Cases found by FEHD to be non-compliant with the general food
labelling requirements under the Food and Drugs
(Composition and Labelling) Regulations (Cap. 132W)**

Nature of non-compliance	No. of cases for the period of 1.7.2010 – 31.12.2012
Blank label	10
Beyond expiry date	4
Improper indication of durability	13
Ingredient not properly listed	59
Incomplete information about the manufacturer/packer's name and address	25
Food name and list of ingredients not marked in both English and Chinese where both languages are used on the label	38
Involved more than one type of the above mentioned irregularities	60
Total	209

**Cases found by FEHD to be non-compliant with
the requirements of the Nutrition Labelling Scheme under
the Food and Drugs (Composition and Labelling) Regulations
(Cap. 132W)**

Nature of non-compliance	No. of cases for the period of 1.7.2010 – 31.12.2012
No nutrition label or incomplete 1+7 core nutrients label	81
Inappropriate nutrition label format	10
Inappropriate nutrient claim	25
Inappropriate language	18
Involved more than one type of irregularities	15
Discrepancy on declared nutrient value confirmed after chemical analysis	97
Total	246