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Panel on Food Safety and Environmental Hygiene

Background brief prepared by the Legislative Council Secretariat for the meeting on 10 December 2013

Nutrition Labelling Scheme - Small Volume Exemption Scheme

Purpose

This paper highlights the concerns of members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the small volume exemption ("SVE") scheme under 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 cm². In addition, a SVE scheme has been introduced since 1 September 2009 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 labelled 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.

4. As advised by the Administration at the Panel meeting on 8 May 2012, applications for SVE had commenced since 1 September 2009. As at 13 April 2012, there were 45 427 SVE applications (since 1 September 2009), of which 41 812 were approved and 2 057 were rejected, mostly due to the presence of nutrition claims.¹ The rest had either been withdrawn by the applicants or were being processed.

5. According to the Administration, the fees for SVE applications are charged on a full-cost recovery basis which include staff cost, departmental expenses, accommodation cost and administrative cost. As stipulated in subsections 1(3) and 2(3) of Part 2 of Schedule 6 to the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W), the SVE fee for new and renewal application is \$345 and \$335 respectively.

Past discussions by the Panel

6. When discussing the subject of the implementation of the Scheme at the Panel meetings in July 2011 and May 2012, members raised issues relating to the SVE scheme. The major concerns of the Panel members on the SVE scheme are summarized below.

Application and monitoring of SVE

7. Members were concerned about how to verify the annual sales volume of food products applying SVE. According to the Administration, apart from the requirement of monthly reporting of sales volume at the importer's and manufacturer's level, site inspection at the business places of importers and retailers would be conducted by the Centre for Food Safety ("CFS") on the food products applying for SVE. Retailers might also be requested to provide receipts for verification. The Administration would further explore with the

¹ Regulation 4B(4) of the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W) stipulates that if any nutrition claim is made on the label of, or in any advertisement for, any item in respect of which an exemption has been granted under Part 2 of Schedule 6 (i.e. the SVE), prepackaged food shall be marked or labelled with its energy value and nutrient content in compliance with Part 1 of Schedule 5 of Cap. 132W, i.e. the nutrition labelling requirement. Application for SVE in respect of a prepackaged food (which seeks to exempt the food from the nutrition labeling requirement) with nutrition claim will therefore be rejected.

trade on how to increase the transparency of the SVE scheme with a view to facilitating traders to keep track of the sales volume of their food products.

8. An enquiry was raised about the trade's concern that the SVE quota was always taken up by large supermarket chains. The Administration clarified that there was no quota setting for the SVE applications, and no exemption priority would be given to large-scale operations. All food manufacturers/importers could make SVE applications if they considered that their food products might satisfy the conditions for SVE exemption.

9. Concern was also raised over CFS' monitoring of SVE products with valid exemption in the market. The Administration advised that each exempted product would be assigned a number and officers of CFS would verify the exemption number during inspection. The exemption might be renewed for the following year if the 30 000-unit exemption limit was not exceeded at the end of one year. CFS would keep track of the annual sales volume of the exempted products to prevent the abuse of the SVE scheme.

SVE fees

10. Members noted at the Panel meeting on 8 May 2012 that CFS was reviewing the SVE fees and considering the introduction of a reduced fee for online application, which would encourage the trade to submit their applications through electronic means. CFS would complete the review on the SVE fees in the second half of 2012. While welcoming CFS' initiative to review the SVE fees, some members pointed out that the SVE fees were set on a full-cost recovery basis and doubted whether there was room for further reduction in the SVE fees.

Latest development

11. The Administration will brief the Panel on the review of SVE fees and its proposed amendments to the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W) on 10 December 2013.

Relevant papers

12. A list of the relevant papers on the LegCo website is in **Appendix**.

**Relevant papers on
Nutrition Labelling Scheme – Small Volume Exemption Scheme**

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	12.7.2011 (Item IV)	Agenda Minutes CB(2)2305/10-11(02) CB(2)2305/10-11(03)
	8.5.2012 (Item IV)	Agenda Minutes

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