

**For discussion
on 8 March 2016**

LegCo Panel on Food Safety and Environmental Hygiene

Implementation of the Nutrition Labelling Scheme

Purpose

This paper updates Members on the implementation of the Nutrition Labelling Scheme (the Scheme) which came into effect on 1 July 2010, and the requirements on nutritional composition and nutrition labelling of infant formulae which have been in force since 13 December 2015.

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, has come into force since 1 July 2010. The Scheme aims to (a) assist consumers in making informed food choices; (b) encourage food manufacturers to apply sound nutrition principles in the formulation of foods; and (c) regulate misleading or deceptive labels and claims. The Scheme covers nutrition labelling¹ and nutrition claims (which include nutrient content claims², nutrient comparative claims³ and nutrient function claims⁴).

¹ Nutrition labelling refers to the listing of the nutrient content of a food in a standardised manner. When nutrition labelling is applied, energy content and the seven core nutrients (protein, carbohydrates, total fat, saturated fat, trans fat, sodium and sugars), or what is commonly known as “1+7”, and claimed nutrients are required to be listed on the nutrition label.

² A nutrient content claim describes the energy value or the level of a nutrient contained in a food, e.g. “High calcium”; “Low fat”; “Sugar-free”.

³ A nutrient comparative claim compares the energy value or the nutrient levels of two or more different versions of the same food or similar food, e.g. “Reduced fat – 25% less than the regular product of the same brand”.

⁴ A nutrient function claim describes the physiological role of a nutrient in growth, development and normal functions of the body, e.g. “Calcium aids in the development of strong bones and teeth”.

Enforcement Actions

A Risk-based Enforcement Approach

3. The Centre for Food Safety (CFS) adopts a risk-based enforcement approach, targeting high-risk retail outlets⁵ in its enforcement work. CFS has built up a database of 12 000 retail outlets to facilitate inspection, surveillance, enforcement, risk management and public education work. Internal guidelines for inspection operations also set out the risk-based inspection requirements and details of follow-up actions that should be taken if non-compliant cases are detected.

Compliance with the Scheme

4. Since the Amendment Regulation took effect on 1 July 2010 and up till 31 December 2015, CFS has checked the nutrition label of 39 656 prepackaged food products, 489 of which were found not complying with the Scheme. The overall compliance rate was 98.77%. Of the 489 non-compliance cases, 249 were identified by visual checking for not complying with the statutory requirements of the Scheme and 240 by chemical analysis for discrepancy between the nutrient content and the claims made on the nutrition label. Details are set out in **Annex I**.

5. The Legislative Council completed its vetting of the Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2014 (the Amendment Regulation No. 2) in October 2014, which comprises requirements on nutritional composition of infant formulae and nutrition labelling of infant formulae, follow-up formulae and prepackaged food for infants and young children. The requirements on nutritional composition and nutrition labelling of infant formulae came into operation on 13 December 2015. The requirements on nutrition labelling of follow-up formulae and prepackaged food for infants and young children will take effect on 13 June 2016 after a two-year grace period. The Amendment Regulation No. 2 requires that any infant formula must contain energy and 33 nutrients (“1+33”). The level of energy and each nutrient must fall within the range specified in the Amendment Regulation No. 2

⁵ High-risk retail outlets include those poorly managed outlets, often of a small scale, selling mainly prepackaged food with nutrition claims or with unsatisfactory past records (e.g. premises with labelling irregularities detected previously).

and certain nutrients must follow the relevant proportion requirements. Moreover, the labelling of energy value and 29 nutrients (“1+29”) is mandatory for infant formulae. Since the requirements on infant formulae under the Amendment Regulation No. 2 took effect on 13 December 2015, CFS has checked the nutrition information of 39 infant formulae. Chemical analysis is being performed on 20 of these formulae. So far, none has been found in breach of the legal requirements.

Small Volume Exemption Scheme

6. To minimise the impact on food choices, the Government has established a Small Volume Exemption (SVE) scheme upon the introduction of the Scheme. For a prepackaged food product with annual sales volume in Hong Kong not exceeding 30 000 units, and which does not carry nutrition claims on its label or in any advertisement, the food manufacturer / importer may apply to the Director of Food and Environmental Hygiene for nutrition labelling exemption for the food product. If the sales volume does not exceed the exemption limit of 30 000 units in a year, the food manufacturer / importer may apply for renewal of the exemption. The SVE scheme does not cover infant formulae, follow-up formulae and prepackaged food for infants and young children.

7. Between 1 September 2009 when applications for SVE commenced and 31 December 2015, a total of 75 418 SVE applications (excluding renewal applications) were received by CFS, of which 69 195 were approved and 2 765 rejected, mostly due to the presence of nutrition claims⁶. The rest have either been withdrawn by the applicants or are being processed. Details are set out in **Annex II**. In terms of place of origin, Japan (56%), Hong Kong (9%), USA (6%) and UK (6%) took up 77% of the applications approved. As at 31 December 2015, there were 16 544 products with valid SVE in the market.

8. Since the implementation of the Scheme, CFS has inspected 361 grantees of small volume exemption and examined 982 exempted products.

⁶ Regulation 4B(4) of the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W) stipulates that for prepackaged food, 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), such item 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 labelling requirement) with a nutrition claim will therefore not be approved.

Based on the inspection results, CFS issued a total of 41 verbal warnings. In addition, CFS issued 12 letters, asking for an explanation from the grantees for the irregularities found by CFS within 21 days. All grantees involved either rectified the irregularities or stopped selling the concerned products. As for the cases in which sales records were not reported on time, CFS issued 374 letters, asking the grantees to provide an explanation for the irregularities within 21 days. Other than the five grantees who ceased operation during the investigation, all the others had rectified the irregularities

Reduction of SVE Fees

9. Since April 2011, CFS has accepted both SVE applications and renewal applications submitted by the food trade by electronic means through the Food Import Control System (FICS). Beginning 24 March 2014, fees for SVE applications and renewal applications submitted by electronic means through FICS have been reduced from \$345 to \$265 and \$335 to \$250 respectively. Applications (including SVE applications or renewal applications) submitted by such electronic means accounted for 37% of the total number of applications in 2012, 42% in 2013, 84% in 2014 and 91% in 2015.

Publicity and Education

10. To reap the benefits of the Scheme, we must continue to educate the public on how to make use of the information on nutrition labels to make healthier food choices. CFS works through a variety of publicity and education programmes towards enhancing public understanding of the Scheme and motivating behavioural changes among consumers to help them make good use of the nutrition information on labels.

11. Since 2013, the promotion of nutrition labelling has become part and parcel of CFS' routine public education programme. In 2015, in order to tie in with the overall objective of its work in encouraging the public to reduce sodium and sugar intake from food, CFS promoted the use of nutrition labels to help the public choose food with lower sodium and sugar contents through various channels such as roving exhibitions, public talks and social network. At the same time, CFS and the Education Bureau (EDB) jointly launched the Salt and Sugar Reduction & Nutrition Labelling Video Competition (Video Competition) in collaboration with the Committee on Home-School Co-operation (CHSC).

163 teams enrolled in the Video Competition, of which 132 were from the junior and senior secondary school categories. Final adjudication and the award presentation ceremony were held during the Food Safety Day on 26 June 2015.

12. In 2016, CFS will continue to coordinate with the Committee on Reduction of Salt and Sugar in Food in launching public education programmes to encourage the public to reduce sodium and sugar intake from food. CFS and EDB, in collaboration with the Chinese Culinary Institute and CHSC, are jointly launching the Junior Chefs' Culinary Ideas of Salt and Sugar Reduction Competition (the Competition). The Competition aims to explore practical ideas of preparing food with reduced salt and sugar without losing flavour and encourage the application of food safety tips when preparing food, so as to promote healthy eating and awareness of food safety practices. The competition consists of two categories, namely Senior Primary (parent-child teams) and Junior Secondary Categories. The final round and the award presentation ceremony will be held during the Food Safety Day on 30 June 2016.

13. Besides the requirements on nutritional composition and nutrition labelling of infant formulae which came into operation on 13 December 2015 as mentioned in paragraph 5 above, the requirements on nutrition labelling of follow-up formulae and prepackaged food for infants and young children will take effect on 13 June 2016 after a two-year grace period. CFS has held a series of technical meetings with the trade and other relevant stakeholders in preparation for the implementation of the new requirements. CFS has also produced technical guidelines covering the technical issues involved for reference by the trade.

Advice Sought

14. Members are invited to note the implementation of the Scheme.

**Food and Health Bureau
Food and Environmental Hygiene Department
Centre for Food Safety
March 2016**

Annex I

Inspection of nutrition labels of prepackaged food products and number of non-compliant cases

	Jul - Dec 2010	2011	2012	2013	2014 @			2015
					Jan - Sep	Oct - Dec	Total	
<i>Number of nutrition labels of prepackaged food products checked</i>	13 731	5 048	5 277	5 151	3 945	1 135	5 080	5 369
No or incomplete nutrition label	43	24	14	16	14	*5	19	17
Inappropriate nutrition label format (including illegible nutrition labels and energy value and nutrition content expressions not meeting requirements)	4	3	3	1	1	0	1	**1
Inappropriate nutrient claim (nutrient content claim and nutrient function claim)	7	11	7	14	2	0	2	0
Inappropriate language (nutrition labels not in English, Chinese, or both languages as required)	12	3	3	6	2	1	3	0
Involving more than one type of irregularities (e.g. incomplete nutrition label, inappropriate nutrition label format)	0	7	8	3	16	1	17	0
Discrepancy on declared nutrient value confirmed after chemical analysis	30	29	38	78	54	0	54	11
Sub-total	96	77	73	118	89	7	96	29
Total	489							

@ The new enforcement strategy has been implemented since 1 October 2014.

* Including a food product with illegible expiry date on the label

** Illegible nutrition label

**Detailed breakdown of SVE applications
(as at 31 December 2015)**

Number of applications	Position as at 31 December 2015
Received (a)	75 418
Approved (b)	69 195
Rejected (c)	2 765*
Withdrawn by the applicant (d)	3 269
Pending (e) = (a) – (b) – (c) – (d)	189

* The breakdown of 2 765 applications rejected is as follows: 2 472 applications were rejected due to the presence of nutrition claims on the package, which made them ineligible under the Amendment Regulation. 27 applications were submitted by overseas traders. We have asked the applicants to contact the local importers so that the latter could make a direct application. The remaining applications were rejected mainly because the items concerned were either Chinese medicines or drugs, hence not regarded as “food” under the Public Health and Municipal Services Ordinance (Cap. 132) and not governed by the Scheme.