立法會
Legislative Council

LC Paper No. CB(2)997/15-16(08)

Ref: CB2/PL/FE

Panel on Food Safety and Environmental Hygiene

Updated background brief prepared by the Legislative Council Secretariat for the meeting on 8 March 2016

Implementation of the Nutrition Labelling Scheme

Purpose

This paper provides background information on the Nutrition Labelling Scheme ("NLS") and summarizes major views and concerns of members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the implementation of NLS.

Background

Statutory requirements

2. The Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008 ("the Amendment Regulation"), which introduces NLS for prepackaged food, has come into force since 1 July 2010. NLS covers nutrition labelling[1] and nutrition claims (which include nutrient content claims[2], nutrient comparative claims[3] and nutrient function claims[4]). Failure to comply with the statutory

---

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

requirements of NLS is an offence for which the maximum penalty is a fine of $50,000 and imprisonment for six months.

Enforcement strategy

3. The Centre for Food Safety ("CFS") adopts a risk-based enforcement approach, targeting at high-risk retail outlets[5] 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.

4. In the middle of 2014, CFS undertook a review of its enforcement work. Given that NLS under the Amendment Regulation had come into full operation for a long period of time, the trade should have become familiar with and capable of abiding by the requirements stipulated in the relevant provisions. Besides, CFS also issued in May 2012 the Trade Guidelines on Preparation of Legible Food Label ("the Guidelines") to assist the trade in providing clear and legible information on the food labels. As such, CFS decided to tighten up its enforcement by doing away with the explanation period, as well as the practices of issuing warning letters and allowing time for rectifying any irregularities. Should CFS identify any non-compliance with the requirements, prosecution will be initiated immediately without allowing any time for rectification. The new practice came into effect on 1 October 2014 after CFS had notified the trade.

5. As advised by the Administration at the Panel meeting on 9 June 2015, between 1 July 2010 and 15 May 2015, CFS had inspected 35 821 prepackaged food products and found 474 cases of non-compliance with NLS. The overall compliance rate was 98.68%. Of the 474 non-compliant cases, 244 were identified by visual checking for not complying with the statutory requirements of NLS and 230 by chemical analysis for discrepancy between the nutrient contents and the claims made on the nutrition labels. A total of 21 prepackaged food products were found not complying with NLS after the implementation of the new enforcement strategy. CFS had initiated prosecution in 20 of these cases, including two cases which involved illegible expiration date on the food label and illegible nutrition label. The remaining one case involved discrepancy between the nutrient content and the claim made on the nutrition label.

---

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

Small Volume Exemption scheme

6. To facilitate the food trade and to minimize the impact on food choice, the Government has established the Small Volume Exemption ("SVE") scheme upon the introduction of NLS. For a prepackaged food product with annual sales volume in Hong Kong not exceeding 30 000 units 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 ("DFEH") for exemption from providing nutrition label for the food product[6]. 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 exemption for the following year. According to the Administration, as at 15 May 2015, there were 16 930 products with valid SVE in the market.

Deliberations of the Panel

7. The Panel discussed issues relating to the implementation of NLS at a number of meetings between 2009 and 2015. Members' major views and concerns on the subject are summarized below.

Legibility of nutrition labels

8. Noting that the Administration only required the trade to follow the Guidelines on a self-regulation basis and the trade had made slow progress in providing legible nutrition labels, some members urged the Administration to consider setting out a timetable requiring all food traders to mandatorily follow the Guidelines and if necessary, introducing legislative amendments to better regulate the legibility of nutrition labels.

9. According to the Administration, the Guidelines provided recommendations on the key elements that constituted the legibility of food labels including the font size. While CFS would continue to make use of various channels to encourage the trade to improve the legibility of nutrition labels, breaches of the Guidelines and subsequent enforcement action would be dealt with on a case-by-case basis. If self-regulation by the trade to follow the Guidelines did not yield the desired outcome, the Administration would not rule out introducing relevant legislative amendments to further regulate the legibility of nutrition labels.

---

[6] Food manufacturers/importers need to apply to 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.

Taste claims of food

10. Members were gravely concerned that some prepackaged food claiming "less sweet" actually contained high amount of sugars. To prevent consumers from being misled by such taste claims, it was suggested that "taste" of food be defined in the legislation. The Administration, however, pointed out that the sense of taste depended on subjective factors of human feelings perception, and it had been thoroughly discussed and agreed during the scrutiny of the Amendment Regulation that it could not be defined in the legislation the claims of such perceived taste. The Administration further advised that education on taste claims such as "less sweet" and "light fat" were covered in the public education and publicity programmes. With the intensive public education and publicity activities, the public would understand how to make use of the information in nutrition labels to make healthier food choices.

11. In response to a member's suggestion of defining "low sugars" in drinks under NLS to prevent consumers from being misled by such claims, the Administration advised that NLS stipulated that a product with a claim of "low sugars" should contain not more than five grams per 100 grams or milliliters of the food. CFS would check whether there was a discrepancy between the nutrient content and the information declared on the label through chemical analysis.

Food choices for consumers

12. There was concern as to whether NLS had limited the food choices of consumers, in particular the ethnic groups, due to the stepped-up surveillance efforts. Members requested the Administration to take a lenient approach in dealing with the non-compliant food items for ethnic minorities given their insignificant share of the prepackaged food market.

13. The Administration advised that the Market Survey commissioned by CFS suggested that there was no considerable impact on the food choices available in the market after the commencement of NLS. The Administration had commissioned surveys in the Food Expos of both 2010 and 2011 to assess the impact of NLS on new-to-market prepackaged food products. The survey results indicated that the implementation of NLS had not brought about any significant impact on the introduction of new prepackaged food products to Hong Kong via Food Expo. On members' concern about the possible impact of NLS on the food choices available in ethnic shops, members were advised that CFS had all along proactively managed communications with the trade. Although the number of prepackaged food products in ethnic shops was found to have reduced after the commencement of NLS, CFS would take appropriate actions to assist the traders in complying with the requirements of NLS.

14. In response to members' concern about the impact of NLS on food choices for people with allergies, the Administration advised that according to the Chairman of The Hong Kong Allergy Association, NLS had not brought any negative impact on food prices and choices for people with allergies. It was noteworthy that food choices of people with food allergies hinged on whether the food product contained substances that would cause allergy and its country of origin.

Labelling information of "health food" products

15. On the question of whether "health food" products were required to comply with the nutrition labelling requirements, the Administration explained that there was currently no specific legislation for regulation of "health food" products in Hong Kong. Nevertheless, orally consumed products sold in the market were classified into two categories, namely medicine and food, according to the ingredients and subject to more specific regulation under different legislation depending on the content of their claims. For instance, all products which fell within the definition of proprietary Chinese medicines were regulated under the Chinese Medicine Ordinance (Cap 549). "Health food" products classified as general food products were required to comply with the relevant requirements in respect of food safety, food standards and nutrition labelling. Like other commodities, the claims of "health food" products were also subject to the regulation of the Trade Description Ordinance (Cap. 362). Expert advice would be sought in cases of difficult classification of "health food" products.

16. In response to members' enquiry about the listing of quantities of the ingredients of "health food" products on labels, the Administration advised that there were two main types of labelling on food products, namely the food labelling (listing of the ingredients of prepackaged food products) and the nutrition labelling (listing of the nutrient content of a food in a standardized manner). The ingredients of a "health food" product should be listed in descending order of weight or volume on labels if the product was classified as a prepackaged food product.

The SVE scheme

17. Responding to members' concern about the verification of the annual sales volume of food products applying SVE, the Administration explained that apart from the requirement of monthly reporting of sales volume at the importer's and manufacturer's levels, site inspection at importers and retailers would also be conducted by CFS on the food products applying for SVE. Retailers might be requested to provide receipts for verification.

18. Members enquired about the major types of products exempted under the SVE scheme and how the Administration monitored those SVE products with valid exemption in the market to ensure their compliance with food safety requirements. According to the Administration, applications for SVE were not restricted to any particular type of food. In terms of place of origin, Japan (55%), Hong Kong (9%) and the United States of America (7%) took up a majority of the SVE applications approved and most of the exempted products were snacks. Each exempted product would be assigned a number. Officers of CFS would verify the exemption number of the product during inspection. While CFS adopted the same risk-based approach in inspecting food products exempted from the nutrition labelling requirements, samples of SVE products would be taken for testing by CFS under its food surveillance programme. CFS would keep track of the annual sales volume of the exempted products to prevent the SVE scheme from being abused.

Recent development

19. The Administration will update the Panel on the latest implementation progress of NLS at the meeting on 8 March 2016.

Relevant papers

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

Council Business Division 2
Legislative Council Secretariat
2 March 2016

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)	Agenda Minutes
	13.4.2010 (Item V)	Agenda Minutes
	12.7.2011 (Item IV)	Agenda Minutes
	8.5.2012 (Item IV)	Agenda Minutes
	13.5.2014 (Item V)	Agenda Minutes
	9.6.2015 (Item IV)	Agenda Minutes

Council Business Division 2
Legislative Council Secretariat
2 March 2016