

**For discussion
on 14 February 2017**

**LegCo Panel on Food Safety and Environmental Hygiene
Implementation of Nutrition Labelling Scheme**

Purpose

This paper updates Members on the implementation of the Nutrition Labelling Scheme (the Scheme) which came into operation on 1 July 2010, the requirements on nutritional composition and nutrition labelling of infant formulae which came into operation on 13 December 2015, and the requirements on nutrition labelling of follow-up formulae and prepackaged food for infants and young children which came into operation on 13 June 2016.

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. 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.

3. The Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2014 (the Amendment Regulation No. 2) comprises requirements on nutritional composition

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 which 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 fat 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”.

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 came into operation on 13 June 2016.

4. The Amendment Regulation No. 2 requires that any infant formula must contain energy and 33 nutrients (“1+33”)⁵. The level of energy and each nutrient must fall within the ranges specified in the Amendment Regulation No. 2 and certain nutrients must follow the relevant proportion requirements. In addition to the 33 nutrients, the Amendment Regulation No. 2 requires infant formula which contains taurine and docosahexaenoic acid (DHA) to follow the relevant standards in terms of maximum value and proportion respectively. Furthermore, since an excessive intake of fluoride may increase the risk of dental fluorosis, the Amendment Regulation No. 2 mandates that infant formula be labelled with a statement on dental fluorosis, if its fluoride content exceeds the stipulated maximum level. Infant formula shall be labelled with the energy value and 29 nutrients (1+29)⁶.

5. The Amendment Regulation No. 2 requires the labelling of energy value and 25 nutrients (“1+25”)⁷ for follow-up formulae. Prepackaged food for infants and young children must be labelled with its energy value and the content of four nutrients, namely protein, fat, carbohydrates and sodium (“1+4”), as well as vitamins A and D (if they are added to the food).

Enforcement Actions

A Risk-based Enforcement Approach

6. The Centre for Food Safety (CFS) adopts a risk-based enforcement approach, targeting

⁵ An infant formula must contain energy and 33 nutrients (protein, total fat, linoleic acid, α -linolenic acid, total carbohydrates, vitamin A, vitamin D3, vitamin E, vitamin K, thiamine, riboflavin, niacin, vitamin B6, vitamin B12, pantothenic acid, folic acid, vitamin C, biotin, iron, calcium, phosphorus, magnesium, sodium, chloride, potassium, manganese, iodine, selenium, copper, zinc, choline, myo-inositol and L-carnitine).

⁶ The nutrition label of an infant formula must indicate the energy value and the content of 29 nutrients (protein, total fat, total carbohydrates, vitamin A, vitamin D3, vitamin E, vitamin K, thiamine, riboflavin, niacin, vitamin B6, vitamin B12, pantothenic acid, folic acid, vitamin C, biotin, iron, calcium, phosphorus, magnesium, sodium, chloride, potassium, manganese, iodine, selenium, copper, zinc and choline).

⁷ The nutrition label of a follow-up formula must indicate the energy value and the content of 25 nutrients (protein, total fat, available carbohydrates, vitamin A, vitamin D, vitamin E, vitamin K, thiamine, riboflavin, niacin, vitamin B6, vitamin B12, pantothenic acid, folic acid, vitamin C, biotin, iron, calcium, phosphorus, magnesium, sodium, chloride, potassium, iodine and zinc).

high-risk retail outlets⁸ in law enforcement. It has built up a database of 12 000 retail outlets to facilitate its inspection, surveillance, enforcement, risk management and public education work.

7. In addition, the CFS has issued the “Trade Guidelines on Preparation of Legible Food Label” to assist the trade in providing clear and legible information on food labels.

Compliance with the Scheme

(I) Prepackaged food products

8. As at 31 December 2016, the CFS has checked the nutrition labels of 45 281 prepackaged food products. 543 of which were found not in compliance with the Scheme. The overall compliance rate was 98.8%. Of the 543 non-compliance cases, 269 were identified by visual checking for not compliant with the statutory labelling requirements of the Scheme and 274 by chemical analysis for discrepancy between the nutrient contents and the claims made on the nutrition label. Details are set out in **Annex I**.

9. In 2016, the CFS identified through visual checking a total of 20 prepackaged food products not in compliance with the labelling requirements under the Scheme. Prosecution had been instituted against these cases, with 14 cases convicted and 6 cases pending court hearings. Besides, chemical analyses revealed that the nutrient values of 34 samples involving 25 prepackaged food products did not conform with the claims on their nutrition labels. In subsequent follow-up investigations, the CFS took samples of these 25 prepackaged food products (11 from the same batch and 14 from other batches) for chemical analyses according to Section 63 of the Public Health and Municipal Services Ordinance (Cap. 132) (PHMO). The nutrition content of 3 samples conformed with the nutrition label, but the other 22 samples did not conform with the nutrient information listed on the labels. The food products concerned had been removed from shelves. Regarding the 22 cases involving unsatisfactory samples, the CFS had instituted prosecution against 6 cases (with 5 cases convicted and 1 case pending court hearing). No follow-up action was required for 13 cases where defence provisions were applicable. Three cases are being followed up.

⁸ 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).

(II) Infant formulae

10. As of 31 December 2016, the CFS has collected 128 samples involving 47 infant formulae for inspection of nutrition labels, as well as testing of nutrition and fluoride contents. Of these, one sample was found not in compliance with the nutrition labelling requirements. The overall compliance rate was 99.22%. As a follow up, the CFS had inspected local major retail outlets but did not find any of those outlets offering the formula product in question for sale. Nevertheless, the trade and the public were notified of the incident and were urged to stop selling or consuming the product. Details are set out in **Annex II**.

(III) Follow-up formulae and prepackaged food for infants and young children

11. As of 31 December 2016, the CFS has taken 103 samples from 62 follow-up formulae and 226 samples from 176 prepackaged foods for infants and young children for checking of their nutrition labels and testing of their nutrient contents. One sample of prepackaged foods for infants and young children was found not in compliance with the labelling requirements of the Scheme. The overall compliance rates were 100% and 99.56% respectively. Regarding the prepackaged food for infants and young children found with an unsatisfactory sample, the CFS collected another sample of the same kind but of a different batch for testing in conducting the follow-up investigation pursuant to Section 63 of the PHMO. The nutrient content of that sample was found consistent with the information declared on the nutrition label. Nevertheless, the CFS had reminded the trader concerned to step up quality control, so that the nutrient content among different batches of the product would not differ significantly. The infant formula product and the prepackaged food for infants and young children not in compliance with the labelling requirements as stated in paragraphs 10 and 11 were identified by chemical analysis. Their nutrient content was found not identical with the labelling information. Details are set out in **Annex II**.

Small Volume Exemption Scheme

12. To minimise the impact on food choices, the Government has established a Small Volume Exemption (SVE) Scheme when introducing 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 product. If the sales volume does not exceed the exemption limit of 30 000 units in a year, the manufacturer / importer may apply for renewal of the exemption. The SVE Scheme is not applicable to infant formulae, follow-up formulae and

prepackaged food for infants and young children.

13. Under Part 2 of Schedule 6 to the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W), grantees of nutrition labelling exemption for prepackaged food products should observe the conditions imposed, including that the exempted products should each bear a specific label indicating their exemption status, and the grantees should not make any nutrition claim on the label of, or in any advertisement for, the exempted products. If grantees fail to comply with the conditions for exemption, the CFS will, according to the law, seek explanation from the grantees for the irregularities. The CFS may revoke the exemption by notifying the grantees in writing if CFS does not accept the grantees' explanation.

14. Between 1 September 2009 when the CFS began accepting SVE applications and 31 December 2016, a total of 84 397 SVE applications (excluding renewal applications) were received, of which 77 138 were approved and 3 051 rejected (mostly due to the presence of nutrition claims⁹). The remaining applications have either been withdrawn by the applicants or are being processed. Details are set out in **Annex III**. In terms of place of origin, Japan (57%), Hong Kong (9%), the USA (7%) and the UK (6%) took up 79% of the applications approved. As at 31 December 2016, there were 16 912 products with valid SVE in the market.

15. As of 31 December 2016, the CFS has inspected 410 SVE grantees and examined 1 307 exempted products. Based on the inspection results, the CFS had issued 499 letters¹⁰ asking the grantees to provide explanation for the irregularities within 21 days. Other than 11 grantees who ceased operation during investigation, all the others had either rectified the irregularities or stopped selling the products concerned.

Publicity and Education

16. To optimise the merits of the Scheme, it is imperative that efforts be made to continue

⁹ 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.

¹⁰ 2 cases involved presence of nutrition claims, 14 cases involved absence of specific labels, and 483 cases involved grantees who did not report sales records on time.

to educate the public on how to make healthier food choices by making use of nutrition labelling information. The CFS works through a variety of publicity and education programmes to enhance public understanding of the Scheme, motivate behavioural changes among consumers, and help them make good use of the nutrition information on labels.

17. Since 2013, the promotion of nutrition labelling has become part and parcel of the CFS' routine public education programme. Last year, the CFS complemented the work of the Committee on Reduction of Salt and Sugar in Food (CRSS) by launching public education programmes to encourage the public to reduce sodium and sugar intake from food and make use of the information on the nutrition label. In 2017, the CFS will continue to dovetail with the CRSS and assist it in implementing a front-of-pack low-salt-and-sugar labeling scheme for prepackaged food, which will help consumers identify low-salt-and-sugar products with greater ease.

Advice Sought

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

Food and Health Bureau
Food and Environmental Hygiene Department
Centre for Food Safety
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**Inspection of nutrition labels of prepackaged food products and
number of non-compliant cases**

| | Jul-Dec 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | Total |
|---|-------------------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
| <i>Number of nutrition labels of prepackaged food products checked</i> | 13 731 | 5 048 | 5 277 | 5 151 | 5 080 | 5 369 | 5 625 | 45 281 |
| Non-compliance and figures | | | | | | | | |
| No or incomplete nutrition label | 43 | 24 | 14 | 16 | *19 | 17 | 18 | 151 |
| Inappropriate nutrition label format (including illegible nutrition labels and energy value and nutrient content expressions not meeting requirements) | 4 | 3 | 3 | 1 | 1 | **1 | 0 | 13 |
| Inappropriate nutrition claim (nutrient content claim and nutrient function claim) | 7 | 11 | 7 | 14 | 2 | 0 | 0 | 41 |
| Inappropriate language (nutrition labels not in English, Chinese, or both languages as required) | 12 | 3 | 3 | 6 | 3 | 0 | 2 | 29 |
| Involving more than one type of irregularities (e.g. incomplete nutrition label, inappropriate nutrition label format) | 0 | 7 | 8 | 3 | 17 | 0 | 0 | 35 |
| Sub-total | 66 | 48 | 35 | 40 | 42 | 18 | 20 | 269 |
| Discrepancy on declared nutrient value confirmed after chemical analysis | 30 | 29 | 38 | 78 | 54 | 11 | 34 | 274 |
| Total | 96 | 77 | 73 | 118 | 96 | 29 | 54 | 543 |

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

** Illegible nutrition label

Inspection of nutritional composition of infant formulae and nutrition labels of infant formulae, follow-up formulae and prepackaged food for infants and young children and number of non-compliant cases

| | Infant formulae | Follow-up formulae | Prepackaged food for infants and young children |
|--|------------------------|---------------------------|--|
| | Dec 2015 - 2016 | Jun-Dec 2016 | Jun-Dec 2016 |
| Number of nutrition labels of food products checked | 47 | 62 | 176 |
| Non-compliance and figures | | | |
| No or incomplete nutrition label | 0 | 0 | 0 |
| Inappropriate nutrition label format (including illegible nutrition labels and energy value and nutrient content expressions not meeting requirements) | 0 | 0 | 0 |
| Inappropriate language (nutrition labels not in English, Chinese, or both languages as required) | 0 | 0 | 0 |
| Involving more than one type of irregularities (e.g. incomplete nutrition label, inappropriate nutrition label format) | 0 | 0 | 0 |
| Discrepancy on declared nutrient value confirmed after chemical analysis | 1 | 0 | 1 |
| Nutritional composition not meeting requirements after chemical analysis | 0 | Not applicable | Not applicable |
| Sub-total | 1 | 0 | 1 |
| Total | 2 | | |

Detailed breakdown of SVE applications
(as at 31 December 2016)

| Number of applications | Position as at 31 December 2016 |
|--|--|
| Received (a) | 84 397 |
| Approved (b) | 77 138 |
| Rejected (c) | 3 051* |
| Withdrawn by the applicant (d) | 3 882 |
| Pending (e) = (a) – (b) – (c) – (d) | 326 |

- * Among the 3 051 unsuccessful applications, 2 719 were rejected due to the presence of nutrition claims on the package, which rendered the food products ineligible for SVE under the Amendment Regulation. Besides, 27 applications were submitted by overseas traders. We have asked the applicants to contact local importers so that the latter could make a direct application. The remaining applications were rejected mainly because the products concerned were either Chinese medicines or drugs, which are not governed by the Scheme which was set up for food.