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**Panel on Food Safety and Environmental Hygiene**

**Updated background brief prepared by  
the Legislative Council Secretariat for the meeting on 14 February 2017**

**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 pre-packaged food, has come into force since 1 July 2010. NLS covers nutrition labelling<sup>1</sup> and nutrition claims (which include nutrient content claims<sup>2</sup>, nutrient comparative claims<sup>3</sup> and nutrient function claims<sup>4</sup>). Failure to comply with the statutory

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<sup>1</sup> 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.

<sup>2</sup> 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".

<sup>3</sup> 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".

<sup>4</sup> 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<sup>5</sup> 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 8 March 2016, between 1 July 2010 and 31 December 2015, CFS had inspected 39 656 pre-packaged food products and found 489 cases of non-compliance with NLS. The overall compliance rate was 98.77%. Of the 489 non-compliant cases, 249 were identified by visual checking for not complying with the statutory requirements of NLS and 240 by chemical analysis for discrepancy between the nutrient content and the claims made on the nutrition labels.

### 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 pre-packaged food product with annual sales volume in Hong Kong not exceeding 30 000 units which does not carry

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

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<sup>6</sup>. 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 31 December 2015, there were 16 544 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 2016. 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.

### Taste claims of food

10. Members were gravely concerned that some pre-packaged 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

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<sup>6</sup> 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/manufacture'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.

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 pre-packaged 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 pre-packaged food products. The survey results indicated that the implementation of NLS had not brought about any significant impact on the introduction of new pre-packaged 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 pre-packaged 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 pre-packaged 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 pre-packaged 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

(56%), Hong Kong (9%), the United States of America (6%) and the United Kingdom (6%) 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.

### Labelling requirement for genetically modified food

19. Noting that there was no labelling system in Hong Kong for genetically modified ("GM") food, some members suggested that the Administration should consider making it a mandatory requirement for food traders/manufacturers to have GM food clearly labelled so that consumers were sufficiently well informed when they chose the food.

20. According to the Administration, CFS had introduced in 2006 the Voluntary Genetically Modified Food Labelling Scheme by issuing the "Guidelines on Voluntary Labelling of Genetically Modified Food". Traders were recommended to label food items with 5% or more GM materials in their food ingredients with positive labels and to use negative labels without absolute terms only when the declaration was substantiated by documentation. To enhance the food safety control over GM food and to provide a legal basis for preventing unauthorized GM products from entering the local market, the Administration was considering regulating GM food by introducing a mandatory pre-market safety assessment scheme ("PMSAS"), under which a GM food developer who intended to place a GM food on the local market must submit an application together with the necessary supporting documentation to CFS for evaluation. CFS would determine whether the GM food developer had adequately addressed the safety issues based on the principles established by the Codex Alimentarius Commission. The Administration would launch a public consultation exercise before deciding on the details of the proposed PMSAS.

### Public education on healthier food choices

21. There was a view that the Administration should enhance public understanding about the impact of over- or under-consumption of the seven core nutrients, i.e. protein, carbohydrates, total fat, saturated fat, trans fat, sodium and sugars, listed on the nutrition labels. Some members opined that in order to yield the desired outcome, publicity and public educational programmes to be

carried out should be focused and topic specific.

22. The Administration responded that CFS had been enhancing public awareness and understanding of NLS through various means and channels. For example, CFS, the Education Bureau and the Committee on Home-School Co-operation had jointly launched the Salt and Sugar Reduction and Nutrition Labelling Video Competition in 2014. CFS had also produced a nutrition labelling training kit which contained videos, props and worksheets to help users understand nutrition labelling in an interactive and interesting way. The kit was widely distributed to school teachers, students, staff members and service users of community organizations, and members of the public. A series of train-the-trainer workshops on the kit were also conducted. The topic of NLS was also included in school talks, public talks and roving exhibitions conducted by CFS.

### **Recent development**

23. The Administration will update the Panel on the latest implementation progress of NLS at the meeting on 14 February 2017.

### **Relevant papers**

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

Relevant papers on the Nutrition Labelling Scheme

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	22.6.2009 (Item II)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	13.4.2010 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	12.7.2011 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	8.5.2012 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	13.5.2014 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	9.6.2015 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	8.3.2016 (Item VI)	<a href="#">Agenda</a> <a href="#">Minutes</a>  <a href="#">Administration's follow-up paper on the efforts of the Centre for Food Safety in enhancing public awareness and understanding of the Nutrition Labelling Scheme (LC Paper No. CB(2)311/16-17(01))</a>



<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Legislative Council	8.6.2016	<a href="#">Official Record of Proceedings Pages 11493 to 11495 (written question raised by Hon Andrew LEUNG on "Implementation of Nutrition Labelling Scheme")</a>

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