

**Advisory Council on Food 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.

**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 labelling<sup>1</sup> and nutrition claims (which include nutrient content claim<sup>2</sup>, nutrient comparative claim<sup>3</sup> and nutrient function claim<sup>4</sup>).

**Enforcement Actions**

***A risk-based enforcement approach***

3. The Centre for Food Safety (CFS) adopts a risk-based enforcement

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<sup>1</sup> 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 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”; “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”.

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. CFS has been taking enforcement action since the Scheme came into effect. In the early stages, upon detection of non-compliance with the requirements of the Scheme in prepackaged food, including the failure to provide legible nutrition labels, CFS would issue a warning letter to the food trader concerned requiring compliance within a specified period. If the food trader fails to comply with the statutory requirements within that period, CFS would initiate prosecutions.

5. As the Scheme has been in operation for nearly four years, the trader should be familiar with and capable of strictly abiding by the requirements stipulated in the relevant provisions. In addition, CFS issued a “Trade Guidelines on Preparation of Legible Food Label” (the Guidelines) in May 2012 to assist the trade in providing clear and legible information on the food labels (see paragraphs 17 below). In view of this, CFS decided to tighten up its enforcement by doing away with the practice of issuing warning letters and allowing time for rectifying any irregularities. With effect from 1 October 2014, if CFS identifies any non-compliance with the requirements, CFS will initiate prosecution immediately without giving any advance warning.

### ***Compliance with the Scheme***

6. As at 31 October 2014, CFS has inspected nutrition labels of 33 446 prepackaged food products with 456 found not complying with the Scheme. The overall compliance rate is 98.64%. Of the 456 non-compliance cases, 228 were identified by visual checking for not complying with the statutory requirements of the Scheme and 228 by chemical analysis for discrepancy between the nutrient contents and the claims made on the nutrition labels. Details are at **Annex I**.

7. As regards the enforcement action after the implementation of the new enforcement strategy since 1 October 2014 as mentioned in paragraph 5 above, CFS had identified 4 non-compliant cases. All cases were identified by visual checking, of which 2 were found to have no nutrition label, 1 with the nutrition

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<sup>5</sup> 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. outlets with labelling irregularities detected previously).

label in inappropriate language, and 1 with the nutrition label incomplete and in inappropriate language. These 4 non-compliant cases are being prosecuted.

### **Small Volume Exemption Scheme**

8. To minimise the impact on food choice, 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 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 exemption from providing nutrition label 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 exemption.

9. Between 1 September 2009 when applications for SVE commenced and 31 October 2014, a total of 66 189 SVE applications (excluding renewal applications) were received by CFS, of which 60 760 were approved and 2 649 were rejected (mostly due to the presence of nutrition claims<sup>6</sup>). The rest have either been withdrawn by the applicants or are being processed. Details are at **Annex II**. In terms of place of origin, Japan (54%), Hong Kong (8%) and USA (7%) took up 69% of the applications approved. As at 31 October 2014, there were 16 724 products with valid SVE in the market.

### ***Reduction of SVE Fees***

10. 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). Applications (including SVE applications or renewal applications) submitted by such electronic means accounted for 37% of the total number of applications in 2012 and 42% in 2013.

11. On 10 December 2013, we consulted the Legislative Council Panel on Food Safety and Environmental Hygiene on the proposal to significantly reduce the fees for SVE applications and renewal applications submitted by electronic means through FICS by around 23% (from \$345 to \$265) and 25% (from \$335 to \$250) respectively. Members of the Panel did not

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<sup>6</sup> 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 requirements. An application for SVE in respect of a prepackaged food (which seeks to exempt the food from the nutrition labelling requirement) with nutrition claim will therefore be rejected.

raise any objection to the proposal. After the relevant amendment legislation was scrutinised by the Legislative Council through the negative vetting procedure, the revised fees took effect on 24 March 2014.

## **Publicity and Education**

12. To reap the benefits of the Scheme, we must educate the public on how to make use of the information on nutrition labels to make healthier food choices. By carrying out a variety of publicity and education programmes since 2008, CFS has enhanced public understanding of the Scheme, as well as motivated behavioural changes among consumers and helped them make good use of the nutrition information on labels.

13. Since 2013, the promotion of nutrition labelling has become part and parcel of CFS' routine public education programme. In 2013, in light of the findings of the above-mentioned survey, as well as to strengthen public knowledge of nutrition labeling, foster the habit of making good use of nutrition labels among the public, and echo the theme "High Blood Pressure" of World Health Day 2013, CFS promoted through various channels such as television, radio, free newspapers, roving exhibitions, public talks and social networks the use of information on nutrition labels in choosing food with lower sodium, so as to reduce the risk of high blood pressure.

14. In 2014, CFS has continued to promote the Scheme to the general public through a multitude of activities including announcements of public interest, roving exhibitions and talks. To enhance consumers' understanding of nutrition labels and assist them to make good use of nutrition information, CFS has launched a new nutrition labelling training kit and conducted training workshops with a view to enhancing the understanding of nutrition labels and promoting the proper use of information on labels among its educational partners (teachers and staff of community organisations) and their target groups (such as students and the elderly). On top of that, CFS co-organised with the Education Bureau the "Secondary School Food Safety and Nutrition Labelling Quiz Competition", with support from the Committee on Home-School Co-operation, to strengthen the knowledge of secondary school students about food safety and nutrition labels so as to encourage them to practise proper food handling and make good use of nutrition labels in their daily life. 50 schools enrolled in this competition and the final of the competition was held in July 2014.

15. In the coming year, CFS will continue its publicity and education efforts in promoting the Scheme, which will tie in with the overall objective of CFS' work in encouraging the public to reduce sodium and sugars intake from

food.

### **Trade Guidelines on Preparation of Legible Food Label**

16. Under the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W) (the Regulations), all prepackaged foods shall be legibly labelled unless otherwise exempted. According to the advice of the Department of Justice, in enforcing the relevant provisions of the Regulations, the department concerned should apply the general rule of statutory interpretation and the word “legible” must be construed in its ordinary and natural meaning, i.e. clear enough to read.

17. CFS issued the Guidelines in May 2012 to provide principles and examples of legible food labels for the trade’s reference so as to ensure that the information on food labels is legible to consumers. The Guidelines provide recommendations on the key elements that constitute the legibility of food labels, including the font size, contrast and spacing. Moreover, the Guidelines also highlight other relevant factors such as appropriate font type, suitable printing technology and use of non-reflective printing surface. CFS recommends that the trade follow the Guidelines in preparing legible food labels.

18. CFS will continue to make use of various channels to encourage the local food trade to provide legible nutrition labels according to the Guidelines.

### **Advice Sought**

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

**Food and Health Bureau  
Food and Environmental Hygiene Department  
Centre for Food Safety  
November 2014**

## Annex I

### Number of nutrition labels of prepackaged food products checked and detailed breakdown of the 456 non-compliant cases

	Number of cases				
	1.7.2010 – 31.12.2010	2011	2012	2013	1.1.2014 – 31.10.2014
<i>Number of nutrition labels of prepackaged food products checked</i>	13 731	5 048	5 277	5 151	4 284
<b>No or incomplete 1+7 nutrition label</b>	43	24	14	16	18
<b>Inappropriate nutrition label format</b>	4	3	3	1	1
<b>Inappropriate nutrient claim (nutrient content claim and nutrient function claim)</b>	7	11	7	14	2
<b>Inappropriate language</b>	12	3	3	6	3
<b>Involving more than one type of irregularity (e.g. incomplete 1+7 nutrition label, inappropriate nutrition label format)</b>	0	7	8	3	15
<b>Discrepancy on declared nutrient value confirmed after chemical analysis</b>	30	29	38	78	53
<b>Sub-total</b>	96	77	73	118	92
<b>Total</b>	456				

**Detailed breakdown of SVE applications  
(as at 31 October 2014)**

Number of applications	Position as at 31.10.2014
Received (a)	66 189
Approved (b)	60 760
Rejected (c)	2 649*
Withdrawn by the applicant (d)	2 385
Pending (e) = (a) – (b) – (c) – (d)	395

\* The breakdown of 2 649 applications rejected is as follows: 2 364 applications were rejected due to the presence of nutrition claims on the package, which make 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 the application direct. The remaining applications were rejected mainly because of presence of drug substance/Chinese medicine/medicinal claim.