

Food and Environmental Hygiene Department

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Minutes of a Technical Meeting with Trade on the Labelling Scheme on Nutrition Information (Food Retailers' Subgroup) held on 15 September 2004 at 2:30 p.m. in Room 1007, Citibank Tower

PRESENT:

Government Representatives

Dr HO Yuk-yin	Consultant (Community Medicine), FEHD	(Chairman)
Ms Vivian KO	Principle Assistant Secretary, HWFB	
Ms SHEA Wing-man	Assistant Secretary, HWFB	
Dr Priscilla KWOK	Senior Medical Officer (Risk Assessment), FEHD	
Dr LEUNG Ka-sing	Senior Chemist (Food Research Laboratory), FHED	
Mr YIP Ming-bor	Superintendent (Risk Assessment), FEHD	
Mr LI Ka-kei	Chief Health Inspector (Food Labelling), FEHD	
Ms Jacqueline FUNG	Scientific Officer (Risk Assessment), FEHD	(Note-taker)

Trade Representatives

Mr Peter JOHNSTON	Quality Assurance Manager, A.S. Watson Co. Ltd. – PARKnShop	
Ms Leslie LEUNG	Food Technologist, A.S. Watson Co. Ltd. - PARKnShop	
Mr YIM Pak-cheung	Senior Buyer, AEON Stores (HK) Co. Ltd. - JUSCO	
Ms Rita C.W. AU	Buyer, AEON Stores (HK) Co. Ltd. – JUSCO	
Mr Thomas CHAN	Deputy Officer, CR Care Co. Ltd. (China Resources Retail)	
Mr Anthony CHEUNG	Deputy Officer, CR Care Co. Ltd. (China Resources Retail)	
Ms Rebecca LEE	Deputy Officer, CR Care Co. Ltd. (China Resources Retail)	
Ms Virginia M.C. LEE	Category Manager – Food Service, Circle K Convenience Stores(HK) Ltd.	
Ms Rachel CHENG	Senior Buyer, Dah Chong Hong Ltd. – Food Marts	
Mr Douglas BROWN	Marketing Director, Dairy Farm Co. Ltd. – Wellcome	
Mr Wei SHEN	Quality Assurance Manager, Dairy Farm Co. Ltd. – Wellcome	

Mr KWOK Tse-chung	Quality Assurance Officer, Joy Rise International Ltd. – Rice Plus
Ms Brenda CHAN	Buying Manager – Food, Marks and Spencer (Asia Pacific) Ltd.
Mr Nick WU	Department Manager, Sogo HK Co. Ltd.
Mr LAU Kim-fung	Department Head (Food), Yue Hwa Chinese Products Emporium Ltd.
Mr SZE Pui-yip	Managing Director, Sze Pui Kee Supermarket

Welcoming Remarks

1. The Chairman opened the meeting by welcoming the trade representatives from the retail sector and explaining the purposes of the meeting. He said that similar meetings had been held with the local food manufacturers and importers/suppliers.

Agenda Item 1

Adopting of the Agenda

2. The proposed agenda for this meeting was tabled. The Chairman invited comments from the participants. The proposed agenda was adopted. The Chairman urged participants to express their comments and views focusing on the technical side of the issue.

Agenda Item 2

International Development on Nutrition Information on Food Labels

3. Ms FUNG provided the participants with an overview of the international development on nutrition information on food labels (Annex 1).

Agenda Item 3

Progress of the Regulatory Impact Assessment

4. Dr KWOK briefed the participants on the progress of the Regulatory Impact Assessment (RIA) (Annex 1). She stressed that the primary purpose of the RIA was to evaluate the overall costs and benefits on the introduction of the Labelling Scheme on Nutrition Information in Hong Kong. A market survey would be conducted as part of the RIA to assess the current market situation. Furthermore, the impacts on small and medium enterprises (SMEs) would be assessed via individual case studies. The findings of the RIA,

together with the results of the consultation exercise, would assist the Government in planning the way forward.

5. Mr D BROWN enquired about whether the RIA would address the impacts of the total food intake on health as he learnt that 2/3 of our food intakes came from non-prepackaged foods. Ms V KO remarked that the scope of the RIA study was limited to the foods that would fall under the control of the proposed scheme. Mr D BROWN said that the fact that pre-packaged food would have limited impact on the health of the public should be made known to the public and LegCo members.

6. Mr W SHEN pointed out that products might need to be re-tested as manufacturers changed the formulae or recipes from time to time. He asked whether the consultant would consider including the associated costs in the RIA. Dr P KWOK replied that in order to reflect the normal practice and calculate a proper cost, the consultant would interview members of different sectors of the trade during the RIA study.

Agenda Item 4

Discussion on the Proposed Labelling Scheme on Nutrition Information

7. The Chairman briefed the meeting about the proposed phase-approach for introducing the labelling scheme and invited participants to express their views on the scheme.

8. Mr P JOHNSTON said that the proposed scheme was not in line with the Codex Guidelines as Codex only required mandatory nutrition labelling when there was a claim. Furthermore, the proposed nutrient declarations in Hong Kong were different from Codex. The Chairman responded that only countries which developed the regulations/guidelines together would have same requirements, e.g., EC, Australia and New Zealand. Nevertheless, most countries formulated their NL regulations/guidelines based on Codex Guidelines. He said that the Phase I proposals were reproduced in accordance with the Codex guidelines, while the Phase II proposals made reference to that of some developed countries, notably USA, Canada, Australia and New Zealand.

9. The Chairman said that the proposal was made in response to public expectation with an aim to improve the public health. He told the meeting that the Administration realized that the proposed scheme would have impacts on the trade (e.g., increase in cost, decrease in choice, closure of business, etc.). The Government aimed for a balance between fulfilling the needs of the public and at the same time minimizing the burden on the

trade. Therefore, the Government launched a public consultation exercise to solicit comments from various sectors of the community and held technical meetings with the trade.

10. Mr P JOHNSTON sought for clarification on the types of claims or nutrition information that would be subject to control in Phase I of the proposed scheme. Ms J FUNG remarked that claims related to nutrients that were classified as nutrition claims (i.e., nutrient content claims – e.g., “low fat”; nutrient comparative claims – e.g., “reduced fat”) and nutrient function claims (i.e., claims described the physiological role of a nutrient in growth, development and normal functions of the body) would be subject to control. As for nutrition claims, the Government planned to provide a list of synonyms that would be acceptable. The Chairman supplemented that health claims made on either foods or drugs (i.e., claims relating to body functions, treatment or prevention of disease or health conditions) would not fall under the proposed scheme and were under the purview of the Department of Health. He then added that prepackaged food products without nutrient-related claims but had nutrition information (i.e., nutrition labels) would also be subject to control in Phase I.

11. Mr P JOHNSTON opined that the impacts would be limited if Phase I was limited to products with nutrient-related claims. On the other hand, if Phase I covered food products with any nutrition information, then he predicted that there would be a substantial impact on the trade.

12. The Chairman reiterated that the Government recognized that the proposed scheme would have impacts on the food trade; therefore, the Government was conducting the RIA to evaluate the overall costs and benefits.

13. Ms B CHAN indicated that currently over 90% of their products carried nutrition labels, which meant nearly all of their products had to be re-labeled in Phase I. She commented that time required for lab test and re-labelling would shorten the sales period. Furthermore, their company might have difficulty in complying with the specified format. Ms V KO clarified that the Government did not prescribe a specified format for nutrition labelling. Nutrition labels with all required information shown in a tabular form on a conspicuous area of the package would be accepted under the current proposed scheme.

14. Ms V LEE said owing to the relatively small sales volume of convenience stores, they might not have strong bargaining power in asking the manufacturers/suppliers for nutrition information. She suggested that the Trade and Industry Department should offer assistance in informing manufacturers and relevant trade/food authorities in other countries on the requirements of the nutrition labelling scheme.

15. Mr D BROWN opined that the trade found the scheme difficult to implement because Hong Kong was not a food producing place and it was a very small market as compared with other countries.

16. Ms R LEE noted the time lag between implementing voluntary and mandatory labelling schemes in most countries was more than 10 years. She questioned whether a 3-year grace period between Phase I and Phase II proposed by the Administration was too short. Ms V KO said that the proposed scheme, including the length of the grace period, was subject to review and was not finalized yet. The Administration welcomed comments and suggestions in this regard.

17. Ms R LEE then enquired about whether the Government had any plans to assist SMEs. The Chairman remarked that the Administration noted that SMEs might have difficulties in complying with the proposed scheme. Although it might not be feasible to offer direct assistance to SMEs, the Administration would consider ways to provide technical support to the trade to minimize their burdens.

18. The Chairman invited participants to summarize their views on the proposed scheme. Mr P JOHNSTON stated that on behalf of his company ParkN'Shop, they didn't support either Phase I or Phase II of the proposed scheme as they considered both phases were roughly the same and would have devastating impacts on costs and food choices. He requested the Government to fully consider the comments they submitted previously.

19. Ms B CHAN, on behalf of Marks and Spencer, remarked that allowing variable formats for nutrition labelling might reduce the impacts. She urged the Government to formulate a scheme that would be practicable for the trade and useful for the public.

20. Mr D BROWN said that he had an impression that the Government assumed nutrition labelling would solve a lot of the medical problems. But, he had doubt on this assumption. From his point of view, people interested in health were receptive to any kinds of health related information and they were generally satisfied with the quality and quantity of information provided on the food packages at that moment. He agreed that the community would be more concerned about healthy eating as time progressed, in turn would encourage manufacturers to put more nutrition information on the food packages. He opined that the current proposal was highly aggressive in terms of the impacts on costs and food choices and he had doubt on the health benefits that might bring about by the proposed scheme.

Agenda Item 5(i)

Laboratory Analysis of Nutrients

21. Dr KS LEUNG briefed the meeting on the availability of laboratory testing in nutrients in Hong Kong currently. He said that some private laboratories had obtained HOKLAS accreditation on specific nutrient analysis. He remarked that private laboratories had the equipment and potential for further development in this area. As the demand for nutrient testing increased, the laboratories would appropriately expand their testing services meeting the requirements of the labelling scheme.

22. Mr P JOHNSTON opined that the Government should not accept testing results from appointed private laboratories only. The trade should hold responsible for the testing results, but at the same time should have the freedom of choice in choosing the laboratory service. In addition, Mr W SHEN suggested that the Government should provide the trade with nutrient definitions and guidelines on laboratory testing methods. The Chairman expressed that the Government would hold meetings with the trade and private laboratories to discuss laboratory testing methods in due course.

Agenda Item 5(ii)

Indirect Analysis

23. Mr W SHEN enquired about whether the Government would set up a food composition database assisting the trade to construct the nutrition labels. The Chairman told the meeting that the Government had studied the issue and reviewed international practice. He remarked that although some countries offered these types of databases, these databases were incomplete and for general reference only as none of the database could include all the required information.

24. Ms J FUNG indicated that in principle the trade had to have good knowledge on the ingredients used, such as the sources of the ingredients, the amounts used, the yield factors, etc., in order to determine the nutrient content of a food product by indirect analysis. She added that most manufacturers would rely on the nutrient information provided by their ingredient suppliers to perform indirect analysis, rather than applying data from food composition databases in the public domain.

25. The Chairman concluded that deriving nutrition labelling information from indirect analysis would be deemed acceptable. However, the trade would need to have a good understanding of the sources of ingredients and the product formula in order to calculate the

nutrient content of the product.

26. Mr P JOHNSTON said retailers in Hong Kong greatly depended on the manufacturers and suppliers for providing information. He asked whether there would be a legal defense clause (e.g., “reasonable precaution”, “due diligence”) in the future nutrition labelling regulations. Ms WM SHEA said the Administration would take his comment into consideration.

Agenda Item 5(iii)

Re-packing / Re-labelling

27. Mr D BROWN believed that if the Government implemented the proposed scheme, in order to comply with the NL requirements, the design of food labels for foods packed in Hong Kong specific packages would be changed and all other foods would have NL sticker. Therefore, the RIA should calculate the cost for applying the stick-on labels.

28. Mr P JOHNSTON said there would be difficulties in re-labelling some of the food products with stickers, partly due to the size of the package (i.e., sticking a NL on a small package) and partly due to the design/layout of the package (i.e., sticking a NL on an irregular shaped package or covering up mandatory food labelling information or consumer information).

29. Mr D BROWN pointed out that the average cost for applying a nutrition labelling sticker was estimated to be around HK\$ 0.5 for the Wellcome Supermarket. Therefore, the increase in price for low priced products would be more significant. Ms B CHAN and Ms R AU remarked that the impact on other retailers should be more substantial than major supermarket chain stores as the trading volumes involved were much smaller.

Agenda Item 5(iv)

Exemption List

30. The Chairman said the Government had studied the feasibility of exempting products with very low sales volume and products that were newly introduced to Hong Kong for market testing purpose. However, there might be practical enforcement difficulties in exempting these products. He welcomed any suggestions from the trade that were practicable in this regard.

31. Ms B CHAN suggested that the Government could consider exempting (i) foods that were non-staple foods (i.e., snacks), since these foods were less healthy/nutritious and (ii) festive foods with low sales volume (e.g., products for Easter and Halloween). The Chairman explained that one of the purposes of the scheme was to enable consumers to make healthy food choices. So, it would be best for all prepackaged food products to have nutrition labelling. With this view, therefore, the proposed scheme applied to all pre-packaged food products unless otherwise exempted, e.g., small food packages with aggregated surface area <math><100\text{ cm}^2</math>. With regard to festive foods, he told the meeting that the Government had already considered exempting festive foods; however, there might be practical enforcement difficulties, such as establishing a definition of “festive foods”. Mr KK LI then illustrated the problem using mooncake as an example. He pointed out that mooncakes were available year round, though they were most popular around the mid-Autumn festival. Furthermore, the combined sales volume of mooncakes was quite substantial.

32. The Chairman pointed out that without clear definitions of exemption items, the general public might be confused and file complaints against products that did not have nutrition labelling. In fact, that product might be one of the exempted items. The Chairman agreed to continue to study the issue and welcome any practicable suggestions on exemptions from the trade.

33. Mr D BROWN referred to HKRMA’s comments, he opined that since most of the public who were interested in nutrition labelling would be able to read and interpret any form of nutrition labels, therefore he suggested that the Government should consider requiring mandatory nutrition labelling for locally manufactured products and accepting nutrition labelling requirements from source countries for other prepackaged foods.

34. Ms WM SHEA explained to the meeting that applying different labelling requirements on pre-packaged food imported from different source countries might not be compatible with WTO requirements. The Chairman concluded that nutrition labelling regulations in Hong Kong for locally manufactured products and imported products should be the same, unless local manufactures agreed that their products were to be subject to a stricter set of regulations.

35. Trade representatives suggested the Government to consider exempting prepackaged sushi and sashimi (especially the assorted package), soup ingredients, prepackaged foods in irregular packages, tea leaves, and assorted food packages. The Chairman welcomed the suggestions, and said that the Government would study the feasibility of exempting these items.

Agenda Item 6

Any Other Business

36. Mr KF LAU enquired about the language for nutrition labelling. Dr P KWOK told the participants that since the current proposal would be part of the existing food labelling regulations, either Chinese or English would be accepted.

37. Mr PC YIM and Ms R AU raised a question on how could the trade verify the nutrition information. Mr KK LI suggested the trade should source their products from trustworthy suppliers. The Chairman added that in case the retailers had doubts on the truthfulness of the nutrition information, he recommended the retailers to verify the information by conducting laboratory analysis.

38. Mr P JOHNSTON suggested that the Government should provide some guidelines or code of practice to promote accurate nutrition labelling. Ms J FUNG briefed the meeting on the application of tolerance limits in selected countries. The Chairman said that the issue on tolerance limits would be further discussed once the framework for the labelling scheme had been settled.

39. Mr D BROWN asked the Chairman to share the views expressed by manufacturers and suppliers/importers subgroups at corresponding technical meetings. The Chairman said that there were meeting minutes for each technical meeting and they could be made available.

40. Mr P JOHNSTON requested the Administration to adopt a consultative approach when working on the nutrition labelling issue. The Chairman said the trade could rest assured that the Government would adopt/had adopted a consultative approach when re-formulating the proposed scheme, e.g., the Government had held technical meetings with various sectors of the trade and conducted the RIA. Mr P JOHNSTON further requested the Government to work openly when putting the regulations into gazette. Ms WM SHEA informed the meeting that the legislative process was an open process and the general public could generally attend meetings at the LegCo. Mr P JOHNSTON then asked the Administration to inform the trade when the LegCo held the meetings. Ms WM SHEA said that the Administration would forward his request to the LegCo Secretariat in due course so that the trade could be invited to the relevant meetings hosted by the LegCo.

41. There being no further business, the meeting was adjourned at 6:10 PM.