

Food and Environmental Hygiene Department

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Minutes of the 9th Technical Meeting with Trade on the Labelling Scheme on Nutrition Information (Part I)

held on 22 April 2008 at 3:00 PM

in Conference Hall, 3rd Floor, Edinburgh Place, Central

PRESENT:

Government Representatives

Dr HO Yuk-yin	Consultant (Community Medicine), FEHD	(Chairman)
Ms Kay KWOK	Assistant Secretary, FHB	
Ms Heidi HUNG	Senior Administrative Officer, FEHD	
Dr Anna WONG	Senior Medical Officer (Risk Communication), FEHD	
Dr Stephen CHUNG	Senior Chemist (Food Research Laboratory), FEHD	
Mr LEUNG Sui-sum	Superintendent (Risk Assessment), FEHD	
Mr CHUNG Kwok-wah	Chief Health Inspector (Food Labelling), FEHD	
Ms Jacqueline FUNG	Scientific Officer (Nutrition Labelling), FEHD	
Ms Melissa LIU	Scientific Officer (Nutrition), FEHD	
Dr Iona SHAM	Administrative Officer, FEHD	(Note-taker)

Trade Representatives

Ms Sophia CHAN	A & W Food Service Ltd.
Ms Rachel LIU	A & W Food Service Ltd.
Mr Brian CHEUNG	A S Watson Industries
Mr Peter JOHNSTON	A S Watson Industries
Ms Lina LIM	A S Watson Industries
Ms LEUNG Wing-sze	Abbott Laboratories Ltd.
Mr Edward CHAK	Aeon Stores (Hong Kong) Co., Ltd.
Mr Ben TSE	Aeon Stores (Hong Kong) Co., Ltd.
Mr CHAN Tsz-ming	AIC Merchandising (Japan) Ltd.
Ms LEE Kai-kai, Maggie	AIC Merchandising (Japan) Ltd.
Mr Philip SHULL	Agricultural Trade Office, American Consulate General HK
Ms Caroline YUEN	Agricultural Trade Office, American Consulate General HK
Ms WONG Wing-yee	AMOY Food Ltd.
Ms Shirley YEUNG	AMOY Food Ltd.
Ms Julie LAM	Arome Bakery (HK) Co., Ltd.
Ms Ming CHEUNG	Campbell Soup Asia Ltd.

Mr	Alan KWOK	Campbell Soup Asia Ltd.
Mr	Garick CHAN	Chewy International Foods Ltd.
Ms	Fiona LAM	Chewy International Foods Ltd.
Mr	PAK Siu Wa	China Inspection Co., Ltd.
Ms	LO Yi Wah	China Resources Vanguard (HK) Co., Ltd.
Mr	Dennis CHAN	City Super Limited
Ms	Grace YEE	City Super Limited
Mr	Marco LAU	Classic Fine Foods (HK) Ltd.
Ms	Evelyn TANG	Classic Fine Foods (HK) Ltd.
Ms	Nikki TO	Classic Fine Foods (HK) Ltd.
Ms	May KAN	Coca-Cola China Ltd.
Mr	Sam CHAN	Dah Chong Hong, Ltd.
Mr	LEE Siu-ming	Dah Chong Hong, Ltd.
Mr	Andy CHEUNG	ETAK International Ltd.
Ms	WONG Kit-ling	ETAK International Ltd.
Mr	CHAN Kam-hung	Evergreen Oils & Fats Limited
Mr	Charles LUI	Fok Hing (HK) Trading Limited
Mr	Conrad LAM	Four Seas Mercantile Ltd.
Mr.	Jackie LIU	GlaxoSmithkline Ltd.
Ms	LING Pui Yee, Carol	Golden Resources Development International Ltd.
Mr	POON Kuen-fai	HKCSM
Ms	YEUNG Ho-han	HKCSM
Mr	Charlie WOOD	H K Retail Management Association
Ms	Ruth YU	H K Retail Management Association
Ms	Eleanor CHAN	Hong Kong Suppliers Assoc. Ltd.
Mr	Albert TANG	Hong Kong Suppliers Assoc. Ltd.
Ms	LIU Yuk Ching	Hong Kong Yakult Co., Ltd.
Mr	NG Yat Ming	Hong Kong Yakult Co., Ltd.
Mr	LEUNG Yiu Hung	Hong Kong Yamazaki Baking Co. Ltd.
Mr	CHAN Chi Ming	Hop Hing Oil Factory Ltd.
Ms	Yvonne CHIU	IDS (HK) Ltd.
Ms	NOU Ka Ming, Carmen	IDS (HK) Ltd.
Mr	NG Pui-kay	Kee Wah Bakery
Ms	Jessica CHUI	Kjeldsens & Co. (HK) Ltd.
Ms	Athena LEUNG	Kjeldsens & Co. (HK) Ltd.
Mr	LEE Kwong Lam	Kowloon Chamber of Commerce
Ms	Wilphia YAU	Kraft Foods Ltd.
Mr	Stephen CHOI	Lee Kum Kee International Holdings
Ms	NG Sin-yan, Kate	Lucullus Food and Wines Co., Ltd.

Ms	Michelle KWAN	Mannings
Ms	Becky LAU	Mars Foods Inc.
Ms	CHAN Yuen-han	Maxims
Ms	Yvonne CHAN	Maxims Factory 3
Mr	Andy YAN	Maxims Factory 3
Mr	Philip KWAN	Mead Johnson
Mr	SO Man-lam, Jacky	Mengniu Milk Industry (H.K.) Ltd.
Ms	LAW Sin Ki	Multizen Asia Limited
Ms	LEUNG Wing Sze	Multizen Asia Limited
Ms	Doris CHAN	Nestle Hong Kong Ltd.
Mr	Joseph MA	Nestle Hong Kong Ltd.
Mr	FUNG Chun Wah	Nin Jion Medicine MPY (HK) Ltd.
Mr	HUI Yiu Kai	Nissin Foods Co., Ltd.
Ms	LAI Sin Man	Park'n Shop
Mr	CHAN Wing	Pat Chun International Limited
Mr	Albert CAM	Prince of Peace (HK) Ltd.
Ms	Grace YU	Procter & Gamble Hong Kong Ltd.
Mr	TANG Kwok Fai	SAN Miguel Brewery HK Ltd.
Mr	Wellock LO	Sims Trading Co., Ltd.
Ms	Elisa TANG	Sino Jet Int. Ltd.
Mr	WONG Kam-chuen	Swire Coca-Cola HK Ltd.
Mr	Lewis I S LING	Taikoo Sugar Limited
Ms	YEUNG Tze Lai, Erin	Tai Pan Bread & Cake Co., Ltd.
Mr	WAN Leong Hang	Telford International Company Ltd.
Ms	Maple CHAU	The Chinese Manufacturers' Association of Hong Kong
Mr	Allen HO	The Dairy Farm Group
Mr	Paul LEUNG	The Direct Selling Association of Hong Kong
Mr	Samuel CHAN	The Garden Co., Ltd.
Ms	Angela WONG	The Garden Co., Ltd.
Mr	LEUNG Ho-wing	The Hong Kong Health Food Association
Mr	Perry SIT	The Hong Kong Health Food Association
Ms	Frenda WONG	The Kowloon Dairy Ltd.
Ms	HO Nga-yan, Rita	The Maxims Caterers Ltd.
Mr	Eric AU	Unilever Hong Kong Ltd.
Ms	LEUNG Choi-fong	Wing Wah Food Manufactory Limited
Mr	SHUM Hau Lee	Wing Wah Food Manufactory Limited
Ms	LAM Siu Ping	Winner Food Products Ltd.
Ms	Michelle SIN	Wyeth (H.K.) Limited
Ms	TANG Po Lin	Wyeth (H.K.) Limited

Ms Amelia YEUNG
Mr CHEN Man Tak

YHS Hong Kong (2000) Pte Ltd.
Yue Hwa Chinese Products Ltd.

Welcoming Remarks

The Chairman opened the meeting by welcoming the trade representatives from various sectors of the trade.

Agenda Item 1

Confirmation of Minutes

2. Minutes of the meeting held on 19 March 2008 were confirmed without amendments.

Agenda Item 2

Matters Arising

3. There was no such matter.

Agenda Items 3 and 4

The Food and Drugs (Composition and Labelling) (Amendment: Requirements for Nutrition Labelling and Nutrition Claim) Regulation 2008; Technical Guidance Notes on the Labelling Scheme on Nutrition Labelling Scheme on Nutrition Information (Revised Draft) and Method Guidance Notes for Labelling on Nutrition Information (Revised Draft)

4. The Chairman informed the meeting that the Amendment Regulation was tabled at the Legislative Council on 9 April. The 49-day negative vetting period would expire on 28 May. In response to representatives' concerns over the Amendment Regulation, the Chairman said that they might wish to express their views to members of the Legislative Council for their consideration.

5. The Chairman said that the revised drafts of the Technical Guidance Notes and the Method Guidance Notes had been posted on the website of the Centre for Food Safety. The final drafts, incorporating information on the finalised requirements, would be issued after the Amendment Regulation was passed. The Chairman encouraged the trade to submit comments on the revised drafts of the Guidance Notes as soon as possible, so that such information could be included in the final drafts. There would be two weeks for collection of comments on the final drafts before the

official Guidance notes were issued one month after passing the Amendment Regulation. Workshops would then be held to help members of the trade to comply with the Amendment Regulation.

6. Ms J FUNG briefed the participants on the Amendment Regulation and the revised draft of the Technical Guidance Notes. Mr K W Chung presented to the meeting details of the Small Volume Exemption. During and after the presentations, trade representatives raised several questions and commented on the Amendment Regulation.

Requirements of Labelling

7. A trade representative wondered if the energy content shown as “calorie = xxx” without the unit was acceptable. Ms J FUNG said that it would be acceptable if the energy was in kcal. Another trade representative sought confirmation on whether it was acceptable to show the energy content in kJ. Ms J FUNG confirmed that this was acceptable as long as the unit kJ was clearly stated. It was also acceptable to express the energy content as “kilojoule = xxx” when the unit was in kJ. The Chairman added that enforcement of the regulation would be based on the Guidance Notes.

8. As some claim conditions were calculated based on the Chinese NRV, a trade representative suggested also adopting claims of which the conditions could be calculated based on foreign NRVs. He further suggested accepting claims allowed by other overseas jurisdictions, as for the scheme of European Union, when there was scientific substantiation and consensus. The Chairman and Ms J FUNG emphasised that all claims had to meet the conditions specified in the Amendment Regulation and the conditions of those claims based on NRVs would make reference to the Chinese NRVs.

9. A trade representative commented that the expression of Vitamin content in %NRV should be acceptable, as in the US Scheme, even if there was a claim for Vitamin. The Chairman emphasised that, after relaxing the NRV requirement, the provision of absolute value was necessary for products with claims on vitamins, so that consumers could compare different products.

10. A trade representative enquired if having the claim “source of omega-3” on the original package of fish products was acceptable when the actual content of omega-3 in grams was given on a label. The Chairman replied that the claim of

“source of omega-3” was not allowed. He supplemented that quantitative factual statements of omega-3 and a whole range of other nutrients were allowed, provided that the actual amount of the nutrient was clearly shown in the factual statement.

11. Several trade representatives enquired if the claims of “XX% fat free” or “contains XX% fat” were allowed. Ms J FUNG replied that these claims would be regarded as “low-fat” claims, and pointed out that such claims had to meet the criteria for “low-fat”.

12. A trade representative pointed out that the “low fat” condition for solid and liquid was different. He enquired about which condition to follow if the food product was sold as solid and consumed as liquid, and sought clarification on the definitions of solid and liquid. Mr K W CHUNG said that whether the product was considered solid or liquid would be judged on a case by case basis, taking into consideration information such as if the label used weight or volume of the food in presentation, and the properties of the food. The Chairman added that FEHD would further look into the matter. [*Post meeting note: In the nutrition label, nutrient information of core nutrients should be provided in the form of food as sold. In addition, the food can also be labelled in the form as consumed if it specifies as such and provides clear instruction for preparation on the package. For nutrition claims, the claim conditions refer to the form as sold. However, for products like milk powder that have to be reconstituted before consumption, conditions for nutrient content claims are applicable to its status after reconstitution, if specified, following instructions provided on the package. The preparation instructions should be clearly stated.*]

13. A trade representative suggested accepting the US definition of “zero trans fat” (0.5 g / serving) to accommodate the difference between the US scheme and the local scheme (0.3 g / 100 g). The Chairman explained that there was no relevant international consensus, thus reference from other overseas jurisdictions was taken when formulating the definition of “zero trans fat” in the local scheme. This local requirement was in between the more stringent requirement of Malaysia (0.1 g / 100 g or 100 mL) and the more lax US rounding rule (0.5 g / serving). The Chairman added that the World Health Organization recommended a daily trans fat intake of less than 2.2 g, and there were views pushing for a more stringent condition than 0.2 g / 100 g. He considered that the condition of 0.3 g / 100 g appropriate for Hong Kong.

14. A trade representative suggested setting different “zero trans fat” conditions for solid and liquid, following the practice for “low fat”. The Chairman said that having the same “zero trans fat” condition (i.e. “trans fat free”) for solid and liquid was

the practice of other overseas jurisdictions, as for the case of “saturated fat free”.

15. A trade representative sought confirmation on whether sushi was considered “processed” and if it was exempted under item 14 of the Amendment Regulation. He also asked if sashimi was regarded as “raw meat”. These were confirmed by the Chairman.

16. Several trade representatives enquired about how to label assorted and individually packed products sold in a single package. Ms J FUNG answered that the labelling requirement was based on the selling unit. A selling unit with assorted products could provide labelling for each kind of product, or display the averaged information if the nutrient content of the individual products was similar.

17. A trade representative asked if claims in foreign language were regulated. The Chairman stressed that all claims were regulated, and the trade should exercise due diligence to ascertain that all information provided on the package, including the ingredients, nutrient content and claims was accurate.

18. A trade representative questioned if it was acceptable to state “the advantages of the combination of nutrients” without specifying which nutrients. The Chairman replied that scientific evidence to support the claim was needed, and the situation would be assessed on a case by case basis.

19. A trade representative enquired if the statement of “not a significant source of dietary fibre” would be considered as “dietary fibre = 0” when the amount of total carbohydrate was given. Ms J FUNG clarified that “not a significant source of dietary fibre” was not defined in the Amendment Regulation, and the actual amount of dietary fibre had to be stated when the amount of carbohydrate was given as total carbohydrate.

20. A trade representative asked about the language requirement for the NRV information. Ms H HUNG replied that the intention was to apply the prescribed language requirement in relation to the mandatory information. The language requirement for voluntary information would be explained in the Guidance Notes.

21. A trade representative enquired if it was acceptable to obtain some of the nutrition information of a single product from laboratory results and some from indirect calculation. The Chairman confirmed that this was acceptable as long as the information was accurate.

22. A trade representative sought clarification on the 20% allowance in relation to the rounding rule for information on the nutrition label. Ms J FUNG reminded the meeting that the topic had been discussed at a technical meeting in 2005. She said that tolerance would take into account the rounding rules, and the acceptable range would be the lowest value obtained from rounding with a 20% allowance to the highest value with a 20% allowance.

23. Several trade representatives asked if “high-calcium milk” and “xxx added” were considered claims, and if skim milk needed to comply with the claim requirements. Ms J FUNG clarified that “high-calcium” was a nutrient content claim while “xxx added” was a nutrient comparative claim. She explained that consideration of the type of the claim depended on the wording, and “added” and “extra” were considered comparative claims in overseas jurisdictions. She said that skim milk was not regarded as a “low-fat” claim.

24. A trade representative enquired if “no xxx added” was considered a nutrient content claim. Ms J FUNG replied that “no xxx added” did not necessary mean that the product was low in the xxx nutrient, therefore it was not considered a nutrient content claim. However, the statement had to be factually correct.

25. A trade representative wondered if the amount of Vitamin A, Vitamin D and folic acid had to be in mg RE, mg α -TE and mg DFE, respectively, as stated in the Technical Guidance Notes. Ms J FUNG replied that for the voluntary nutrients, different units could be used as long as the information was accurate, but it was recommended to follow the Technical Guidance Notes.

26. A trade representative noted that “zero cholesterol” was not listed in Table 2 (pg 11) of the Technical Guidance Notes, and sought clarification on the definition. Ms J FUNG clarified that Table 2 provided the round rules for nutrients on the nutrition label while the claim conditions were laid out in Annex III of the Technical Guidance Notes.

Testing

27. A trade representative enquired how trans fat of natural source was distinguished from that resulted from manufacturing. He wondered if the analytical method AOAC official method 996.06 could distinguish natural trans fatty acids from the synthetic ones, and if analyses conducted by commercial laboratories in Hong Kong

were accurate. Dr S CHUNG replied that most natural trans fatty acids were in conjugated form whereas the definition of trans fat in the Amendment Regulation included only non-conjugated ones. The AOAC official method 996.06 provided the details for determining the content of fatty acids, including saturated fatty acids, trans fatty acids, monounsaturated fatty acids and polyunsaturated fatty acids. The accuracy of the results depended on the performance of individual laboratories, but those that took part in the previous interlaboratory comparison exercise should be more reliable. Quoting the example of a recent survey by Consumer Council that the US FDA testing method for total fats (AOAC official method 996.06) could give a significantly lower value (0.8 g / 100 mL) than that used currently by FEHD (AOAC official method 922.06, 3.5 g / 100 g), the trade representative also said that different analytical methods could result in variance beyond the tolerance limit. Dr S CHUNG pointed out that the scope of the methods was different but this particular case was not totally related to the analytical method.

28. A trade representative commented that the Amendment Regulation only gave the definition of some nutrients. Dr S CHUNG responded that definitions of the some nutrients specified in Codex's guidelines were given in the legal document. Some common nutrients, such as protein, had international consensus on its definition while some of the others nutrients like Vitamin E and folic acid could be found in the Method Guidance Notes.

Small Volume Exemption

29. Several trade representatives opined that the requirements of the Amendment Regulation were unacceptable to importers and retailers, as healthy food products with claims, total to about 15 000, would be removed from the market. Consumers would then be deprived of healthy food choices. One of these trade representatives said that the biggest complaint of consumers was that certain products were out of stock. They requested that healthy food products, especially those with claims, be exempted.

30. One of these trade representatives added that Section 61 of CAP. 132 of the Laws of Hong Kong could regulate misleading claims, and a scheme as stringent as the current one was not needed. Ms K KWOK noted that other overseas jurisdictions had put into their laws a nutrition labelling scheme to protect public health. She reminded the meeting that the Administration had adopted a number of flexibilities in the nutrition labelling scheme, such as the small volume exemption scheme as requested by the trade. The Chairman supplemented that factual statements on accurate amount of nutrients were allowed and not regarded as claims. The Chairman and Ms K KWOK

stressed that the Administration would continue to listen to voices of different stakeholders and accommodate their requests whenever possible.

31. Several trade representatives commented that the conditions for Small Volume Exemption were too stringent, for example, the label required was too large. A trade representative queried how the \$345 fee for grant of exemption had been come up, and opined that the fee should be less than HK\$50. Another trade representative suggested considering not to require a sticker and a report for exemption. The Chairman explained that the fee was calculated by applying the cost recovery principle. The requirements for specific label/sticker and the permission number were necessary for enforcement staff and consumers to identify the exempted products.

32. A trade representative opined that there were too many separate stickers required on a single product, and suggested accepting the consolidation of all information required on a single sticker.

33. A trade representative suggested the Government to commission the Chinese University of Hong Kong to monitor the registration for Small Volume Exemption, in addition to supporting the development of the Food Composition Database.

34. A trade representative suggested reconsidering the exemption of reusable glass bottles.

35. A trade representative enquired if samples distributed for free and the posters and catalogues displayed at exhibitions had to fulfill the nutrition labelling requirements of the Amendment Regulation. The Chairman clarified that there was no specific nutrition labelling requirement for food products that were not for sale. Ms H HUNG supplemented that while the nutrition labelling requirements applied only when the food products were for sale, free samples were considered a form of advertisement and nutrition claims made in advertisement were regulated under the Amendment Regulation.

36. A trade representative suggested that soup packs with fresh ingredients prepared at a central factory and sold at various outlet locations should be exempted. The Chairman explained that if products were prepared at a central factory, the manufacturers were likely to be of reasonable size, better equipped and should have the ability to standardise the products and comply with the Amendment Regulation.

37. A trade representative suggested exempting products sold to catering business

which had claims in foreign languages.

38. A trade representative asked if products sold or donated to organisations for charity purpose would be exempted. The Chairman clarified that the products for sale had to satisfy the requirements but products for donations did not have to comply.

39. A trade representative enquired if the 30 000 units exemption referred to the units per company. Mr K W CHUNG elucidated that the exemption was product-based and the condition referred to the overall sale.

Grace period

40. A trade representative commented that the two-year grace period was too short.

Others

41. A trade representative queried if claims related to prevention or regulation of diseases, in addition to those stating a nutrient's physiological role, were considered nutrition function claims. Ms J FUNG replied that claims related to prevention or regulation of diseases were not covered by the Amendment Regulation, but they might be covered by other laws of Hong Kong.

42. A trade representative requested that the World Trade Organization (WTO) be notified of the finalised Amendment Regulation and the Guidance Notes. The Chairman said that the Administration would follow the requirements of WTO.

Agenda Item 5

Any Other Business

43. In response to the large number of queries from trade representatives, the Chairman suggested having another Technical Meeting in early May. The meeting agreed.

44. There being no further business, the meeting was adjourned at 6:50 PM.