

## **CHAPTER 3**

**Food and Health Bureau  
Food and Environmental Hygiene Department  
Department of Health**

**Food labelling**

**Audit Commission  
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*This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.*

Report No. 57 of the Director of Audit contains 12 Chapters which are available on our website at <http://www.aud.gov.hk>.

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# FOOD LABELLING

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## **PART 1: INTRODUCTION**

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

### **Background**

1.2 Food labelling provides an important channel of communication between manufacturers and consumers on information about individual food products, such as ingredients, expiry dates, etc. It serves as a tool for food traders to inform and attract potential buyers on the one hand and assists consumers to make informed choices on the other.

1.3 Food labelling is governed by the **Food and Drugs (Composition and Labelling) Regulations (the Regulations — Cap. 132W)** made under the Public Health and Municipal Services Ordinance (PHMSO — Cap. 132). In accordance with Schedule 3 of the Regulations, all prepackaged foods (Note 1) should be legibly marked or labelled (in either English or Chinese, or in both languages) with information including:

- (a) name of the food;
- (b) list of ingredients (including food additives);
- (c) indication of durability;
- (d) special conditions for storage or instructions for use;
- (e) count, weight or volume; and
- (f) name and address of manufacturer or packer.

The Regulations apply to all prepackaged foods, including infant and special dietary foods which are targeted at certain population subgroups with special dietary needs.

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**Note 1:** *Schedule 4 of the Regulations exempts certain types of prepackaged foods from the marking or labelling requirements under the Regulations. Examples include prepackaged foods sold at a catering establishment for immediate consumption, fresh fruit, fresh vegetables, and any food consisting of a single ingredient.*

1.4 **The 2004 Amendment Regulation.** In 2004, the Regulations were amended to require the declaration of the presence of any of eight types of allergenic substances (such as cereals containing gluten, eggs, peanuts, soyabeans and tree nuts) and that the food labels should specifically indicate the name or code of the food additive used. The 2004 Amendment Regulation was enacted in July 2004 and came into operation in July 2007.

1.5 Figure 1 shows the food labelling requirements for prepackaged foods (including infant and special dietary foods) after the implementation of the 2004 Amendment Regulation.

Figure 1

Food labelling requirements for prepackaged foods



Source: Food and Environmental Hygiene Department (FEHD) records

1.6 **The 2008 Amendment Regulation.** Before the 2008 Amendment Regulation was implemented, there was no specific law or regulation in Hong Kong governing nutrition information on food labels. The Administration then relied on the general provisions of the PHMSO to regulate food labels (e.g. to prosecute food traders under section 61 of the PHMSO for use of improper labels or advertisements to mislead as to the nutritional or dietary value of any food). The 2008 Amendment Regulation, enacted in May 2008 and

came into operation in July 2010, introduced a mandatory **nutrition labelling scheme** for prepackaged foods. 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 nutrition labelling scheme

1.7 Nutrients are vital for growth, repair and maintenance of good health. Good nutrition is very important in every stage of life. People of all ages require different nutrients in balanced amount to maintain good health and prevent diseases.

1.8 Provision of nutrition information on food labels is an important tool to promote a balanced diet, hence enhancing public health. According to the Administration, based on overseas experience, labelling of nutrition information has positive impact on food consumption behaviour, and helps save healthcare costs and human lives. While under-nutrition is generally not a public health problem in Hong Kong, an imbalanced diet contributes to obesity and many chronic degenerative diseases such as coronary heart disease, diabetes and certain types of cancer. These nutrition-related diseases are important public health problems in many parts of the world, including Hong Kong.

1.9 The nutrition labelling scheme applicable to Hong Kong was developed with reference to the principles adopted by the Codex Alimentarius Commission (Codex — see Appendix A), local health conditions and international practices. The nutrition labelling scheme covers **nutrition labelling** and **nutrition claims**.

1.10 Nutrition labelling refers to the listing of the nutrient content of a food in a standardised manner. The information is often presented in a tabular format. When nutrition labelling is applied, the value/content of energy plus seven core nutrients (namely protein, carbohydrates, total fat, saturated fat, trans fat, sodium and sugars), or commonly known as “1+7”, are required to be affixed on the nutrition label (in either English or Chinese, or in both languages). Figure 2 shows the nutrition label of a prepackaged food.

Figure 2

## Nutrition label of a prepackaged food



Source: FEHD records

1.11 Nutrition claims are claims which suggest that a food has particular nutritional properties. Nutrition claims include nutrient content claims, nutrient comparative claims and nutrient function claims (see para. 3.3). In regulating these claims, the Administration follows generally the standards and conditions stipulated in the Codex standards and guidelines. Figure 3 shows examples of nutrition claims on prepackaged foods.



Figure 3

## Nutrition claims on prepackaged foods



Legend:  Nutrition claims

Source: FEHD records

1.12 Based on a study commissioned by the Administration in 2005, the introduction of the nutrition labelling scheme would likely impose costs on importers, manufacturers and retailers mainly because of the need to undertake testing and to re-label the prepackaged foods. The initial compliance costs on the trade could be very significant.

1.13 The nutrition labelling scheme applies to all prepackaged foods, except infant and special dietary foods (Note 2). As early as 2005, the Administration undertook that it would review the need for introducing nutrition labelling requirements covering these foods in the future.

**Note 2:** *Infant and special dietary foods refer to: (a) formula intended to be consumed by children under the age of 36 months; (b) food intended to be consumed principally by children under the age of 36 months; and (c) other food for special dietary uses.*

## Centre for Food Safety

1.14 **The Centre for Food Safety (CFS), under the Food and Environmental Hygiene Department (FEHD), is the food safety authority in Hong Kong.** It is responsible for implementing territory-wide food safety control policies and enforcing food-related legislations, including overseeing the implementation of the food-labelling-related law and regulations. An organisation chart of the CFS is at Appendix B.

## Audit review

1.15 The Audit Commission (Audit) has recently conducted a review of the CFS's work in the regulatory control of food labelling, with focus on the implementation of the nutrition labelling scheme under the 2008 Amendment Regulation, which has been operational for more than one year (see para. 1.6). The audit review has also examined the adequacy of the nutrition labelling of infant and special dietary foods. The objective is to provide input to the Administration on whether there is a need to introduce nutrition labelling requirements covering such foods (see para. 1.13). In conducting the audit review, Audit has commissioned a consultant (a local university) to conduct laboratory tests to verify the information on nutrition labels, and to conduct a public opinion survey on food labelling. The audit findings are contained in two separate reports, as follows:

- (a) **food labelling (the subject matter of this Report); and**
- (b) nutrition labelling of infant and special dietary foods (see Chapter 4 of the Director of Audit's Report No. 57).

1.16 Audit's review of food labelling focused on the following areas:

- (a) accuracy and legibility of food labels (PART 2);
- (b) nutrition and health claims (PART 3);
- (c) exemptions from nutrition labelling (PART 4);
- (d) surveillance and enforcement work (PART 5); and
- (e) publicity and education (PART 6).

1.17 Audit has found areas which call for early attention/improvement and has made a number of recommendations to address the issues.

## **General response from the Administration**

1.18 The **Secretary for Food and Health**, the **Director of Food and Environmental Hygiene** and the **Director of Health** appreciate the efforts of the Audit team in auditing the CFS's work in the regulatory control of food labelling and are grateful for the hard work of the team.

## **Acknowledgement**

1.19 Audit would like to acknowledge with gratitude the full cooperation of the staff of the Food and Health Bureau (FHB), the CFS, and the Department of Health (DH) during the course of the audit review.

## **PART 2: ACCURACY AND LEGIBILITY OF FOOD LABELS**

2.1 This PART examines the accuracy and legibility of food labels. The following issues are covered:

- (a) accuracy of nutrition information on food labels (paras. 2.2 to 2.13);
- (b) legibility requirements for nutrition information (paras. 2.14 to 2.22); and
- (c) accuracy of other information displayed on food labels (paras. 2.23 to 2.28).

### **Accuracy of nutrition information on food labels**

2.2 The nutrition labelling scheme under the 2008 Amendment Regulation requires all prepackaged foods to label the “1+7” core nutrients (see para. 1.10), and any other nutrient for which a claim is made. Food traders may also include in the food labels information of other nutrients which are not required to be labelled under the scheme.

2.3 Food traders are allowed to obtain the nutrition information of food either by direct chemical analysis of food samples or through indirect nutrient analysis based on calculations. According to the CFS Technical Guidance Notes (see para. 2.14), food traders may choose indirect nutrient analysis provided that the calculations are performed by personnel with professional competence and are based on best available data and adjusting factors (Note 3).

2.4 As part of its routine food surveillance, the CFS conducts visual checking of nutrition labels and chemical analysis of declared nutrients on labels in selected prepackaged food products to ensure the trade’s compliance with the nutrition labelling scheme (Note 4). In July 2011, one year after the implementation of the scheme, the FHB and the FEHD

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**Note 3:** *According to the CFS’s guidelines, the trade may use the latest version of food composition databases and the relevant adjusting factor recognised by foreign or Mainland food/health authorities, when appropriate, for the indirect nutrient analysis.*

**Note 4:** *In January 2011, the Secretary for Food and Health informed the Legislative Council that the CFS planned to check the food labels of 55,000 prepackaged food products a year to ascertain if the labels had complied with the general labelling requirements (see paras. 1.3 and 1.4). Of these 55,000, around 5,000 would be checked to ascertain if they carried proper nutrition labels. Of these 5,000, the CFS would further analyse the nutrient content of 500 food samples to verify the accuracy of the nutrition labels and nutrition claims.*

informed the Legislative Council (LegCo) Panel on Food Safety and Environmental Hygiene (Panel) of the following:

- (a) the scheme had been implemented successfully without undue impact on consumer choice; and
- (b) up to 24 June 2011, the CFS had checked 16,245 food labels, with 111 found not complying with the nutrition labelling scheme. **The overall compliance rate was 99.3%.** There had been no prosecution against the non-compliant cases. Of these 111 non-compliant cases, 78 were identified by visual checking to ascertain whether they complied with the statutory “1+7” labelling requirements, and 33 by chemical analysis to verify the accuracy of the nutrition labels and nutrition claims. An analysis of the 111 non-compliant cases is shown in Table 1.

**Table 1**  
**Analysis of 111 non-compliant cases**  
**(24 June 2011)**

Nature of non-compliance	No. of cases
(a) No nutrition label or incomplete “1+7” core nutrients label	47
(b) Inappropriate nutrition label format	4
(c) Inappropriate nutrition claim	12
(d) Inappropriate language (i.e. neither Chinese nor English)	13
(e) Involving more than one type of irregularity	2
(f) Discrepancy on declared nutrient value confirmed after chemical analysis	33
<b>Total</b>	<b>111</b>

*Source: LegCo papers*

## Audit observations and recommendations

2.5 Audit noted the overall compliance rate of 99.3% as reported by the Administration to the LegCo Panel for the first year of implementing the nutrition labelling scheme. Audit examination however indicated that the CFS's compliance tests conducted were subject to the following limitations:

- (a) among the 16,245 food samples examined by visual checking, 78 non-compliant cases were identified (see para. 2.4(b)). The compliance rate for visual checking was as high as 99.5% (i.e. non-compliance rate of only 0.5%). Audit however found that most of the food samples selected for visual checking were chosen from large chain supermarkets which, based on the CFS's records, generally had a lower risk of non-compliance than other types of food outlets such as ethnic shops, snack shops and health shops (see paras. 5.8 and 5.9);
- (b) of the 16,245 food samples visually checked in (a) above, 505 were further chosen for chemical analysis. There was however no documentation of the reasons why the food products were selected for further testing (see (c) below). Of these 505 samples, 33 non-compliant cases were identified (see para. 2.4(b)). After deducting 80 samples for which test results were not yet available at the time of reporting (24 June 2011), the compliance rate for the CFS's chemical analysis was 92.2% (i.e. 7.8% non-compliant);
- (c) of the 505 samples tested in (b) above, only 30 (6%) samples had been tested for the "1+7" core nutrients. For 70% of the samples, only one nutrient (out of "1+7" or other nutrients shown on the nutrition labels) was selected for chemical analysis. The nutrient selected for chemical analysis was based on a sampling plan agreed by the CFS with the Government Laboratory (GL), which was worked out as follows:
  - (i) each year, the CFS and the GL would work out a sampling plan at the beginning of the year, agreeing on the number of chemical analyses to be conducted each month and the nutrients to be tested for that month, taking into account the GL's capacity and the significance of the nutrients to health. For example, they agreed to conduct chemical analyses of 40 food samples in March 2011, covering 20 for sugar and 20 for protein; and
  - (ii) based on the agreed sampling plan, the CFS Health Inspectors (HIs) would purchase food samples from the market (based on the districts/countries of origin/food categories they were assigned) and send them to the GL for chemical analysis.

Audit noted that the nutrients selected for chemical analysis were not necessarily the most essential nutrients or of higher risk of non-compliance having regard to the nature of the food products. In particular, HIs were not required to document their justifications for the food products they selected for chemical analysis. An example is shown below for illustration.

For example, in March 2011, a cream product (which generally contains much fat) and a pack of low-sugar soyabean milk were selected for chemical analysis of protein only. The justifications for choosing the two products for chemical analysis were not documented. Protein was apparently chosen for chemical analysis because the CFS's sampling plan for March 2011 covered testing of 20 samples for protein. Given that the sampling plan also covered testing of 20 samples for sugar and the soyabean milk contained a "low-sugar" claim, the reason for not testing sugar in the soyabean milk should have been documented.

As a result, there was inadequate assurance that the food products were selected for chemical analysis based on a representative sampling approach or based on a risk assessment;

- (d) in an assignment report of September 2010 on the CFS's enforcement of the general food labelling requirements (see paras. 1.3 and 1.4), the Independent Commission Against Corruption (ICAC) identified various loopholes in the CFS's enforcement procedures and practices, including HIs' discretion in selecting retail outlets and food products for compliance tests, and in determining whether breaches detected were serious enough to trigger enforcement actions, and no database kept for inspection targets (see para. 5.5). The CFS had since made efforts to improve its enforcement work (see para. 5.6); and
- (e) for the purpose of considering enforcement action, the CFS adopted the following tolerance limits (Note 5) in assessing whether a food product had complied with the nutrition labelling scheme:

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**Note 5:** *The tolerance limits are included in the CFS Technical Guidance Notes, which are available to the public at its website. According to the CFS, the adoption of this set of tolerance limits has been discussed with the stakeholders on various occasions such as technical meetings and relevant workshops and seminars.*

Table 2

## Tolerance limits for energy and nutrients

Energy/Nutrient	Tolerance limit (% of declared value)
Energy/total fat/saturated fat/trans fat/ cholesterol/sodium/sugars	$\leq 120\%$
Protein/carbohydrates/dietary fibre/ polyunsaturated fatty acids, monounsaturated fatty acids, starch, soluble fibre, insoluble fibre, individual component of fibre	$\geq 80\%$
Vitamins and minerals (other than Vitamin A, Vitamin D and added vitamins and minerals)	$\geq 80\%$
Vitamin A and Vitamin D (including added ones)	80% to 180%
Added vitamins and minerals (other than Vitamin A and Vitamin D)	$\geq$ declared value

Source: CFS Technical Guidance Notes (see para. 2.14)

The CFS used the above tolerance limits in computing the compliance rate of 99.3% for reporting to the LegCo Panel (see para. 2.4(b)). **Given that the adoption of different levels of tolerance limits (Note 6) could produce different compliance rates, Audit considers that the CFS needs to disclose the use of such tolerance limits in reporting the compliance rate. This helps stakeholders assess the compliance position for the nutrition labelling scheme in the proper perspective.** Furthermore, Audit noted that some of the tolerable limits adopted by the CFS were “open-ended” in that there was no upper limit (or lower limit) beyond which the nutrition deviation would be disallowed. This imposes a risk that although a nutrient in a food product might

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**Note 6:** For example, a tolerance limit of  $\pm 20\%$  is adopted in some countries (such as Japan and Thailand).



have significantly deviated from its declared value, the food product is still regarded as compliant (Note 7). As inaccurate information might mislead consumers and result in miscalculation of the daily dietary intake, Audit attempted to ascertain if there were such cases among the CFS's compliant cases. Audit however noted that the CFS did not maintain an audit trail of its results for the compliant cases.

2.6 Noting the various limitations of the CFS's compliance tests, Audit conducted independent tests to evaluate the trade's compliance with the nutrition labelling scheme. Similar to the CFS's practice, Audit's tests comprised visual checking and laboratory testing. For **visual checking**, on three days in July 2011, Audit visited 55 retail outlets, covering wet market stalls, ethnic shops, snack shops, grocery shops, fresh provision shops and bakeries, in three districts (Kowloon City, North Point and Sheung Shui). Unlike those large chain supermarkets, the CFS had classified these types of retail outlets as medium-to-high risk premises.

2.7 Audit's visual checking of nutrition labels in the 55 retail outlets (along 9 targeted streets) showed that 46 of them were suspected to have committed one or more non-compliances in their food products. Common non-compliances included "No nutrition labels", "Nutrition labels in a foreign language" (neither English nor Chinese), and "Incomplete "1+7" core nutrients labels". For some of these 46 retail outlets (e.g. snack shops and ethnic shops), based on a quick visual screening, Audit noted that many of their food products for sale did not appear to have complied with the nutrition labelling scheme. Audit found in total over 350 suspected non-compliant food products available for sale in the 46 retail outlets. Details of the visual checking results and the 59 food products purchased by Audit (Note 8) had been referred to the CFS for necessary follow-up action. Table 3 shows an analysis by types of the retail outlets visited by Audit and outlets found with suspected non-compliances.

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**Note 7:** *According to the CFS, it could exercise the legal power under section 61 of the PHMSO to prosecute food traders if the declared values are found misleading or not factual.*

**Note 8:** *Audit purchased 59 of the suspected non-compliant food products for follow-up action. Of these 59 products, 53 were suspected to be non-compliant with the nutrition labelling scheme (including 35 products which were suspected to be non-compliant with both the nutrition labelling scheme and the general food labelling requirements (see para. 2.25)). In September 2011, the CFS informed Audit that its investigation showed that 49 of the 59 products were no longer for sale and enforcement actions had been taken against retail outlets selling 5 products confirmed to be non-compliant.*

**Table 3**  
**Retail outlets visited by Audit for visual checking**  
**(July 2011)**

Type of retail outlet	Retail outlets visited by Audit (Number)	Retail outlets found with suspected non-compliances (Number)
Ethnic shop	11	11
Grocery shop	8	8
Bakery	1	1
Snack shop	9	8
Wet market stall	23	16
Fresh provision shop	3	2
<b>Total</b>	<b>55</b>	<b>46</b>

*Source: Audit visits*

2.8 The great number of suspected non-compliant cases Audit found from the three-day visual checking has indicated that there is scope for improvement in the CFS's visual checking procedures. In particular, there is a need for the CFS to step up its surveillance efforts by inspecting more high-risk retail outlets.

2.9 Audit engaged an accredited laboratory (Note 9) to carry out **laboratory testing** of selected food samples purchased from the market. Audit has adopted the following methodology for laboratory testing:

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**Note 9:** *Audit has commissioned a local university to provide accredited laboratory services in the independent laboratory tests (see para. 1.15).*

<b>Audit methodology</b>	
<b>Testing period</b>	May to August 2011
<b>Sample tested</b>	70
<b>Sampling approach</b>	<ol style="list-style-type: none"> <li>1. Popular food items</li> <li>2. Food items chosen based on risk assessments</li> </ol>
<b>Category of food products</b>	<ol style="list-style-type: none"> <li>1. Canned food products</li> <li>2. Cereal and grain products</li> <li>3. Condiments and sauces</li> <li>4. Health food and supplement</li> <li>5. Milk and dairy products</li> <li>6. Non-alcoholic beverages</li> <li>7. Snacks</li> <li>8. Frozen food and other food items</li> </ol>
<b>Source of purchase from the market</b>	Supermarkets (the major source), department stores, grocery stores, ethnic shops and specialty shops
<b>Number of nutrients tested per food sample</b>	2 to 10 nutrients (about 90% of the food samples tested for 4 or more nutrients)
<b>Tolerance limits</b>	Standards adopted by the CFS for considering enforcement action (see Table 2 in para. 2.5(e)).

2.10 Audit has mainly adopted a risk-based approach in selecting both the food products and the nutrients to be tested. The results of Audit's independent laboratory testing were as follows:

- (a) of the 70 food samples tested by Audit, 42 (60%) were suspected to be non-compliant. Audit referred all 42 suspected non-compliant cases to the CFS for necessary follow-up action (Note 10);
- (b) of the 42 food samples in (a) above, 22 (52%) had discrepancies fallen outside the CFS tolerance limits in 2 or more nutrients;
- (c) among the eight categories of food items tested (see para. 2.9), cereal and grain products, health food and supplement, and condiments and sauces products recorded a higher occurrence of discrepancies;
- (d) for some nutrients in the 70 food samples tested, there were large discrepancies (e.g. variances of over 60%) between their nutrient contents and their declared values (see Table 4 for examples). Yet, because of the “open-ended” characteristic of the CFS’s tolerance limits (see para. 2.5(e)), the discrepancies did not exceed such limits. Given that inaccurate nutrition information is not conducive to assisting consumers in making informed food choices, the CFS needs to follow up on those food samples with large discrepancies and take appropriate action; and

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**Note 10:** *According to the CFS’s enforcement guidelines, if discrepancy is found between the nutrition label and the GL test result, the CFS will issue a letter to the trader requiring him to give an explanation within 21 days. The guidelines further stipulate that:*

- (a) *if the explanation given is not satisfactory, a warning letter will be issued to the trader who will be required to rectify within a specified period of time (see also para. 5.4(b));*
- (b) *after the expiry of the warning letter, if the irregularity is not rectified, the CFS will take a formal food sample (i.e. at least 12 units to be taken randomly from the same food lot and then combined to make a composite sample) for testing; and*
- (c) *if the testing result of the formal sample is still unsatisfactory, the CFS will take appropriate enforcement action.*

**Table 4**  
**Nutrient contents significantly different from declared values**

Food product	Nutrient tested	Declared value (per 100g)  (a)	Nutrient value per Audit's laboratory test (per 100g)  (b)	Nutrient value as a percentage of declared value  $(c) = \frac{(b)}{(a)} \times 100\%$
Nutritional malted drink	Calcium	266mg	441mg	<b>166%</b>
Hi-fibre wheat cracker	Calcium	240mg	430mg	<b>179%</b>
Fried dace with salted black beans	Protein	5.45g	21.4g	<b>393%</b>
Shredded pork stick	Protein	6.3g	36.8g	<b>584%</b>
Fried dough dice	Protein	9.40g	24.7g	<b>263%</b>
Organic no-sugar added instant soya milk	Sodium	128mg	36mg	<b>28%</b>

Legend: g = gram  
mg = milligram

Source: *Audit analysis*

- (e) of the 70 food samples examined, 6 related to non-compliant food products previously identified by the CFS and 4 were chosen from similar products of the same brands previously found with non-compliant products by the CFS. Audit's laboratory tests revealed the following:

- (i) of the first 6 food samples, 5 were suspected to be non-compliant. For example:
  - in one sample, two other nutrients not previously tested, namely sugar and total fat, were over 200% of their declared values, exceeding the CFS's tolerance limit of 120%; and
  - in another sample, the value of another nutrient not previously tested, namely sodium, was also found to be 1,133% of the declared value, again exceeding the CFS's tolerance limit of 120%; and
- (ii) of the latter 4 food samples, 3 were suspected to be non-compliant.

The results indicated that food products of a brand with adverse track record might have a higher risk of non-compliance, and the detection of non-compliance for one nutrient might call for extended laboratory tests on other core nutrients in the same product.

2.11 As mentioned in paragraph 2.10(a), Audit's independent laboratory tests showed that 60% of the food samples tested were suspected to be non-compliant. The high rate of suspected non-compliance is a cause for concern. There is a need for the CFS to review its compliance test procedures to see whether a more risk-based approach could be adopted.

#### *Audit recommendations*

2.12 **Audit has recommended that the Director of Food and Environmental Hygiene should:**

- (a) **improve the CFS's compliance tests to be conducted (covering both visual checking and chemical analysis), taking into consideration the various limitations and inadequacies Audit pointed out in paragraphs 2.5 to 2.11;**
- (b) **adopt a more risk-based approach in selecting food samples and nutrients to be tested in the compliance tests;**
- (c) **disclose the tolerance limits adopted when reporting the compliance rate (see para. 2.5(e));**

- (d) take appropriate follow-up actions on those food samples with large discrepancies between their nutrient contents and declared values, despite the fact that such discrepancies may not have exceeded the “open-ended” tolerance limits adopted by the CFS (see para. 2.10(d)); and
- (e) take appropriate follow-up actions on the 46 retail outlets and 42 suspected non-compliant cases identified in Audit’s visual checking and laboratory tests (see paras. 2.7 and 2.10(a)).

### Response from the Administration

2.13 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that:

- (a) the nutrition labelling scheme has come into operation for about one year at the time of the audit review. During the early phase of its implementation (July 2010 to March 2011), the CFS consciously focused on some large chain supermarkets to ensure their early compliance with the scheme. This is because the market share of these large chain supermarkets is larger than other food retail outlets. In addition, they source from a broader network of importers, suppliers as well as distributors and sell a wider variety of prepackaged food products. By ensuring their early compliance, it would maximise the portion of the population to benefit from the scheme, hence enhancing public health;
- (b) the CFS keeps its enforcement strategy under regular review in the light of its operational experience. Taking into account the ICAC’s recommendations (see para. 5.5) and in view of the high compliance rate of chain supermarkets, the CFS has adjusted its enforcement strategy by including more small retail outlets since 1 April 2011. Under the adjusted enforcement strategy, small retail outlets such as ethnic shops and market stalls with unsatisfactory compliance records are categorised as high risk. Medium chain shops and large chain supermarkets with good compliance records are categorised as medium and low risk respectively. The proportion of retail outlets selected for inspection is 50%, 30% and 20% for high, medium and low risk respectively;
- (c) the tolerance limits referred to in paragraph 2.5(e) for certain nutrients to determine compliance are in line with international practice, and the same approach is adopted by many other jurisdictions, including the United States, Canada, the mainland of China, Korea and Singapore (Note 11). The nutrition

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**Note 11:** *Audit notes the Administration’s explanation but, as Audit pointed out in paragraph 2.5(e), the tolerance limits were adopted for the purpose of considering enforcement action. They should have been disclosed when they were also adopted for assessing the compliance position.*

labelling scheme aims to promote a healthy diet by increasing the intake of beneficial nutrients while limiting the intake of harmful ones. For example, the measured quantity of beneficial nutrients (such as dietary fibre and calcium) should not be less than 80% of the declared value. However, the measured quantity of harmful nutrients (such as trans fat, sodium and sugars) should not be more than 120% of the declared value so as to limit the intake of these harmful nutrients. This has been thoroughly discussed with members of the trade and explained to LegCo Members when the scheme was drawn up. This approach will protect the public health of the general population. Details of the tolerance limits have been published in the Technical Guidance Notes, which have been uploaded at the CFS's website since June 2008. The FEHD accepts the audit recommendation in paragraph 2.12(c) of disclosing the tolerance limits adopted and will remind the public of the availability of such information when the CFS announces the compliance results of its chemical analyses in the future; and

- (d) the CFS is following up on the 46 retail outlets referred to in paragraph 2.7 and on the products referred to in paragraph 2.10(a).

### **Legibility requirements for nutrition information**

2.14 According to the 2008 Amendment Regulation, prepackaged food shall be legibly marked or labelled with a list of nutrients which shall be presented in tabular form in a conspicuous place of the package with an appropriate heading. The CFS has also issued Technical Guidance Notes to assist the trade in complying with the nutrition labelling scheme. According to the Technical Guidance Notes, nutrition information must be presented in tabular format (Note 12) and the nutrition labels must include information on "1+7" core nutrients plus any claimed nutrients. The nutrition label must be placed in a conspicuous place on the food package.

### **Audit observations and recommendation**

2.15 The 2008 Amendment Regulation does not have adequate provisions (e.g. font size) to ensure the legibility of the nutrition information. To ensure the legibility of nutrition labelling, the Codex standards and guidelines provide that the competent authority should:

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**Note 12:** *Other than the tabular format, the trade is allowed an option of using linear format for small packages with total surface area of less than 200 cm<sup>2</sup>.*



- (a) indicate the font type, style and a minimum font size as well as the use of upper and lower case letters to ensure the legibility of nutrition labelling; and
- (b) ensure that the nutrition information displayed is clearly legible by requiring a significant contrast to be maintained between the text and background.

2.16 In Hong Kong, if a prepackaged food product is granted an exemption from the nutrition labelling requirements under a small volume exemption scheme (see PART 4), the Technical Guidance Notes require that:

- (a) the package should bear a label indicating the exemption status (including the exemption number);
- (b) the exemption label should be printed distinctly and legibly, and its type size is not smaller than 6 or 10 point (see also para. 2.19), depending on the surface area of the package; and
- (c) the wording shall be printed in dark block type upon a light-coloured ground or in light block type upon a dark-coloured ground.

There is however no similar legibility requirement on the information to be disclosed on the nutrition labels.

2.17 Audit's market surveys conducted from May to August 2011 also found that the nutrition labels of some prepackaged foods marketed in Hong Kong were too small in font size, and the text and background of some were not shown in distinct contrast, thus making the nutrition information very difficult to read (see examples in Photographs 1 and 2).

**Photograph 1**

**Nutrition label in too small font on a bottle of broth**



*Source: Audit's market survey*

*Remarks: The photograph shows the actual size of the bottle.*

Photograph 2

A package of candy with insufficient contrast between the text and background of the food label



Nutrition label

Source: Audit's market survey

2.18 Audit survey in June and July 2011 also revealed that illegibility was one of the major obstacles to have hindered people from reading the nutrition labels (see para. 6.11). It was the main reason why the senior citizen group of respondents (aged 65 or above) was not always reading the nutrition labels (see para. 6.7(e)).

2.19 For benchmarking, in the United States, the food labelling legislation has specified font size requirements for their nutrition information. The United States Federal Government has required food traders to display nutrition information on the “Nutrition Facts” label using 6-point (Note 13) or larger Helvetica Black and/or Helvetica Regular type, with key nutrients, serving size and servings per container in 8-point Helvetica Regular (see sample label in Figure 4).

Figure 4

Sample “Nutrition Facts” label adopted in the United States

<b>Nutrition Facts</b>			
Serving Size 1/12 package (44g, about 1/4 cup dry mix)			
Servings Per Container 12			
Amount Per Serving	Mix	Baked	
<b>Calories</b>	190	280	
Calories from Fat	45	140	
% Daily Value**			
<b>Total Fat 5g*</b>	<b>8%</b>	<b>24%</b>	
Saturated Fat 2g	<b>10%</b>	<b>13%</b>	
Trans Fat 0g			
<b>Cholesterol 0mg</b>	<b>0%</b>	<b>23%</b>	
<b>Sodium 300mg</b>	<b>13%</b>	<b>13%</b>	
<b>Total Carbohydrate 34g</b>	<b>11%</b>	<b>11%</b>	
Dietary Fiber 0g	<b>0%</b>	<b>0%</b>	
Sugars 18g			
<b>Protein 2g</b>			
Vitamin A	0%	0%	
Vitamin C	0%	0%	
Calcium	6%	8%	
Iron	2%	4%	
* Amount in Mix			
**Percent Daily Values are based on a 2,000 calorie diet. Your Daily Values may be higher or lower depending on your calorie needs:			
		Calories: 2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g
Calories per gram: Fat 9 • Carbohydrate 4 • Protein 4			

Source: Audit research

**Note 13:** A "point" is a unit of measurement for type size. An Anglo-American point is equal to 0.3514598mm. Six-point is equal to 2.11mm and 8-point is equal to 2.81mm.



2.20 For the effective implementation of the nutrition labelling scheme, Audit considers that the CFS needs to address the legibility issue by, for example, specifying the appropriate requirements in the law or regulations.

#### *Audit recommendation*

2.21 **Audit has recommended that the Director of Food and Environmental Hygiene should properly address the legibility issue for the effective implementation of the nutrition labelling scheme.**

#### **Response from the Administration**

2.22 The **Director of Food and Environmental Hygiene** agrees with the audit recommendation. He has said that the CFS will consider issuing a set of trade guidelines to address the legibility issue after discussion with stakeholders.

#### **Accuracy of other information displayed on food labels**

2.23 The general food labelling requirements (see paras. 1.3 and 1.4) have been implemented for some years. For the 12 months ended June 2011, the CFS had checked some 40,000 prepackaged food products to ascertain whether they complied with the general food labelling requirements. Of these 40,000 food labels, 58 were found not complying with the requirements. The overall compliance rate was 99.9%.

2.24 The CFS had instituted prosecution actions or issued warning letters against the 58 non-compliant cases, most of which related to non-compliances such as “No food labels”, “No durability indication”, “Ingredients not properly listed” and “Incomplete manufacturer/packer’s name and address”.

#### **Audit observations and recommendation**

2.25 To check compliance with the general food labelling requirements, similar to nutrition labelling, the CFS selected most of its food samples for compliance tests from large chain supermarkets which generally had a lower risk (see para. 2.5(a)). Audit’s three-day visits in July 2011 (see para. 2.6) revealed that in 27 of the 55 retail outlets visited, suspected non-compliance with the general food labelling requirements was quite commonly found in their food products marketed. Based on a quick visual screening, Audit noted a total of over 160 suspected non-compliant products for sale in these 27 retail

outlets (details of checking results and the 59 food products purchased by Audit had been referred to the CFS for necessary follow-up action — Note 14). Such suspected non-compliances included “No food labels”, “No/improper durability indication”, “Incomplete label information”, and “Food for sale after use by date”.

2.26 The high number of suspected non-compliant cases Audit found from the three-day visits has indicated that there is scope for improvement in the CFS compliance tests. In particular, there is a need for the CFS to step up its surveillance efforts on inspecting more high-risk retail outlets.

#### *Audit recommendation*

2.27 **Audit has recommended that the Director of Food and Environmental Hygiene should improve the CFS compliance tests to enforce the general food labelling requirements, taking into consideration the audit observations in paragraphs 2.25 and 2.26 and the need for inspecting higher-risk retail outlets more frequently.**

#### **Response from the Administration**

2.28 The **Director of Food and Environmental Hygiene** agrees with the audit recommendation. He has said that the CFS has adjusted its enforcement strategy by including more small retail outlets since 1 April 2011, as detailed in paragraph 2.13(b).

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**Note 14:** *Audit purchased 59 of the suspected non-compliant food products for follow-up action. Of these 59 products, 41 were suspected to be non-compliant with the general food labelling requirements (including 35 products which were suspected to be non-compliant with both the general food labelling requirements and the nutrition labelling scheme). Note 8 to paragraph 2.7 is also relevant.*

## **PART 3: NUTRITION AND HEALTH CLAIMS**

3.1 This PART examines claims made by traders on food labels to appeal to consumers. The following issues are covered:

- (a) no specific law or regulations to regulate health claims on conventional foods (paras. 3.6 to 3.9); and
- (b) inadequacies in the CFS's oversight of the trade's use of nutrition claims on foods (paras. 3.10 to 3.14).

### **Use of claims to appeal to consumers**

3.2 Nowadays, food traders have increasingly used claims to appeal to consumers. However, false, misleading or exaggerated claims can adversely affect consumer decisions. Claims used by food traders include **nutrition and health claims** (Note 15). Nutrition and health claims relating to infant and special dietary foods are separately addressed in Chapter 4 of the Director of Audit's Report No. 57 on nutrition labelling of infant and special dietary foods.

#### *Nutrition claims*

3.3 Nutrition claims, governed by the nutrition labelling scheme, are claims which suggest that a food has particular nutritional properties (see para. 1.11). Such nutrition claims include nutrient content claims (Note 16), nutrient comparative claims (Note 17) and nutrient function claims (Note 18).

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**Note 15:** *According to Codex, apart from nutrition and health claims, there are claims which state, suggest or imply that a food has particular characteristics relating to its origin, nature, production, processing, composition or any other quality.*

**Note 16:** *Nutrient content claims are claims that describe the level of a nutrient contained in a food (e.g. "High calcium", "Low fat" and "Sugar-free"). Nutrient content claims can only be made for energy and nutrients specified in Schedule 8 of the 2008 Amendment Regulation.*

**Note 17:** *Nutrient comparative claims are claims that compare the nutrient levels of two or more similar foods (e.g. "Reduced fat — 25% less than the regular product of the same brand"). In general, to make a nutrient comparative claim, there must be at least 25% difference (10% Nutrient Reference Value in the case of vitamins and minerals) in the levels of the nutrient content between the products being compared as well as to comply with other relevant requirements.*

**Note 18:** *Nutrient function claims are claims that describe 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").*

3.4 Whenever a nutrition claim has been made for a nutrient, it is mandatory to declare the amount of the claimed nutrient on the nutrition label. For nutrient comparative claims, the main principle is that for most nutrients (except vitamins and minerals), there must be at least 25% difference in the levels of the nutrient claimed between the two products being compared. In relation to nutrient function claims, only nutrients with Nutrient Reference Values (NRVs — Note 19) and required level prescribed can be the subject of this type of claim. Besides, the Regulations have required that a nutrient function claim appearing on foods must always be based on scientific substantiation and scientific consensus.

### *Health claims*

3.5 **The 2008 Amendment Regulation only covers nutrition claims, but not health claims.** However, Codex has provided guidelines for the use of health claims on foods (Note 20). According to Codex, health claims are claims that imply or suggest a relationship between a food (or a constituent of that food) and health. The Codex guidelines relate to the use of nutrition and health claims in food labelling and in advertising. The guidelines state that health claims should be permitted provided that various conditions, including the following, are met:

- (a) Health claims must be based on current relevant scientific substantiation and the level of proof must be sufficient to substantiate the type of claimed effect and the relationship to health as recognised by generally accepted scientific review of the data and the scientific substantiation should be reviewed as new knowledge becomes available.
- (b) Any health claims must be accepted by or be acceptable to the competent authorities of the country (place) where the food product is sold.
- (c) Health claims should have a clear regulatory framework for qualifying and/or disqualifying conditions for eligibility to use the specific claim, including the ability of competent authorities to prohibit claims made for foods that contain nutrients or constituents in amounts that increase the risk of disease or an adverse health-related condition.
- (d) If the claimed effect is attributed to a constituent of the food, there must be a validated method to quantify the food constituent that forms the basis of the claim.

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**Note 19:** *NRVs are a set of values used for labelling purpose and consist of one single value for each individual nutrient. NRVs are intended to assist consumers to evaluate the contribution of a food item to their daily nutrient intake and to compose a diet suitable for their individual needs. Nutrient function claims can only be made for nutrients that have an NRV in Schedule 7 or specified in Schedule 8 of the 2008 Amendment Regulation.*

**Note 20:** *The Codex Guidelines for use of nutrition and health claims (1997) are relevant.*



Some of the health claims appearing on foods may be considered as nutrient function claims which is covered by the current nutrition labelling scheme (see para. 3.3). However, apart from nutrient function claims, Codex has indicated that health claims also include other function claims (Note 21) and reduction of disease risk claims (Note 22).

## **Audit observations and recommendations**

### *No specific law or regulations to regulate health claims on conventional foods*

3.6 Market surveys conducted by Audit in July and August 2011 revealed that health claims were often used to promote conventional foods (foods or drinks customarily consumed). They might be found on food labels, brochures or advertisements in magazines and newspapers (see examples in Table 5 — Note 23).

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**Note 21:** *According to Codex, other function claims are claims that concern specific beneficial effects of the consumption of foods or their constituents, in the context of the total diet on normal functions or biological activities of the body. Such claims relate to a positive contribution to health or to the improvement of a function or to modifying or preserving health.*

**Note 22:** *According to Codex, reduction of disease risk claims are claims that relate the consumption of a food or food constituent in the context of the total diet to the reduced risk of developing a disease or health-related condition.*

**Note 23:** *There was no evidence that these food products were medicines which had been registered under the Pharmacy and Poisons Ordinance (Cap. 138) or the Chinese Medicine Ordinance (Cap. 549).*

**Table 5**  
**Examples of health claims on food products**

Product	Health claim made
1	(a) Rich in anthocyanins, effective in protecting eyesight (b) Supplies nutrition to the retina and improves night vision (c) Strengthens blood vessels, promotes cardiovascular health
2	(a) Stabilises levels of blood pressure and blood glucose
3	(a) Stabilises blood lipids levels, reduces cholesterol and burns fat, promotes intestinal cleanliness
4	(a) Contain anthocyanins with strong anti-oxidising properties (b) Contain a natural enzyme which helps to prevent constipation, haemorrhoids and acne
5	(a) Maintain healthy urinary tract (b) Maintain healthy kidney and bladder (c) Promote oral health (d) Maintain healthy cardiovascular system (e) Enhance immune system, plus anti-ageing
6	(a) Stabilises blood glucose level, promotes intestinal peristalsis, has anti-oxidising and anti-ageing properties, enhances memory
7	(a) Has a high fibre content with omega fatty acids from plant source, helps control levels of blood lipids and blood pressure, stabilises blood glucose level
8	(a) Contains dietary fibre which helps to reduce cholesterol and maintain healthy blood circulation
9	(a) The omega-3 essential fatty acids and high alkaline fibre content in flaxseed can lower blood glucose level and combat diabetes.
10	Nutritional value and functions of black beans: (a) Nutrients-rich, enhance blood circulation (b) Nourish skin and hair growth (c) Help to balance blood sugar level (d) Promote bowel movement and relieve occasional constipation (e) Help to control cholesterol, enhance heart health (f) Good for kidney, able to reduce excessive accumulation of watery fluid in the body
11	(a) The plant pigment anthocyanins in blackcurrants improve eyesight, promote cardiovascular health, boost immunity and have strong anti-oxidising properties, thus producing extraordinary effects.

Source: Audit's market survey

3.7 Audit has however found that such health claims (other than nutrient function claims which are governed by the 2008 Amendment Regulation) are not governed by any specific law or regulations in Hong Kong. Given that compliance with the Codex standards and guidelines is not mandatory (see para. 2 of Appendix A), the Codex conditions governing health claims (in particular, the need for a clear regulatory framework for qualifying and/or disqualifying conditions — see para. 3.5(c)) could not apply to conventional foods marketed in Hong Kong. Audit noted the following developments in the Administration’s efforts in regulating health claims on such food products marketed in Hong Kong:

- (a) as early as **November 2002**, the then Health, Welfare and Food Bureau (now the FHB) informed the LegCo Panel on Health Services that there had been an increasing number of food products claiming beneficial health effects in the local market. These products were generally described as “health foods” for which there was no generally accepted definition. There were complaints from consumers against misleading or exaggerated claims of these so-called health food products. There were also calls from the public, LegCo and the Consumer Council that the Administration should tighten control of irresponsible health claims for the sake of public health. To better protect the public, the Administration then proposed to work out a list of health claims to be regulated and to amend the Undesirable Medical Advertisements Ordinance (UMAO, Cap. 231 — Note 24) for the purpose of regulating health claims;
- (b) in **November 2003**, the FHB launched a public consultation exercise on the proposed nutrition labelling scheme. In the consultation paper, the FHB mentioned that the public health implications of claims on food products had aroused much public concern, since some claims relating to body functions, treatment or prevention of diseases or conditions in particular, might delay the public from seeking proper medical advice and management, and some of these claims might be exaggerated or misleading. However, the FHB did not include health claims under the nutrition labelling scheme and had not consulted the trade and the public on health claims, because at that juncture, the Administration was also working on amending the UMAO to prohibit claims which might jeopardise public health. Therefore, the nutrition labelling scheme subsequently introduced did not cover health claims (except nutrient function claim) on conventional foods; and

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**Note 24:** *The UMAO prohibits the advertisements of medicines, surgical appliances or treatment for prevention or treatment of certain diseases or conditions in human beings.*

- (c) in **June 2005**, the Undesirable Medical Advertisements (Amendment) Ordinance (UMA(A)O) was enacted. However, it only governed the prohibition/restriction on advertising relating to six groups of undesirable health claims (Note 25) on orally consumed products (Note 26) which did not cover conventional foods. In 2006, the DH which administered the UMAO further issued a set of guidelines to facilitate the trade's understanding of the new scope of regulation of health claims. However, although the UMA(A)O was enacted in 2005, as at August 2011, the major amendments had not yet come into operation (Note 27). They would come into operation on a day to be appointed by the Secretary for Food and Health by notice published in the Gazette. According to the FHB, the UMA(A)O is planned to commence operation in the first half of 2012.

3.8 The fact that health claims on conventional foods are neither covered by the nutrition labelling scheme under the 2008 Amendment Regulation nor by the UMA(A)O is a cause for concern. Unlike nutrition claims which are governed by the 2008 Amendment Regulation, the Administration could only rely on the general provisions of the PHMSO (e.g. invoking section 61 — see para. 1.6) to regulate health claims on conventional foods. However, as far as Audit could ascertain, over the years (up to August 2011), no successful prosecution under section 61 of the PHMSO had been brought against any food traders for improper health claims on conventional foods. Given these, it would appear that

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**Note 25:** *The six groups of undesirable health claims were:*

- (a) *prevention, elimination or treatment of breast lumps;*
- (b) *regulation of function of genitourinary system;*
- (c) *regulation of endocrine system;*
- (d) *regulation of body sugar;*
- (e) *regulation of blood pressure; and*
- (f) *regulation of blood lipids or cholesterol.*

**Note 26:** *Orally consumed products refer to products for human consumption which are intended to be taken orally and are in the forms of pill, capsule, tablet, granule, powder, semi-solid, liquid, or a form similar to any of these forms, and do not include products customarily consumed only as food or drink, and those customarily consumed to satisfy a desire for taste, texture or flavour.*

**Note 27:** *In Chapter 4 “Control of Chinese medicines” of the Director of Audit’s Report No. 53 (October 2009), Audit raised concern that the UMA(A)O had not yet come into operation and recommended the Director of Health to expedite action to complete the registration of proprietary Chinese medicines so that the UMA(A)O could be put into operation as soon as possible.*

stakeholders' concerns raised as early as 2002 (see para. 3.7(a)) on the regulation of health claims to protect public health have not yet been fully addressed.

3.9 Despite the proliferation of health claims on conventional foods (such as those shown in Table 5), some of which might be misleading, exaggerated or lack of scientific substantiation and consensus, the Administration has not taken proactive actions to address the problems. **Audit considers that the FHB needs to look into the matter and plug any loopholes in the law or regulations to regulate health claims on conventional foods, taking into account the conditions for health claims as specified by Codex (see para. 3.5). Given that six years have elapsed since the UMA(A)O was enacted, the FHB also needs to put, in collaboration with the DH, the UMA(A)O into operation as early as possible.**

*Inadequacies in the CFS's oversight of the trade's use of nutrition claims on foods*

3.10 As mentioned in paragraph 2.4(b), up to 24 June 2011, the CFS had checked 16,245 food labels and identified 12 inappropriate nutrition claims on the labels. A breakdown of these 12 inappropriate claims is shown in Table 6.

**Table 6**

**Analysis of 12 food labels with inappropriate nutrition claims  
(24 June 2011)**

Nature of non-compliance	No. of cases
(a) No declaration of cholesterol content although there were claims on fats	5
(b) Nutrient content/function claims made on nutrients which were not specified in Schedules 7 and 8 of the 2008 Amendment Regulation (such as Collagen and Omega-3), and were disallowed	6
(c) Product did not meet the conditions for trans fat free claims	1
<b>Total</b>	<b>12</b>

Source: CFS records

3.11 It can be seen that all the 12 inappropriate nutrition claims identified by the CFS related to non-compliance with relevant claim conditions. According to the CFS's internal guidelines, its staff would take enforcement actions only in the following circumstances:

- (a) a nutrient content/comparative claim was made on a nutrient not specified in Schedule 8 of the 2008 Amendment Regulation (e.g. starch, amino acids and glucose);
- (b) a nutrient function claim was made on a nutrient without an NRV as set out in Schedule 7 of the 2008 Amendment Regulation (e.g. Omega-3); and
- (c) the description of the foods being compared and the amount of difference were not stated in close proximity to the nutrient comparative claim.

There was no provision in the guidelines requiring the CFS staff to verify the validity of alleged misleading or exaggerated nutrition function claims found on food products and take enforcement actions. In this regard, Audit noted that the CFS staff had not taken proactive actions (e.g. by seeking scientific evidence from the food traders) to verify the validity of nutrient function claims made by food traders to promote their foods, particularly those in advertisements.

3.12 Noting the inadequacies in the CFS's oversight of the trade's use of nutrition claims, Audit conducted independent tests, comprising visual checking and laboratory tests. For **visual checking**, Audit selected about 30 prepackaged foods with nutrition claims from the market and some advertisements containing claims (Note 28) for examination. Audit found 17 cases which might call for the CFS's follow-up (details of which had been referred to the CFS for necessary follow-up action). Examples are shown in Cases 1 and 2 (relating to nutrition claims on food labels) and Table 7 (relating to nutrition claims in advertisements). Audit considers that the CFS needs to obtain evidence from the food traders to ensure that the nutrition claims are properly substantiated.

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**Note 28:** *The 2008 Amendment Regulation covers nutrition claims on food labels and in advertisements.*

**Case 1****Nutrition claim suspected to be unacceptable**

1. A food product marketed in a retail outlet contained the following claim “contains high amount alkaline minerals (iron, calcium, magnesium and potassium) and abundance of citric acids. This can help to restore the body’s acid-alkali balance”. There was no evidence that the CFS had obtained information from the food trader to ensure that this nutrient function claim was properly substantiated.
2. Furthermore, according to the CFS’s guidelines, “contain” is an expression for nutrient content claim on “source”. For a claim on source for mineral (e.g. calcium and iron), certain claim conditions must be met (e.g. solid food must contain  $\geq 15\%$  of the NRV of the mineral per 100g of food). Audit however found that the value of minerals was not displayed on the nutrition label for the food product concerned. This was contrary to the requirement that the content of the nutrient for which a nutrition claim had been made should be declared. In the absence of any declared value for minerals, it was also difficult to ascertain whether the claim conditions had been met.

Source: *Audit’s market survey*

**Case 2****Nutrition claim suspected to be unacceptable**

1. A package of frozen slice turkey marketed at a retail outlet made a nutrition claim of “fortified with vitamins and minerals”.
2. According to the CFS’s guidelines, “fortified” is a synonym of “higher” for a nutrient comparative claim. Whenever a nutrient comparative claim is made, it is mandatory to include: (a) a description of the foods being compared; and (b) the difference in the content levels of the nutrient between the foods being compared (to be expressed as an absolute value, a percentage or a fraction).
3. However, in this case, the food product did not contain the required nutrition information in 2(a) and (b) above.

Source: *Audit’s market survey*

Table 7

## Nutrition claims found in advertisements for promoting food products

Product (Note 1)	Claims made
12	Royal jelly is rich in proteins, minerals, anti-stress B vitamins and amino acids that support body activities. It is effective in boosting the body's metabolism, as well as building up energy and stamina. (Notes 2 and 3)
13	Rich in Docosahexaenoic acid (DHA) and Eicosapentaenoic acid (EPA), the capsules provide nutrients to the brain and eyes. Omega-3 provides unsaturated fatty acids necessary for body functions. Long-term consumption of the capsules is beneficial to both children and adults, as it assists maintenance of general well-being, promotes blood circulation, enhances brain functions and protects eyesight. (Notes 2 and 3)
14	Amino acids are essential nutrients which compose the hormones and enzymes necessary for metabolism and digestion. Proper use of slimming amino acids such as L-Carnitine, L-Glutamine, L-Glycine and L-Lysine can be highly effective in enhancing metabolism and burning fat quickly to build a slim figure with a lasting effect. (Note 3)
15	Agaricus contains special classes of polysaccharides, proteins, vitamins, minerals, dietary fibres, digestive enzymes, ergosterol, nucleic acids and 18 types of amino acid, among which 8 are essential to body functions. The $\beta$ -D-glucan compound unique in Agaricus helps strengthen immunity significantly. (Note 2)
16	Rich in minerals, the nettle extract in the formula contains organic silicon: an essential element that can effectively repair collagen, joint cartilage tissues and tendons to reduce the discomfort and other tendon and bone issues caused by rheumatism. (Note 3)
17	Rich in omega-3 fatty acids, one of the most important and essential nutrients to human body, it promotes brain functions and helps lowering blood cholesterol level, thus contributing to the smooth blood circulation in the heart and brain. It also nourishes cells, repairs joints and keeps them strong and healthy. (Notes 2 and 3)

Source: Audit's market survey

Note 1: There was no evidence that the food products were medicines which had been registered under the Pharmacy and Poisons Ordinance or the Chinese Medicine Ordinance.

Note 2: For Products 12, 13, 15 and 17, because some of the nutrients (e.g. DHA, EPA, Omega-3 and Amino acids) were not nutrients specified in Schedule 8 of the 2008 Amendment Regulation, such nutrient content claims should not have been made (see Note 16 to para. 3.3).

Note 3: For Products 12, 13, 14, 16 and 17, because some of the nutrients (e.g. EPA, DHA, amino acids, Omega-3 and silicon) did not have an NRV in Schedule 7 and were not specified in Schedule 8 of the 2008 Amendment Regulation, such nutrient function claims should not have been made (see Note 19 to para. 3.4).



3.13 For **laboratory testing**, as part of the independent tests conducted (see para. 2.9), Audit selected 20 food samples with nutrition claims for laboratory tests to verify the validity of the claims. Audit found that in 2 (10%) of the samples, the food products were suspected of not meeting the conditions for claims as specified in the 2008 Amendment Regulation (details of the results had been referred to the CFS for necessary follow-up action). More specifically, one product was suspected to have failed to meet the conditions for high fibre claim and the other was suspected to have failed to meet the conditions for low fat claim.

3.14 Audit examination of the CFS records further revealed that no information was kept on whether nutrition claims made on food products or in advertisements had been checked in the CFS compliance tests, and whether the food samples selected for chemical analysis contained nutrition claims. The keeping of such information is useful to the CFS in its management review of the adequacy of work performed on the checking of nutrition claims. The CFS needs to improve its record-keeping.

#### *Audit recommendations*

3.15 **Regarding the regulation of health claims on conventional foods (see paras. 3.6 to 3.9), Audit has recommended that the Secretary for Food and Health should, in collaboration with the Director of Food and Environmental Hygiene and the Director of Health:**

- (a) **critically consider whether the provisions in the PHMSO (or other relevant provisions) are adequate to regulate health claims on conventional foods, and assess whether there is a need to introduce appropriate law and regulations to regulate health claims on such foods, taking into account the conditions specified in the Codex guidelines;**
- (b) **put the major provisions of the UMA(A)O into operation as early as possible; and**
- (c) **set up an appropriate monitoring and sanction mechanism to regulate health claims on both conventional foods and orally consumed products.**

3.16 **Regarding the CFS's oversight of the trade's use of nutrition claims (see paras. 3.10 to 3.14), Audit has recommended that the Director of Food and Environmental Hygiene should:**

- (a) **step up the FEHD enforcement efforts on nutrition claims made on food labels and in advertisements, particularly those foods with misleading or exaggerated claims that may jeopardise public health;**

- (b) **follow up on the various suspected non-compliant cases on nutrition claims identified by Audit (see paras. 3.12 and 3.13); and**
- (c) **improve the CFS's record-keeping to ensure that proper audit trails are kept on nutrition claims found on food products or in advertisements that have been examined by the CFS.**

## **Response from the Administration**

### *Regulation of health claims on conventional foods*

3.17 The **Secretary for Food and Health** welcomes the audit recommendations in paragraph 3.15 and has said that the FHB will review the current legislation to see if any further improvements could be made. In collaboration with the **Director of Food and Environmental Hygiene** and the **Director of Health**, he has also said that:

- (a) the purpose of the UMAO is to prevent improper self-medication by the public or the delay of proper medical treatment. The aim of the UMA(A)O is therefore to specifically capture health claims for orally consumed products coming in dosage forms of pills, capsules, tablets, etc., as these are far more likely to be taken as “remedies” for diseases and conditions. It is not the Administration’s intention to regulate products which are customarily consumed only as food or drink, and those customarily consumed to satisfy a desire for taste, texture or flavour;
- (b) food products which cannot be classified as Chinese medicine under the Chinese Medicine Ordinance or western medicine under the Pharmacy and Poisons Ordinance are regulated under the PHMSO as general food products. The PHMSO and its relevant subsidiary legislation require manufacturers and sellers of food to ensure that their products are fit for human consumption and comply with the requirements in respect of food safety, food standards, and labelling;
- (c) in addition, the PHMSO makes it an offence for any person to use or to display a food label which falsely describes the food or is calculated to mislead as to its nature, substance or quality. The PHMSO also makes it an offence for any person to publish, or to be a party to the publication of, an advertisement which falsely describes any food. If any advertisements of food products are suspected to have violated the relevant requirements, the FEHD will make follow-up investigations. Prosecution will be considered for substantiated cases. Non-compliance with the above two provisions is subject to a maximum fine of \$50,000 and six-month imprisonment;

- (d) according to the Food and Drugs (Composition and Labelling) Regulations, all prepackaged food should bear labels which correctly list out the ingredients of the food. In addition, the 2008 Amendment Regulation, enacted in May 2008 and came into operation on 1 July 2010, introduces a mandatory nutrition labelling scheme for prepackaged food products. It regulates the nutrition labelling and claims of prepackaged food products, including the requirement that nutrient function claims on labels and in advertisements of prepackaged food must comply with the statutory requirements;
- (e) it can be seen that the PHMSO has safeguarded food safety in general and, in particular, has protected consumers from being misled by false labelling or advertisement. The Administration's efforts have been further enhanced with the commencement of the nutrition labelling scheme. The scheme enables consumers to make healthy food choices, encourages food manufacturers to provide food products that are conducive to public health and meet sound nutrition principles, and regulates misleading or deceptive nutrition information labels and claims; and
- (f) the UMA(A)O provides that health food products carrying medical claims but not registered under the Pharmacy and Poisons Ordinance or the Chinese Medicine Ordinance must carry an additional disclaimer indicating so. This provision can only be brought into operation after the Chinese Medicine Ordinance (which provides for the mandatory registration, packaging and labelling of proprietary Chinese medicine) has been fully implemented. This is being carried out in two phases — the first phase by 3 December 2010 and the second phase by 1 December 2011. The UMA(A)O will be brought into operation in the first half of 2012, after the completion of the second and final phase of the implementation of the Chinese Medicine Ordinance.

### *The CFS's oversight of the trade's use of nutrition claims*

3.18 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations in paragraph 3.16. He has said that the CFS will step up its enforcement efforts on nutrition claims and is following up on the suspected non-compliant cases.

## **PART 4: EXEMPTIONS FROM NUTRITION LABELLING**

4.1 This PART examines the administration of the small volume exemption (SVE) scheme. The following issues are addressed:

- (a) post-implementation review of the SVE scheme (paras. 4.8 and 4.9);
- (b) monitoring the sales volume of SVE products (paras. 4.10 to 4.17);
- (c) granting of SVE (paras. 4.18 to 4.21); and
- (d) submission of SVE applications (paras. 4.22 and 4.23).

### **Exemptions from nutrition labelling**

4.2 To facilitate the food trade and to minimise the impact on food choices, the 2008 Amendment Regulation has exempted certain types of prepackaged foods from the nutrition labelling requirements. These include:

- (a) prepackaged food where there is practical difficulty for the trade to provide the nutrition information (e.g. the food packed in a container which has a total surface area of less than 100 cm<sup>2</sup>);
- (b) food which does not contain any value of energy and core nutrients (e.g. distilled water);
- (c) food which is fresh or raw in nature without any addition of ingredient (e.g. raw meat, fresh fruits and vegetables); and
- (d) food which is sold in small volume and is exempted under the SVE scheme (see para. 4.3).

### **Small volume exemption scheme**

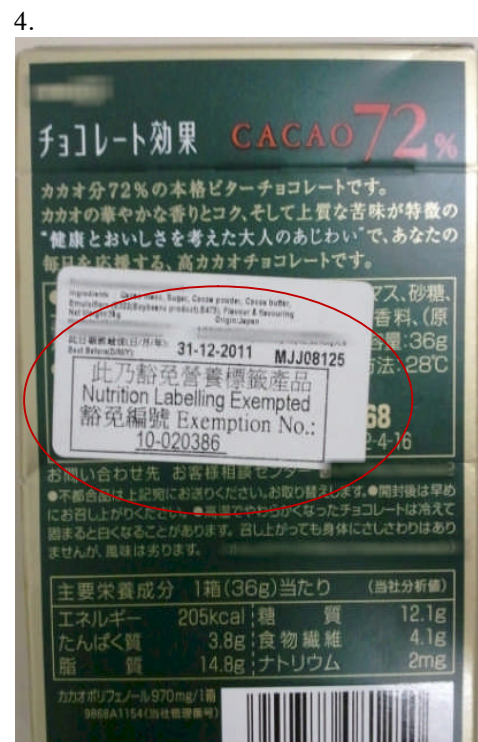
4.3 The 2008 Amendment Regulation provides for the introduction of the SVE scheme under which the FEHD may grant exemption in respect of any prepackaged food from the nutrition labelling requirements if it is satisfied that the annual sales volume of the food in Hong Kong would not exceed 30,000 units. According to the Administration, with SVE, many ethnic food, organic food, or niche food products that were mostly imported or manufactured in small volume would be exempted from the nutrition labelling requirements. Besides, the SVE could cater for the staging of food fair and trade promotion events that were held usually for market testing purpose.

4.4 Food traders (manufacturers or importers) may apply to the CFS for SVE of a prepackaged food product. Under the CFS, the SVE Office is responsible for processing SVE applications. The SVE Office is supervised by a Chief HI, who is assisted by two Senior HIs and six HIs.

4.5 The SVE granted to a food product has to be renewed annually. The CFS generally imposes conditions to be observed by food traders when SVE is granted or renewed. Such conditions include the requirements for the food trader to keep transaction records relating to the SVE product, to submit monthly sales volume to the CFS, and to ensure that no nutrition claim is made on the label. An SVE product is also required to bear an exemption label or sticker in the prescribed format (see Photographs 3 and 4).

### Photographs 3 and 4

#### Examples of exemption labels



Source: Audit's market survey

4.6 If a food trader has failed to comply with the SVE conditions imposed by the CFS or if the total sales volume of the exempted food product has exceeded 30,000 units, the CFS may revoke the exemption status. Once revoked, the product will not be eligible for seeking SVE within a period of two years.

4.7 Applications for SVE have commenced since 1 September 2009. Up to June 2011, there were 38,682 applications, of which 35,301 (91%) had been approved in principle (AIP)/formally approved (see para. 4.18). Some 2,000 applications were rejected mainly due to the presence of nutrition claims. The remainder were either withdrawn by the applicants or pending processing.

## **Audit observations and recommendations**

### *Post-implementation review of the SVE scheme*

4.8 The introduction of the SVE scheme is to facilitate the food trade and to minimise the impact on food choices brought about by the implementation of the nutrition labelling scheme. Based on the results of surveys conducted by a consultant commissioned by the Administration in 2009 and 2010, the nutrition labelling scheme had not brought much impact to the food trade and the availability of food products.

4.9 **The SVE scheme has been implemented for over one year. As at July 2011, some 26,000 food products had been formally granted with SVE. Given that Audit identified various problems in the implementation of the SVE scheme (see paras. 4.10 to 4.23), it may be opportune for the CFS to conduct a post-implementation review of the SVE scheme to evaluate its effectiveness and take measures to improve its operations.**

### *Monitoring the sales volumes of SVE products*

4.10 According to the conditions imposed by the CFS, food traders granted with SVE are required to:

- (a) keep transaction records relating to the SVE products for at least two years;
- (b) report monthly (within the first 10 days of the following month) to the CFS the sales volume of the SVE products; and
- (c) produce for inspection, upon request by the CFS, relevant records to support the sales volume so reported.

4.11 The CFS has set up a computer system which provides food traders an option of reporting on-line the monthly sales volume of their SVE products and to keep track of the cumulative figures. Once the cumulative sales volume has exceeded the level of 30,000 units a year, the CFS revokes the exemption granted.

4.12 *Need to enhance computer system.* The computer system has a function to alert the food trader when an SVE product's cumulative sales volume reaches 70% and 90% of the 30,000 level, or has exceeded the level. From mid-February to mid-April 2011, there were some 140 alert cases (involving some 100 SVE products). Audit examination of these 140 alert cases revealed that:

- (a) in 20 (14%) of the 140 cases, there was a delay of over 3 months by the food traders in reporting their monthly sales figures to the CFS. In one case, a missing record was detected after 10 months; and
- (b) due to the delay of the food traders in reporting their monthly sales figures, the CFS could not take timely action to revoke 8 of the 20 cases in (a) above, although the level of 30,000 units had been exceeded. The time lag ranged from 1 to 4 months.

4.13 In July 2011, the CFS informed Audit that:

- (a) the computer system had encountered a data uploading problem in the first few months of implementing the SVE scheme. This affected the efficiency of the monthly on-line reporting function. The problem was fixed in late 2010;
- (b) the computer system could not produce exception reports to identify food traders who had failed to report sales figures of their SVE products timely. As a result, the CFS had to conduct manual checking to identify such food traders for follow-up action; and
- (c) some food traders lacked the necessary manpower and expertise to report the sales figures on-line and on time. The CFS had to urge or remind them many times by telephone or e-mails before they reported the figures.

4.14 *Need to verify reported sales volumes.* The CFS mainly relied on the sales volumes reported by the food traders in ascertaining whether the cumulative figure exceeded the limit of 30,000 units. Although the CFS could request the food traders to produce sales records for inspection (see para. 4.10(c)), up to July 2011, it had not conducted any checking to verify the accuracy of the reported figures.

4.15 **Given that timely and accurate reporting of monthly sales volumes by food traders is crucial to the effective operation of the SVE scheme, Audit considers that the CFS needs to take actions to improve its regulatory control over the scheme.** Such actions may include ensuring the timely reporting of sales volumes by the food traders, enhancing the computer system, and considering the conduct of test checks of food traders' sales records to verify the accuracy of the reported sales volumes.

4.16 ***Limitation on monitoring sales volumes due to data constraint.*** According to the 2008 Amendment Regulation, the SVE scheme is to exempt a food product with annual local sales volume (at the manufacturer/importer level) not exceeding 30,000 units. In other words, when there is more than one food trader (e.g. more than one importer) marketing the same food product, the sales volumes of the product made by all food traders should be included when considering the overall sales volume of 30,000 units.

4.17 Audit however noted that, owing to data constraint, the CFS could only monitor the sales volumes of an SVE product made by food traders who were granted exemption for the product, but not the sales volumes of the same product made by other food traders who had not applied for SVE. That is, the CFS could not ascertain the overall sales volume of the product. **Audit considers that the CFS needs to explore ways to help it monitor the overall sales volumes of SVE products, taking into account the enhanced regulatory controls introduced by the Food Safety Ordinance (Cap. 612) which may help it monitor the sales volumes of SVE products more effectively (Note 29).**

#### ***Granting of SVE***

4.18 If an application for SVE is in order, the CFS issues to the food trader an AIP letter, together with an exemption number, the validity period of exemption, and SVE conditions imposed (see para. 4.5). A formal approval letter is issued upon payment of the exemption fee of \$345.

4.19 To allow sufficient time for the food trader to pay the exemption fee, the CFS usually issues the AIP letter 14 days or more before the exemption is effective. Upon receiving the exemption fee, the CFS pledges to issue a formal approval letter within 7 working days.

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**Note 29:** *The Food Safety Ordinance came into operation in August 2011. It aims at strengthening legislative control on food safety and provides, among others, that all food traders should keep proper food transaction records and the FEHD has the power to inspect such records.*



4.20 As at end of April 2011, there were 1,358 applications with AIP status (cases with AIP obtained, but exemption fees not yet paid). One month thereafter (as at end of May 2011), Audit noted the following:

- (a) ***Delay in payment of exemption fees.*** There was little progress in payment of the exemption fees, although most of the exemptions had already been effective. As at 24 May 2011, 74% of 1,358 applications (i.e. 1,005 cases) were still in AIP status (with their exemption fees still unpaid). There was no evidence that the CFS had taken appropriate follow-up actions on these AIP cases such as issuing reminders. Of the 332 cases which had been issued with formal approval letters, 291 (88%) had their exemption fees paid only after the exemption became effective; and
- (b) ***CFS's delay in issuing formal approval letters.*** In 194 (58%) of the 332 cases in (a) above, the formal approval letters were issued more than 7 working days after receiving the exemption fees, with the longest case taking over 70 working days.

4.21 Given that an exemption number is allocated to an SVE product once AIP has been granted, there is a risk that a product bearing an exemption label can be put on the market, yet without obtaining the CFS's formal approval. Audit conducted a market survey and confirmed that such a risk did exist. On 28 April 2011, Audit visited a number of food retail outlets in Tsim Sha Tsui and was successful in buying 10 products with only AIP status from three different retail outlets. Of these 10 products, 7 had their exemption fees subsequently paid in May 2011, whereas 3 paid only in July 2011. **Audit considers that the CFS needs to plug this loophole as early as possible.**

#### ***Submission of SVE applications***

4.22 ***Food labels in a language other than Chinese or English.*** Many SVE products relate to ethnic foods imported for testing the Hong Kong market. In applying for SVE, food traders may have submitted food labels written in languages other than Chinese and English (e.g. Japanese or Korean). As the CFS has to satisfy that the products do not carry any nutrition claims before granting exemption, its staff may sometimes find it difficult to vet the labels. **Audit considers that the CFS needs to explore ways to help its staff vet the SVE applications properly.** Such ways may include approaching the relevant food traders for support in language translation, seeking advice (if appropriate) from the consulates of the countries concerned, and exploring the feasibility of setting up within the SVE Office a glossary of essential nutrients and nutrition claims in languages other than Chinese or English.

4.23 ***Withdrawals after AIP stage.*** The 2008 Amendment Regulation provides that a food trader has to pay an exemption fee of \$345 upon approval of an SVE application (or \$335 for renewal). From September 2009 to June 2011, the CFS gave AIP to 35,301 cases. However, in 8,428 (24%) of these 35,301 AIP cases, the food traders had withdrawn their SVE applications. No exemption or other fees were required to be paid for these 8,428 cases. As a result, much of the CFS's work in processing the SVE applications became abortive, involving unrecoverable costs of some \$2.9 million ( $\$345 \times 8,428$  cases). **Audit considers that the CFS may need to explore ways to address the problem of too frequent withdrawals of SVE applications.**

***Audit recommendations***

4.24 **Audit has recommended that the Director of Food and Environmental Hygiene should:**

***Post-implementation review of the SVE scheme***

- (a) **conduct a post-implementation review of the SVE scheme to evaluate its effectiveness and to take measures to improve its operations, taking into account the audit observations and recommendations in this audit review;**

***Monitoring the sales volumes of SVE products***

- (b) **take actions to improve the CFS's regulatory control over the SVE scheme, such as ensuring the timely reporting of sales volumes by food traders, enhancing the computer system for monitoring the sales volumes of SVE products, and considering the conduct of test checks of food traders' sales records to verify the accuracy of the reported sales volumes;**
- (c) **explore ways to help the CFS monitor the overall sales volumes of SVE products, taking into account the enhanced regulatory controls introduced by the Food Safety Ordinance;**

***Granting of SVE***

- (d) **follow up on those AIP cases with overdue exemption fees;**
- (e) **ensure that formal SVE approval letters are issued within 7 working days after receiving exemption fees, as pledged;**
- (f) **take measures to plug the loophole that food products with only AIP status (i.e. without obtaining the CFS's formal approval) are put on the market;**

*Submission of SVE applications*

- (g) explore ways to help CFS staff vet food labels written in languages other than Chinese and English; and
- (h) explore ways to address the problem of too frequent withdrawals of SVE applications.

**Response from the Administration**

4.25 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that:

- (a) when the 2008 Amendment Regulation was passed, the CFS undertook to review the SVE scheme one year after its implementation. The review is already underway and the CFS will take into account the audit observations and recommendations;
- (b) noting that the CFS does not have a comprehensive and up-to-date database of all prepackaged food products sold and their retail locations in Hong Kong, it would not be practicable for the CFS to monitor the sales volume of an SVE product and the sales volumes of the same product made by other food traders who had not applied for SVE. Nevertheless, the CFS will continue to explore ways to monitor the overall sales volume of SVE products. If it has come to the CFS's notice that the same product with nutrition labels is being sold in the market and the total annual sales volume has exceeded 30,000 units, the CFS will not renew the exemption of that product;
- (c) the CFS will remind the trade that all claims, irrespective of the language being used, would be regulated, and the trade should exercise due diligence to ascertain that all information provided on the package, including the ingredients, nutrient content and claims is accurate. The CFS will explore ways to further support its staff to scrutinise food labels written in languages other than Chinese and English; and
- (d) to avoid possible abuse, with effect from November 2011, the CFS will only issue the SVE number to grantees that have already paid the exemption fees. The CFS will consider the practicability of introducing an application fee in the present review to address the problem of frequent withdrawals. However, this may entail amendment to the legislation.

## **PART 5: SURVEILLANCE AND ENFORCEMENT WORK**

5.1 This PART examines the surveillance and enforcement work of the CFS. The following issues are covered:

- (a) conduct of routine inspections (paras. 5.5 to 5.12);
- (b) conduct of blitz operations (paras. 5.13 to 5.16);
- (c) follow-up on irregularities and prosecution cases (paras. 5.17 to 5.21); and
- (d) food recalls and alerts (paras. 5.22 and 5.23).

### **Surveillance and enforcement activities**

5.2 The Food Labelling Unit of the CFS is responsible for enforcing the food labelling requirements. As part of its routine surveillance, the Food Labelling Unit conducts routine inspections and weekly blitz operations to check the trade's compliance with the food labelling requirements. The Unit is headed by a Chief HI, who is assisted by two Senior HIs and 10 HIs.

5.3 The CFS's major enforcement activities in the past two years are shown in Table 8.

**Table 8**  
**Enforcement of food labelling**  
**(2010 to June 2011)**

Enforcement activities	2010 (Number)		2011 (up to 30 June) (Number)	
<b>(a) Retail outlets inspected</b>	3,177		1,462	
<b>(b) Food labels checked</b>	55,100 (including 13,731 nutrition labels)		20,387 (including 2,599 nutrition labels)	
<b>(c) Enforcement actions:</b>	General food labelling	Nutrition labelling	General food labelling	Nutrition labelling
— <b>Warning letters issued</b>	66	18	19	11
— <b>Advisory/enquiry letters issued</b>	12	97	0	23
— <b>Prosecutions</b>	47	0	7	0
— <b>Convictions</b>	47	0	0	0

Source: CFS records

5.4 The CFS has issued guidelines to assist its staff to enforce the food labelling requirements. It would institute prosecutions or issue warning/advisory/enquiry letters under the following circumstances:

- (a) **General food labelling.** The CFS would institute prosecutions in the case of more serious breaches such as absence of essential label information (e.g. food name, list of ingredients, durability indication, and manufacturer's/packer's name and address), improper language used, and sale of expired food. It would issue warning letters (Note 30) in the case of non-serious breaches such as inappropriate food name, ingredients not properly listed,

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**Note 30:** *In the warning letters, the traders concerned would be asked to rectify the irregularities within specified periods of time (normally not more than 4 weeks). If the warning letters were not complied with, the CFS would institute prosecution action.*

incomplete manufacturer's/packer's name and address, and no indication of special storage condition or instructions for use. The CFS would issue advisory letters when the durability indication was not in the prescribed format; and

- (b) *Nutrition labelling.* In the first year of implementing the nutrition labelling scheme, when irregularities (e.g. incomplete nutrition label and discrepancy between the declared nutrient content and analysis result) were identified, the CFS would first issue an enquiry letter to the food trader requiring him to give an explanation within 21 days. If the explanation given was found to be unsatisfactory, a warning letter would be issued to the trader who would be required to comply with the requirements within 60 days. If the trader failed to do so, the CFS would initiate prosecution. With effect from July 2011 (one year after the implementation of the scheme), the CFS has tightened up its enforcement action. For irregularities detected from visual checking, the CFS would no longer issue enquiry letters to the traders concerned. Instead, it would issue warning letters to the traders requiring remedial action within 60 days. If the traders fail to do so, the CFS would initiate prosecution. For irregularities detected from chemical analysis or concerning suspicious cases on nutrition claims, the CFS would continue to issue enquiry letters to allow the traders to explain within 21 days. If the explanations are not acceptable, the CFS would issue warning letters requesting the traders to rectify the irregularities within 39 days. If they remain unrectified, the CFS would initiate prosecution.

## **Audit observations and recommendations**

### *Conduct of routine inspections*

5.5 Routine inspections aim at checking food labels to ensure their compliance with the general food labelling and the nutrition labelling requirements. In September 2010, the ICAC completed an assignment report on the CFS's enforcement of food labelling requirements (see para. 2.5(d)). In the report, the ICAC commented that the CFS's strategy and inspection procedures were "fraught with loopholes for manipulation (e.g. cover-up of non-compliance)" and had fallen short of an effective enforcement mechanism. In particular, the ICAC pointed out that:

- (a) instead of a risk-based approach, the front-line HIs checked all retail outlets within the scheduled districts (i.e. both high-risk and low-risk targets were subject to the same level of inspection). This might result in a mismatch of inspection resources to low-risk targets. Moreover, in the absence of a database on the inspection targets, the Senior HIs or HIs could not ascertain the number of potential targets for inspection in an area, thus resulting in omission of some outlets from inspection and giving rise to allegation of selective enforcement; and

- (b) HIs were allowed to draw up their own schedules for routine inspections and select the inspection targets, without any monitoring by Senior HIs. Inspections were conducted by an HI alone, who could exercise discretion to determine whether the breaches detected were “incidental” or substantial enough to trigger enforcement actions.

The ICAC recommended in its assignment report that the CFS should revamp its inspection strategy with a view to maximising the utilisation of the inspection resources, including the adoption of a risk-based inspection approach, and should develop a database of retail outlets for risk profiling and identification of inspection targets.

5.6 ***CFS’s improvement efforts made.*** In this review, Audit noted that the CFS had made efforts to improve its enforcement work. HIs conducted routine label checking on the food categories they were assigned in their respective areas (Note 31). As part of the revamped inspection strategy, starting from January 2011, HIs had to prepare a bi-weekly action plan (which included the date and location for label checking and sampling) for endorsement by the Senior HIs before implementation. They also reported monthly to the Senior HIs the routine inspection work that was completed. The monthly reports showed details of the names/addresses of the retail outlets inspected, the outlets’ risk type (see para. 5.7), food items checked, irregularities found, and action taken.

5.7 In January 2011, the CFS also started to develop a database of retail outlets which were classified as high, medium and low risk taking into account the outlet management, scale of the business, type of food sold, and their track records. The CFS informed the ICAC in March 2011 that based on the risk profiling, HIs were required to inspect about 50%, 30% and 20% of food labels from high, medium and low risk outlets respectively. The results of inspections were reflected in the monthly routine inspection reports (see para. 5.6).

5.8 ***Audit observations.*** Audit noted the CFS’s improvement efforts made, but would like to urge it to sustain its momentum. To assess the effectiveness of the improvements made, Audit examined the HIs’ routine inspection reports for March 2011. In that month, the HIs had inspected 220 retail outlets and checked 2,382 food labels. Analyses of the 2,382 food labels by types and by risk rankings of retail outlets inspected are shown in Tables 9 and 10 respectively.

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**Note 31:** *The whole territory/world is divided into 10 major areas/global regions. Each of the 10 HIs in the Food Labelling Unit is responsible for one major area/food items imported from certain countries. Each HI is assigned monthly with a specific food category (rotated among 10 major categories) for label checking.*

Table 9

## Analysis of 2,382 food labels by types of retail outlets

Type of retail outlet	Food outlets inspected (Number and percentage)	Food labels checked (Number and percentage)
Supermarket	102 (46.3%)	1,746 (73.3%)
Department store	33 (15%)	176 (7.4%)
Bakery shop	15 (6.8%)	88 (3.7%)
Health shop	10 (4.6%)	82 (3.4%)
Snack shop	15 (6.8%)	66 (2.8%)
Grocery	10 (4.6%)	64 (2.7%)
Convenience store	13 (5.9%)	62 (2.6%)
Fresh provision shop	5 (2.3%)	55 (2.3%)
Medicinal shop	4 (1.8%)	22 (0.9%)
Ethnic shop	6 (2.7%)	7 (0.3%)
Others	7 (3.2%)	14 (0.6%)
<b>Total</b>	<b>220 (100%)</b>	<b>2,382 (100%)</b>

Source: CFS records

Table 10

## Analysis of 2,382 food labels by CFS risk rankings of retail outlets

Retail outlets	Food labels checked (Number)	Percentage
High risk	1,093	46%
Medium risk	376	16%
Low risk	913	38%
<b>Total</b>	<b>2,382</b>	<b>100%</b>

Source: CFS records



5.9 Table 9 shows that 73.3% (1,746 of 2,382) of the food labels checked were still chosen from large chain supermarkets. According to the CFS's records, supermarkets generally had lower risk of non-compliance than other types of retail outlets (such as ethnic shops, snack shops and health shops). The high concentration of checking food labels selected from supermarkets would reduce the inspection resources deployed to check other higher risk targets.

5.10 Table 10 further shows that 46%, 16% and 38% of food labels were chosen from high, medium and low risk outlets respectively. The ratio was still at variance with the CFS target ratio of 50%, 30% and 20% as mentioned in paragraph 5.7.

5.11 **Audit considers that the CFS needs to take measures to ensure that the HIs have properly adopted a risk-based approach in conducting routine inspections and would avoid focusing their inspection targets on a particular type of retail outlets (i.e. supermarkets).** As mentioned in paragraph 2.5(c), HIs were not required to document their justifications for the food products they selected from the market for chemical analysis. Given this, coupled with the fact that the nutrients the HIs chose for chemical analysis were based on the CFS's sampling plan agreed with the GL, there was inadequate assurance that the food products and the nutrients selected for chemical analysis were properly chosen on a risk basis. These are issues that the CFS needs to address in improving its compliance tests (see para. 2.12(a)).

5.12 The CFS started to develop a database of retail outlets inspected only in January 2011 (see para. 5.7). By the end of May 2011, the CFS had set up a database of some 1,500 retail outlets inspected. The database was however not yet complete. **There is a need for the CFS to expedite action to complete an inspection cycle of all retail outlets in each area and set up a comprehensive database as early as possible. The CFS also needs to verify the completeness of the database from time to time and update it as and when necessary.**

#### *Conduct of blitz operations*

5.13 Weekly blitz operations were aimed at quickly scrutinising as many food products as possible and uncovering serious and obvious irregularities which might warrant immediate prosecution action (e.g. sale of expired food or absence of a label). Blitz operations were pre-arranged by Senior HIs and endorsed by the Chief HI. For blitz operations, the whole territory was divided into 19 districts and one district would be selected for each operation. All HIs took part in a blitz operation and performed label checking duty in pairs. The HIs were only informed of the location and target areas (usually covering two shopping centres and two streets) in the morning of the operation. All retail outlets selling prepackaged foods within the operational area would be covered. The CFS aimed to complete one cycle of operations covering all 19 districts in about five to six months.

5.14 Audit examined the blitz operation reports completed by HIs for March 2011. In that month, the HIs conducted blitz operations in four target areas (i.e. Mongkok, Sai Kung, Wan Chai and North Point) covering 9 streets and 9 shopping centres. The HIs checked a total of 1,290 food labels in 75 retail outlets during the operations.

5.15 Of the 75 retail outlets inspected, 61 were located in the 9 targeted shopping centres and 14 along the 9 targeted streets. Audit noted that there were not more than 3 outlets along each of the 9 streets selected for inspection (with no retail outlets along 2 streets). **As retail outlets on the streets generally have a higher risk of non-compliance (see paras. 2.7 and 2.25), the CFS needs to plan for inspecting more retail outlets along the streets in each blitz operation.**

5.16 Audit staff attended as observers in a blitz operation conducted in June 2011. Audit noted that there were inadequacies in the operation (see Appendix C).

#### *Follow-up on irregularities and prosecution cases*

5.17 As mentioned in paragraph 5.4(a) and (b), the CFS would issue warning/enquiry letters to food traders in respect of various breaches or irregularities on food labelling. Such warning/enquiry letters were issued mainly to the retailers requiring them to rectify the irregularities within a specified period of time or to give an explanation within 21 days. If the names and addresses of the local distributors or manufacturers of the affected food products were known, the CFS would also issue a copy of the warning/enquiry letters to them drawing their attention to the irregularities.

5.18 Upon expiry of the warning/enquiry letters, HIs would visit the retail outlets concerned to check whether the irregularities had been rectified. If the non-compliance persisted, they would take necessary follow-up action (e.g. initiate prosecution). If the irregularities had been rectified (e.g. the food label was revised), a photograph of the revised food label would be taken for record and the case was to be closed. If the food item was no longer displayed for sale, three further inspections would be conducted before the case was closed.

5.19 **Audit observations.** Audit noted that many food products with irregularities were only provided with the names and addresses of foreign distributors or manufacturers (including those in the Mainland). In such cases, the CFS would not send a copy of the warning/enquiry letters to them, nor would it enquire them about the food distribution in Hong Kong. As such, it might be possible that food products with the same irregularities

had been imported for sale in retail outlets other than the one inspected by the HIs (Note 32). In such cases, the HIs' follow-up procedures in paragraphs 5.17 and 5.18 could hardly reach out to these other retail outlets. **Therefore, the CFS needs to keep such non-compliant food products under constant surveillance during its routine inspections.** The commencement of the operation of the Food Safety Ordinance since August 2011 (see Note 29 to para. 4.17) may help the CFS trace the distribution of such non-compliant food products.

5.20 For the 18 months ended June 2011, the CFS had instituted prosecution for 54 cases involving more serious breaches of general food labelling requirements (see para. 5.4). According to the CFS guidelines, HIs are required to take subsequent follow-up actions to ensure that the non-compliance does not persist.

5.21 Although the CFS guidelines provide that HIs are required to take subsequent follow-up actions, the guidelines contain no provisions on details of such actions required to be taken, such as the timeframe and frequency of follow-up inspections and the need for documentation of the inspection results. A scrutiny of the completed prosecution cases showed that in some of the case files, there was no record of follow-up inspections conducted.

### ***Food recalls and alerts***

5.22 As part of the CFS's food surveillance programme (Note 33) to ensure food safety, HIs regularly take samples of prepackaged foods at retail outlets for testing of the presence of food additives and allergens. For the 18 months ended June 2011, the CFS sampled 1,709 and 167 prepackaged food products for testing of food additives and allergens respectively. The results were as follows:

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**Note 32:** *For example, in December 2010, following a complaint investigation, the CFS issued an enquiry letter to a retailer requiring him to explain why there was no nutrition label provided on a Chinese food product. In January 2011, the HI noted in her visit to the retailer that the irregularity had been rectified and the case was closed. In August 2011, Audit staff found the same food product with no nutrition label for sale in other retail outlets.*

**Note 33:** *Under the programme, the CFS regularly takes food samples at import, wholesale and retail levels for chemical and microbiological testing for the purpose of controlling and preventing food hazards. Chemical testing includes natural toxins, food additives and contaminants while microbiological testing covers both bacteria and viruses.*

- (a) ***1,709 samples for testing of food additives.*** 18 samples were found to have unsatisfactory results (e.g. presence of food additives which were not declared on the food labels). Among these 18 samples, 3 were found to contain unpermitted food additives or that the level of food additive had exceeded the legal standard. The CFS had requested the food traders to recall the 3 food products concerned and to properly dispose of the recalled products; and
- (b) ***167 samples for testing of allergens.*** One sample was found to contain traces of soyabean, the presence of which should be declared on the food label. The CFS had requested the food trader to recall the food product concerned and to properly dispose of the recalled products.

5.23 ***Audit observations.*** The presence of undeclared allergens and unpermitted/excessive food additives in food products might pose a health risk to consumers. Apart from requesting the food traders to recall the 4 products concerned (see para. 5.22(a) and (b)), the CFS had not issued public alerts to draw the public's attention to the food safety problems in these products. The public alert should include details of the product name and description, reasons for issuing alert, actions taken by the CFS, and advice to the trade and consumers. According to the CFS records, the quantities of recalled food products were sometimes very low (e.g. no product could be recalled in 1 of the 4 recall exercises in para. 5.22(a) and (b)).

#### ***Audit recommendations***

5.24 **Audit has recommended that the Director of Food and Environmental Hygiene should urge the CFS to:**

#### ***Conduct of routine inspections***

- (a) **take measures to ensure that the HIs have properly adopted a risk-based approach in conducting their routine inspections and would avoid focusing their inspection targets on just one particular type of retail outlets;**
- (b) **expedite action to complete an inspection cycle of all retail outlets in each geographical area and set up a comprehensive database as early as possible;**
- (c) **verify the completeness of the database from time to time and update it as and when necessary;**

*Conduct of blitz operations*

- (d) **improve the planning of the blitz operations so that more retail outlets along the streets will be covered in each operation;**
- (e) **remind the HIs to inspect all retail outlets (including wet market stalls and ethnic shops) in the target area during blitz operations as far as possible, and take follow-up action where appropriate;**

*Follow-up on irregularities and prosecution cases*

- (f) **improve the follow-up procedures by making use of a watch list of non-compliant food products identified and keeping them under constant surveillance during routine inspections;**
- (g) **provide the HIs with guidelines on follow-up actions required for prosecution cases, such as the timeframe and frequency of follow-up inspections and requirements for documenting the inspection results;**
- (h) **monitor the proper follow-up of the prosecution cases; and**

*Food recalls and alerts*

- (i) **issue public alerts to notify the public of the food safety problems of products which have been identified to contain undeclared allergens or unpermitted/excessive food additives.**

**Response from the Administration**

5.25 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that:

- (a) the CFS will continue to build up, improve and update its database to facilitate its inspection, surveillance, enforcement, risk management and public education work. While the CFS aims to inspect as many retail outlets as practicable and to develop its database over time, it would not be practicable to compile and periodically update a comprehensive database of all retail outlets covering the entire territory because of the number of outlets involved and the changing nature of the food trade;

- (b) likewise, the aim of blitz operations is to provide an intensive coverage of retail outlets in targeted geographical areas within a period of time. The CFS will supplement internal guidelines to require HIs to cover as many retail outlets as practicable and on details of follow-up actions to be taken to ensure that any non-compliance cases identified would not persist; and
  
- (c) at present, the CFS will take enforcement action and make immediate public announcements if test results show that food samples are detected with immediate health risks. For non-compliant samples which do not pose any immediate health risk to the public, they are collectively announced in the Food Safety Report published at the end of each month. The CFS will follow the same approach in respect of food products with undeclared allergens in future Food Safety Reports.

## **PART 6: PUBLICITY AND EDUCATION**

6.1 This PART examines the effectiveness of the publicity and education campaign launched by the CFS in implementing the nutrition labelling scheme.

### **Publicity and education campaign**

6.2 To reap the benefits of the nutrition labelling scheme, the CFS launched a three-year publicity and education campaign from June 2008 to June 2011 with a view to enhancing public awareness and understanding of the scheme, and motivating the public to build up a healthy diet. The campaign activities included group briefing sessions, roving exhibitions, health talks, mass media programmes, train-the-trainer workshops, and launching of a nutrition labelling promotion award scheme among 21 secondary schools.

6.3 In mid-2008, the CFS conducted a baseline survey of about 1,200 people (aged between 18 and 64) to assess their knowledge, attitude and practice regarding nutrition labelling. The major findings were as follows:

- (a) over 80% of the respondent agreed that nutrition labelling was important and helped promote a balance diet;
- (b) 55% of the respondents said that they “always”/“most times” read nutrition labels when they bought a food product for the first time, while 33% said “sometimes” or “not often” and 12% said “never”;
- (c) 45% of the respondents considered that the nutrition claims of prepackaged foods were truthful while 42% held an opposite view;
- (d) although the public had certain knowledge of nutrition information (e.g. high intake of sodium was associated with the development of hypertension), they paid less attention to trans fat and saturated fat; and
- (e) more should be done to enable people to understand nutrition information so that they knew how to calculate nutrition intake based on their own consumption.

6.4 The CFS planned to conduct another survey in the second half of 2011 to evaluate the changes in public knowledge, attitude and practice regarding nutrition labelling.

## Audit survey

6.5 In June and July 2011, Audit commissioned a local university (see para. 1.15) to conduct an independent survey to gauge the public's views on four major aspects of food labelling (i.e. general food labels, nutrition labelling scheme, nutrition claims and infant foods). The audit survey involved a face-to-face interview of 1,070 people from four categories of respondents. Systematic sampling method was used. Interviewers recruited samples in every 5th interval (see Table 11).

**Table 11**  
**Categories of respondents**

<b>Category</b>	<b>Criterion</b>	<b>Location for recruitment of samples</b>	<b>Sample size</b>
General population	Persons aged between 18 and 64	Any streets	594
Shopper	Persons visiting supermarkets or convenience stores	Near supermarkets or convenience stores	175
Student	Secondary school students	Any streets or near school areas (must wear school uniform)	175
Senior citizen	Persons aged 65 or above	Any streets	126
<b>Total</b>			<b>1,070</b>

Source: *Audit survey*

Remarks: *Face-to-face interviews were conducted during weekdays in 10 different districts, which were systematically chosen in every 2nd interval among the 18 districts in the three regions of Hong Kong (i.e. Hong Kong Island, Kowloon and the New Territories) according to their alphabetical order. Respondents were systematically recruited from every 5th interval of the people on any streets (or in areas near schools/supermarkets/convenience stores) in the 10 targeted districts.*

6.6 The respondents were asked about their awareness, knowledge and perception regarding food labels, nutrition labelling scheme, nutrition claims and infant foods. The audit survey questionnaire is at Appendix D.



## Audit observations and recommendations

6.7 The results of the audit survey are summarised below:

### *Reading of food label information*

- (a) when purchasing prepackaged foods, a higher proportion of respondents would read the following information on food labels: expiry date (57.9%); name of food (38.5%); brand (37.8%); and nutrition label (33.6%). The information that was not often read was nutrition claims (6.5%), storage instruction (10.1%), name and address of manufacturer or packer (12.4%), and count, weight or volume (16.5%);

### *Nutrition labelling scheme*

- (b) while more than 70% of the general population, shoppers and students had heard of the “1+7” nutrition labelling scheme, only 35.7% of the senior citizens had heard of it;
- (c) of the respondents who heard of the scheme, only 2.6% were able to name all the “1+7” items correctly. About one third of the respondents were unable to name even 1 of the 8 items;
- (d) 28.2% of the respondents indicated that they always read nutrition labels when they purchased prepackaged foods for the first time. However, 42.4% (especially senior citizens) expressed that they rarely or never read nutrition labels;
- (e) the main reasons quoted by the general population, shoppers and students for not always reading the nutrition labels were “no time” (30.3%), “nutrition was not their concerns” (24.3%), “font size too small” (16%) and “did not know how to read the labels” (11.9%). For senior citizens, the major reasons quoted were “font size too small” (33.3%), “did not know how to read the labels” (28.6%) and “illiterate” (26.7%);
- (f) for those respondents who indicated that they would read nutrition labels, 32.1% perceived that nutrition labels always helped them develop a healthy eating habit. 63.7% expressed that nutrition label was not always useful largely because they could not relate the nutrition information to daily intake and the information provided was difficult to understand;

### *Nutrition claims*

- (g) 67.5% of the respondents did not know that nutrition claims were regulated by law in Hong Kong. For those who knew that nutrition claims were regulated, only 1.4% of them were able to correctly identify that all of the following three claim statements are regulated: (i) “This product is rich in dietary fibre”; (ii) “Calcium aids in the development of strong bones and teeth”; and (iii) “This product has 50% less fat than regular potato chips”. Although the statement “less sweet” is not a claim regulated by law, it was chosen as the answer by 44% of the respondents;
- (h) 14.5% of the respondents believed that nutrition claims made on prepackaged foods were always truthful, while the rest (85.5%) did not think so. The main reasons, as quoted by respondents, for thinking that nutrition claims were not always truthful were: “Claims were exaggerated” (54.2%); “Inadequate control by the Government over claims” (44.5%) and “Claims were not supported by scientific evidence” (22.8%);

### *Infant foods*

- (i) the four major factors that were considered important by respondents when choosing formula milk and baby foods were brand (55.9%), manufacturing location (54.4%), nutrient content/claims (45.2%), and recommendation from health professionals (31.7%); and
- (j) 94.6% of the respondents considered that infant foods needed to be further regulated, notwithstanding the fact that the current regulation requires that all information provided on infant foods should be true and not misleading.

6.8 In June 2011, the CFS completed its three-year publicity and education campaign regarding the implementation of the nutrition labelling scheme (see para. 6.2). The effectiveness of the campaign in motivating the public to make use of nutrition labelling scheme to build up a healthy diet has yet to be seen.

6.9 According to the audit survey (see para. 6.7), although most respondents were aware of the nutrition labelling scheme, their understanding of the scheme was far from adequate. Only few respondents could name all the “1+7” items on nutrition labels, knew that nutrition claims are regulated, or identified correctly the nutrition claims (see para. 6.7(c) and (g)). Besides, most respondents had not yet developed a habit of reading nutrition labels when purchasing prepackaged foods. Over 40% of the respondents indicated that they rarely or never read nutrition labels (see para. 6.7(d)).

6.10 The audit survey revealed differences on the level of awareness, perception and attitude on nutrition labelling among the four categories of respondents, especially for senior citizens. Over 70% of the general population, shoppers and students had heard of the nutrition labelling scheme. However, only 35.7% of the senior citizens had heard of it (see para. 6.7(b)). About 40% of the general population, shoppers and students indicated that they never or rarely read nutrition labels when purchasing a food product. On the other hand, 69% of the senior citizens indicated that they never or rarely read nutrition labels. This suggests that different interventions and approaches are needed to promote the nutrition labelling scheme to different groups of the population.

6.11 The audit survey also revealed that the major obstacles hindering the use of nutrition labels included “font size too small”, “the nutrition information could not be related to daily intake” and “the information provided was difficult to understand”. The CFS needs to take appropriate measures to address the concerns of the respondents and improve the user-friendliness of the nutrition labels so to encourage the wider use of the labels. Such measures may include imposing a legibility requirement on nutrition labels (see paras. 2.14 to 2.20) and improving the presentation of the labels (such as expressing the nutrient contents in terms of % NRV).

#### *Audit recommendations*

6.12 **Audit has recommended that the Director of Food and Environmental Hygiene should:**

- (a) **step up the CFS’s publicity and education efforts to enhance public awareness and understanding of the nutrition labelling scheme (including nutrition claims) and motivate the public to build up a healthy diet;**
- (b) **conduct a review to ascertain whether the existing strategies and approaches in promoting the nutrition labelling scheme to different groups of the population (especially for senior citizens) are adequate, having regard to their specific needs and perception; and**
- (c) **take appropriate measures to address some of the public’s concerns as identified in the audit survey (see paras. 6.7 to 6.11), and improve the user-friendliness of the nutrition labels so as to popularise the use of the labels.**

## Response from the Administration

6.13 The **Director of Food and Environmental Hygiene** agrees with the audit recommendations. He has said that:

- (a) since July 2011, the CFS has started to implement a two-year enhancement publicity and education programme. The aim is to sustain the educational efforts of the three-year campaign (see para. 6.2) and to motivate behavioural changes by encouraging more people to use nutrition labels in choosing food suitable for them;
- (b) the CFS will review the existing strategies and approaches in promoting the nutrition labelling scheme to different groups of the population, making reference to the results of the post-campaign evaluation survey (to be conducted later this year) which will be compared against the pre-campaign survey conducted in 2008. The CFS also takes into account the results of different surveys and studies conducted by different organisations and stakeholders and notes that different survey methodologies, sampling and interview strategies and questionnaire designs would produce different results. The CFS will consider the findings of Audit's survey and continue to reach out to the general public through a wide variety of publicity and education activities and media channels, and strengthen collaboration with stakeholders as well as community partners for promoting the use of nutrition labels in different target groups, including senior citizens; and
- (c) the CFS seeks to improve the user-friendliness of the nutrition labels, and a set of guidelines has been issued to the trade in July 2011 to promote good practice.

### **Codex Alimentarius Commission**

1. Codex was created in 1963 by the Food and Agricultural Organization of the United Nations (FAO) and the World Health Organization (WHO) as an international authority to develop food standards, guidelines and related texts such as codes of practices under the Joint FAO/WHO Food Standards Programme. The main purposes of this Programme are to protect the health of consumers and to ensure fair trade practices in the food trade. At present, membership of Codex comprises about 180 countries, including China, the United States, the European Union and Australia.

2. Codex has gained international recognition on setting food-related standards. Codex standards are adopted in most cases by consensus and are based on the best scientific and technical knowledge. Codex is the only international forum bringing together scientists, technical experts, government regulators, as well as international consumer and industry organisations. According to Codex, its standards and guidelines are only voluntary and non-binding recommendations (i.e. not mandatory) and hence there is no control over their implementation. Nevertheless, many countries implement them because they see the benefits of complying with the Codex standards and guidelines for their consumers and their trade.

3. Codex adopted the guidelines on nutrition labelling (which were first issued in 1985). These guidelines require that when nutrition label is applied, it should include declarations of energy, protein, available carbohydrate and fat, plus any other nutrients which are considered to be relevant for maintaining a good nutritional status in the population concerned. In addition to core nutrients, the guidelines also require the declaration of the amount of any other nutrient for which a claim is made. According to these guidelines, nutrition labelling is voluntary when nutrition claims have not been made.

4. Codex adopted the guidelines for use of nutrition and health claims (which were first issued in 1997). These guidelines lay down the conditions under which the use of nutrition and health claims on food labels and in advertisements is permitted.

*Source: Audit research*

**Centre for Food Safety  
Organisation chart (extract)  
(1 September 2011)**



Source: FEHD records

**Blitz operation on 8 June 2011**

1. The CFS blitz operation was targeted at retail outlets in two shopping centres and along three streets of the Wong Tai Sin District. Three Internet shops (Note) were also covered in the operation.

2. Seven HIs were deployed in the operation. They visited 11 retail outlets and 3 Internet shops and checked about 230 food labels. In the operation, they found an irregularity (i.e. improper durability indication) in one food product sold by an Internet shop selling Taiwanese food. They informed the food trader of the irregularity and their intention to initiate prosecution, and advised him how to correct the product's label in order to comply with the legal requirements. The HIs also distributed leaflets to the trader about the food labelling requirements.

*Audit comments*

3. The blitz operation was intended to cover all retail outlets selling prepackaged foods in the target area. However, there was no shop along the three selected streets. **Audit also noted that a wet market and an ethnic shop (which were high-risk outlets) in the targeted shopping centre were not visited.**

4. **Regarding the Internet shop selling Taiwanese food in paragraph 2 above, besides the irregularity found in one food product, Audit also noted that many other products sold by the shop did not bear proper durability indication. Other irregularities (e.g. the nutrition labels did not include information on sugars) were also found. However, the trader had not been advised, on the spot, of the need to rectify them.**

5. On **11 July 2011**, the CFS conducted a follow-up visit to the Internet shop. Some food products were randomly checked and found in order.

6. On **5 August 2011**, Audit staff visited the Internet shop and noted that, with a few exceptions, the durability indication for most products had been properly shown on the food labels. However, there were still some products not carrying proper nutrition labels (i.e. information on sugars was not shown). Subsequent to Audit visit, the CFS re-inspected the Internet shop on **25 August 2011**. The CFS detected discrepancies in nutrition labels in two food products and issued warning letters to the trader.

7. On **25 August 2011**, the CFS also conducted follow-up inspections of the wet market and the ethnic shop (see para. 3 above), and two prosecutions were initiated.

*Source: CFS records*

*Note: The CFS conducted regular on-line surfing of Internet shops selling foods and inspected such shops according to the target list during the blitz operation.*

**Audit survey questionnaire on food labelling**

**Category of the interviewee:**

Gender (1) Male (2) Female

Which of the following category do you belong to?

- (1) General Population (age 18-64) (2) Shopper (*circle age group*)  
below 18 / 18-64 / 65 or above
- (3) Secondary School Students (4) Senior (age 65 or above)

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1. What items of information on food label do you **read** when purchasing prepackaged food (including drinks)? (***Do not read out the answers, multiple answers allowed***)

- (1) Name of the food (2) Expiry date  
(3) Ingredient list (4) Name and address of manufacturer or packer  
(5) Count, weight or volume (6) Storage instruction  
(7) Nutrition label (8) Nutrition claims  
(9) Brand (10) Others  
(11) Not sure (12) Don't read food label

2. The Government implemented the 1+7 nutrition labelling scheme in July 2010 which required that certain nutrition information should be stated on nutrition labels for prepackaged food. Have you heard about the scheme?

- (1) Yes (2) No.....Skip Q3

3. Could you name the items in the 1+7 nutrition information (e.g. nutrient) that are required by law to be provided on nutrition labels? (***Do not read out the answers, multiple answers allowed***)

- (1) Energy/Calorie (2) Protein (3) Carbohydrates  
(4) Total fat (5) Saturated fat (6) Trans fat  
(7) Sodium (8) Sugars (9) Others  
(10) Don't know

4. When you purchase a food product for the first time, how often do you read the nutrition label on the package?

- (1) Always/Most times.....Skip Q5  
(2) Sometimes  
(3) Rarely  
(4) Never.....Skip Q6



**Appendix D**  
(Cont'd)  
(para. 6.6 refers)

5. What is/are the reason(s) for not always reading the label? (*Multiple answers allowed*)
- (1) Do not know how to read the label
  - (2) Difficult to read because font size is too small
  - (3) Information provided is not useful
  - (4) Information provided is not reliable
  - (5) Nutrition is not my concern when choosing food
  - (6) No time
  - (7) Illiterate
  - (8) Others
6. Do you find the nutrition labels useful in helping you to develop a healthy eating habit?
- (1) Always/Most times.....Skip Q7
  - (2) Sometimes
  - (3) Rarely
  - (4) Never
  - (5) Don't know
7. Why do you think that the nutrition label is not always useful? (*Multiple answers allowed*)
- (1) Cannot relate the nutrition information to daily intake
  - (2) Information provided is difficult to understand
  - (3) Inadequate information is provided
  - (4) Information provided is not reliable
  - (5) Others
8. Do you know that nutrition claims (e.g. low salt) are regulated by law in Hong Kong?
- (1) Yes
  - (2) No.....Skip Q9
9. Do you know which of the following statement(s) is/are nutrition claim(s) regulated by law?  
***(Read out the answers, multiple answers allowed)***
- (1) This product is rich in dietary fibre
  - (2) Calcium aids in the development of strong bones and teeth
  - (3) Less sweet
  - (4) This product has 50% less fat than regular potato chips
  - (5) Don't know
10. Do you believe that nutrition claims currently made on prepackaged foods are trustworthy?
- (1) Always/most times.....Skip Q11
  - (2) Sometimes
  - (3) Rarely
  - (4) Never

11. Why do you think that the nutrition claims made on prepackaged foods are not always trustworthy? *(Multiple answers allowed)*
- (1) Claims are exaggerated
  - (2) Claims are not supported by scientific evidence
  - (3) Inadequate control by the Government over claims
  - (4) Others
12. Have you purchased formula milk or baby food for children under the age of 36 months before?
- (1) Yes. I am a mother.
  - (2) Yes. I am a father.
  - (3) Yes. I bought it for someone else (e.g. friends, relatives, etc.).
  - (4) Yes. Other situations.
  - (5) No. I have not purchased any before.
13. What factors do you think are important for choosing formula milk or baby food for children under the age of 36 months? *(Multiple answers are allowed)*
- (1) Brand
  - (2) Nutrient content/claims
  - (3) Manufacturing location
  - (4) Price
  - (5) Recommendation from friends
  - (6) Recommendation from health professionals
  - (7) Others
14. At present, infant food is not covered under the 1+7 nutrition labelling scheme (e.g. nutrition claims made on infant food are not controlled under the scheme). The current regulation only requires that all information provided on these food should be true and not misleading. Do you think the nutrition label and nutrition claims of infant food need to be regulated under the nutrition labelling scheme?
- (1) Yes
  - (2) No
  - (3) No Opinion

NOTE:

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- END -

### Acronyms and abbreviations

AIP	Approved in principle
Audit	Audit Commission
CFS	Centre for Food Safety
Codex	Codex Alimentarius Commission
DH	Department of Health
DHA	Docosahexaenoic acid
EPA	Eicosapentaenoic acid
FAO	Food and Agricultural Organization of the United Nations
FEHD	Food and Environmental Hygiene Department
FHB	Food and Health Bureau
GL	Government Laboratory
HIIs	Health Inspectors
ICAC	Independent Commission Against Corruption
LegCo	Legislative Council
NRVs	Nutrient Reference Values
PHMSO	Public Health and Municipal Services Ordinance
SVE	Small volume exemption
UMA(A)O	Undesirable Medical Advertisements (Amendment) Ordinance
UMAO	Undesirable Medical Advertisements Ordinance
WHO	World Health Organization