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HKG Reported Smooth Implementation of Nutrition Labeling

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Approved By:

Erich Kuss

Prepared By:

Caroline Yuen

Report Highlights:

The Hong Kong government (HKG) reported that the new nutrition labeling regulation for prepackaged goods has been smoothly implemented during its first year with an overall compliance rate of 99.3 percent. The small volume exemption (SVE) scheme has been highly utilized with over half of the processed food items available in the market having applied for the exemption. Clearly, the scheme has had a significant role in helping retail outlets continue to provide abundant product choices. However, due to its expensive fees and other factors, major market players have strengthened in-house testing as a long term strategy in coping with nutrition labeling rather than rely on the SVE. They are also determined to maintain product variety in order to remain competitive. Without the economies of scale and financial resources enjoyed by major players, medium to small players have found it more challenging to cope with the changes.

Summary

After a full year's implementation of the new nutrition labeling regulation, the Hong Kong government (HKG) reported that they had checked more than 16, 200 prepackaged food products and found an overall compliance rate of 99.3 percent. However, this figure only represented the number of food products providing the required nutritional format without reflecting the accuracy of nutrition information. The HKG also mentioned that the new regulation does not appear to have had any undue impact on consumer choices. Significant market players stated that intense market competition caused them to try to maintain food variety despite increased costs associated with the regulation. In addition, trade contacts commented that small to medium enterprises tended to be very careful in trying new products while some mom and pop shops have simply ignored the new regulation.

Background

Hong Kong's first ever nutrition labeling regulation became effective July 1, 2010. Hong Kong nutrition labeling regulation requires all prepackaged food sold in Hong Kong have to label energy plus seven nutrients namely, protein, carbohydrate, fat, saturated fat, trans fat, sodium and sugars. Products selling less than 30,000 units a year can apply for small volume exemption (SVE) provided that the products do not carry any nutrition claims. Traders applying for exemption have to pay HK\$345 (US\$44) per product variety for the first year and HK\$335 (US\$43) for annual renewal.

During the legislation of the nutrition labeling regulation, there were many concerns of the regulation's possible impact on trade and consumers. Given that Hong Kong is a small market for individual products, overseas manufacturers are unlikely to prepare products with a special label for Hong Kong. Thus, the biggest concern of the regulation was the reduction of food choices.

Another concern was the fact that products having nutrition claims are not eligible for SVE and that SVE fee is too costly for the trade. There was prevailing view that the new regulation would raise costs which would ultimately be passed to consumers.

HKG's Review of the Nutrition Labeling Regulation

Compliance Rate

The HKG reported that the first year of implementation of its first ever nutrition labeling passed smoothly. The Center for Food Safety (CFS) had checked about 16,200 food products to see if the products carried the required nutrition format and found a compliance rate of 99.3 percent. This high compliance rate, however, did not reflect the accuracy of the nutrition information. Some sources indicated that the CFS had tested the nutrition content of about 250 products and discrepancy rate of 13 percent existed between government test results and label information.

Food Choices

As a preliminary review, the CFS reported that the new regulation does not appear to have any

“undue impact on consumer choices”. To better assess the impact, the CFS has also commissioned an independent consultant to find out the quantity of different types of prepackaged food products available in various retail outlets before and after the commencement of the regulation on 1 July 2010. The survey will be completed by the end of 2011.

Small Volume Exemption

According to government statistics, the industry has heavily utilized the SVE program. In the past year, there were over 38,000 SVE applications, of which about 35,000 have been approved with 2000 rejected, mostly due to the presence of nutrition claims which make the products ineligible to apply for SVE. (There were also 27 overseas applications. The CFS advised the applicants to have the applications submitted through their local importers.) It was reported that Japanese products accounted for the largest share of SVE applications (47%), followed by the U.S. (10%) and U.K. (9%).

Enforcement

To allow the trade to cope with the new nutrition labeling, the CFS has adopted a lenient approach in the first year by not prosecuting any traders violating the law. Also, in cases of violations, the CFS had provided the trade with 21 days to render an explanation. Only when the explanation was not accepted by the CFS would a warning letter be issued requiring actions to comply with the regulation within 60 days. Traders have been cooperative. They have either withdrawn the product concerned from the shelf or rectify the nutrition label in order to comply with the statutory requirements of the regulation.

With the lapsing of the first implementation year, the CFS would no longer provide the trade with the 21 days to explain any detected violations of the nutrition labeling requirements. Instead, the CFS would issue a warning letter requiring remedial actions within 60 days.

The Response of the Trade to the New Regulation

The trade has spent enormous resources to cope with the new nutrition labeling. In cases where importers could not obtain nutrition information from overseas manufactures, very often importers would apply for SVE provided that sales volume did not exceed 30,000 units a year. Thus, the SVE has had a significant contributing role in maintaining product variety. Agents of big brands very often could obtain nutrition information from their overseas principals. In this way, agents are able to comply with the regulation with a sticker nutrition label without having the products tested in Hong Kong. On the other hand, many low volume products have to be tested in Hong Kong to get the nutrition information because their suppliers did not provide such information to their Hong Kong importers and they carry nutrition claims making them ineligible for SVE. Importation of high-volume food products is easier because their sales volume could make a Hong Kong-specific label economically viable.

On the whole, there are around 70,000 stock-keeping-units (SKUs) of pre-packaged foods in Hong Kong. Over half have utilized SVE. It was estimated that about 30 percent of the processed products have a sticker nutrition label and the remaining 20 percent of SKUs carry a packaging

which is in full compliance with Hong Kong's labeling requirements. Also, there are still some mom-and-pop shops that ignore the new regulation. They are prepared to remove the products from the shelves once any of their products are found violating the regulation.

In general, there exists a 20/80 percent ratio in the market, which means that 20 percent of the food types account for 80 percent of the volume consumed in Hong Kong and the remaining 80 percent of food types only account for 20 percent of the food volume consumed. The SVE has been an effective measure in keeping the variety of food choices in Hong Kong since over half of the products have successfully applied for the SVE. (Out of the 35,000 plus SVEs, only 40 items exceeded the sales volume of 30,000 units last year. Consequently, their SVE status was nullified and these products are required to put on a Hong Kong nutrition label.) The SVE program allows these small volume sales products to remain in the market. Otherwise, many of them would not have been able to stay because of expensive costs incurred by the testing and labeling required.

The large amount of SVE speaks of the fact that the trade finds SVE more viable than testing the food and putting on a new label. However, the US\$43 annual fee per SKU could be prohibitive. Given that the FEHD earned over US\$1.6 million application fees for the SVE program for the first year, there have been voices to ask for the reduction of SVE fees. The CFS has agreed to review the scheme and explore to see if they could lower the fees.

It appears that big supermarket chains could not wait for the outcome of government's reviewing the fees. In order to maintain product variety and remain competitive, they have preferred to take a long term strategy of building their own in-house testing laboratories which could test all the required nutrients. There are several noticeable advantages. First, the in-house testing is more economical than those performed by other commercial laboratories, which charge around HK\$3,000 (US\$386) per sample. Second, they tend to do away SVE not only because the current fees are very high but because the exemption labels are not necessarily appealing to customers. Third, they need to maintain product varieties to remain competitive, particularly given that the market trend is to have health foods which inevitably carry nutritional claims; but nutritional claims make products ineligible to apply for SVE. Thus the SVE is not a viable option. Neither would the overseas manufacturers care to provide a Hong Kong specific packaging due to small sales volume. Thus some retailers concluded that they could remain competitive by testing products in house and do the label sticking in Hong Kong.

While the big market players could lower the cost by strengthening their in-house testing capacity and making use of economies of scale, this strategy inevitably reinforces their competitiveness and makes other small and medium sized retailers increasingly disadvantaged. Consequently, they tend to be more prudent in introducing new products as the trial costs would be relatively higher than their competitors.

With regard to the impact of the nutrition labeling on seasonal foods, retailers continue to bring in seasonal foods because they have to maintain market share and image. While they have complimented the cooperative attitude of the CFS, with SVE approvals have been processed promptly, the entire import process has been advanced to three months' time so as to allow sufficient time for SVE application and processing of exemption labels.

Industry contacts concluded that the most significant impact of the nutrition labeling regulation for big players was on cost and not on reduction of food items. For small and medium players, due to the lack of economies of scale, they reluctantly reduced those product lines when rising costs could not meet the estimated profits.