

Introduction

Nutrition and health claims¹ have been widely used in various food products, including formula products (i.e. infant formula and follow-up formula) and prepackaged foods for infants and young children (“IYC foods”). Consuming food based on dubious nutrition or health claims made about them may have adverse impact on the consumer’s health.

For infants and young children, nutrition is particularly essential for their growth and health. With the superiority of breastfeeding being widely recognised, it is of paramount importance to prevent practices which would discourage breastfeeding, and to provide parents with accurate and appropriate information on formula products and IYC foods to facilitate informed choice, thereby ensuring that their children get the necessary nutrition for healthy growth.

Proposed Regulatory Framework

The Government proposes to establish a regulatory framework to enhance the regulation of nutrition and health claims on formula products and IYC foods. The purposes of proposed regulatory framework are —

- (a) to better protect the health of infants and young children under the age of 36 months; and

- (b) to facilitate effective regulatory control over nutrition and health claims on formula products and IYC foods.

Overarching Principles

The Government has come up with the following five overarching principles which govern the scope of the regulatory framework —

1. Nutrition claims (i.e. nutrient content claims and nutrient comparative claims) should be prohibited in infant formula;
2. Reduction of disease risk claims should be prohibited in infant formula, follow-up formula and IYC foods;
3. Nutrition claims and nutrient function claims should be permitted in IYC foods;
4. Nutrients or constituents permitted to be subjects of claims should be of high importance to the health of infants and young children; and
5. Nutrition and health claims should meet specific content conditions and health claims must be scientifically substantiated and have undergone credible evaluation process

Different Regulatory Options

Overarching principles 1 to 3, if accepted, would set the boundary for the regulatory framework. Within this boundary, the regulatory options for the below product-claim combinations are open for discussion —

- (a) Nutrient function claim on infant formula;
 (b) Nutrition claim and nutrient function claim on follow-up formula; and
 (c) Other function claim on formula products and IYC foods

Among the above product-claim combinations, we would like to seek public views on whether an inclusive approach (whereby all of the above claims would be allowed) or a restrictive approach (whereby all of the above claims would be prohibited) is preferred, or whether we should take the middle ground in allowing some claims but prohibiting others. The table below summarises the different scenarios under the inclusive and restrictive approaches.

Category of claim	Type of claim	Inclusive approach	Restrictive approach
Infant formula			
Nutrition claim	Nutrient content claim ^(a)	Not allowed (<i>Principle 1</i>)	
	Nutrient comparative claim ^(b)		
Health claim	Nutrient function claim ^(c)	Allowed	Not allowed
	Other function claim ^(d)	Allowed	Not allowed
	Reduction of disease risk claim ^(e)	Not allowed (<i>Principle 2</i>)	
Follow-up formula			
Nutrition claim	Nutrient content claim	Allowed	Not allowed
	Nutrient comparative claim	Allowed	Not allowed
Health claim	Nutrient function claim	Allowed	Not allowed
	Other function claim	Allowed	Not allowed
	Reduction of disease risk claim	Not allowed (<i>Principle 2</i>)	
IYC foods			
Nutrition claim	Nutrient content claim	Allowed (<i>Principle 3</i>)	
	Nutrient comparative claim		
Health claim	Nutrient function claim	Allowed	
	Other function claim		
	Reduction of disease risk claim		

¹ Nutrition and health claims are representations which state, suggest or imply that a food has particular nutritional properties, or that a relationship exists between a food or its constituent and health.

Nutrition claims include —

a) nutrient content claims, which describe the level of a nutrient contained in a food (e.g. “excellent source of vitamins”); and

b) nutrient comparative claims, which compare the nutrient levels and/or energy value of two or more foods (e.g. “increased DHA level”).

On the other hand, health claims include —

a) nutrient function claims, which describe the physiological role of the nutrient in growth, development and normal functions of the body (e.g. “phospholipids (PhD) are essential for the function of brain cells”);

b) other function claims, which 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 (e.g. “probiotics helps to maintain a healthy digestive system”); and

c) reduction of disease risk claims, which 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 (e.g. “fortified with an appropriate level of iron to reduce the risk of anaemia”).

Please refer to the consultation document for details on their classification and definition.

(a) E.g. “contains choline (144mg / 100g)

(b) E.g. “increased DHA level by 3 times (compared to its original formula)”.

(c) E.g. “phospholipids (PhD) are essential for the function of brain cells”.

(d) E.g. “probiotics (益生菌) helps to maintain a healthy digestive system”.

(e) E.g. “fortified with an appropriate level of iron to reduce the risk of anaemia (貧血)”.

Details of the proposed regulatory framework are set out in the consultation document which can be downloaded from the website of the Food and Health Bureau (<http://www.fhb.gov.hk>) and the Centre for Food Safety (<http://www.cfs.gov.hk>), or obtained from the following locations —

- **Communication Resource Unit of the Centre for Food Safety** (at 8/F, Fa Yuen Street Municipal Services Building, 123A Fa Yuen Street, Mong Kok, Kowloon);
- **District Offices of the Home Affairs Department**; and
- **District Environmental Hygiene Offices of the Food and Environmental Hygiene Department.**

Views Sought

The Government invites you to share your views on the proposed regulatory framework, particularly on the following —

- the establishment of five overarching principles to delineate the boundary of the regulatory framework and to prescribe conditions that will bind any claims eventually allowed;
- the regulatory options for the product-claim combinations that are within the bounds of the relevant overarching principles;
- the development of a mechanism for establishing and maintaining a list of approved claims and the corresponding conditions;
- the establishment of a mechanism for revising the list of approved claims; and
- the length of the grace period.

Please send your comments by letter, facsimile or e-mail to the Centre for Food Safety at the following address before 17 April 2015 —

Centre for Food Safety

(Re: Proposed Regulatory Framework on Nutrition and Health Claims on Infant Formula, Follow-up Formula, and Prepackaged Foods for Infants and Young Children Under the Age of 36 Months in Hong Kong)

Food and Environmental Hygiene Department

43/F, Queensway Government Offices,

66 Queensway, Hong Kong.

Facsimile: (852) 2893 3547

E-mail address: claims_consultation@fehd.gov.hk

Enquiry tel. number: (852) 2867 5699

The Government will take into account the views received before finalising the details of the legislative proposals.

Any person submitting views and comments should be aware that the Government may publish all or part of the views and comments received and disclose the identity of the source in such manner as the Government considers appropriate, unless he/she requests any part of the views and comments and/or his/her identity be treated in confidence.

Public Consultation on

Proposed Regulatory Framework on Nutrition and Health Claims on Infant Formula, Follow-up Formula, and Prepackaged Foods for Infants and Young Children Under the Age of 36 Months in Hong Kong

January 2015