

**Topic : “Public consultation on the proposed regulation of nutrition and health claims on formula products and prepackaged food for infants and young children under the age of 36 months in Hong Kong”**

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**Background**

Referring to the public consultation, I am writing to express my opinion on the above captioned proposed regulation.

In regards to the public consultation document, the government has planned to regulate the formula products under 5 overarching principles. [1] The current marketing environment for the formula and complementary food in infants and toddlers has been gradually expanding. We believe the overarching principles can help to facilitate the balance of promoting breastfeed and freedom of trade. The principles are designated for providing scientific and genuine claim as the product as is. However, the legislative framework for this food labeling is far away from the societal public health good.

**Stance**

The marketing business in baby / young children milk or food, has been overwhelming. Since the 2010 “the Hong Kong Code” regulation on these products, the marketing or advertising activities has been drilling across from the mass public to all other sectors around, e.g. healthcare professionals, mothers and related care-takers. This legislation has been trying to impose the accurate claim on the product. If this legislation is implemented, we believe that the efficacy for facilitating Hong Kong mothers’ breastfeeding will be far from the objectives as expected.

**Global public health perspectives**

The framework from World Health Organization, WHO in 1981: International code of marketing stated that, “No advertising of breast-milk substitutes and no other promotions of products, ie, no product displays, posters or promotional materials”. [2] In such, this legislation marked the line only up to the standard of “claims” in the

advertising industry. It has been far away from the originality for the law. The significance of NO marketing, rather than “tailored-made” claimed marketing, is hoping for the minimization in undesirable negative impact on exclusive breast feeding. Concrete evidences showed that, advertising directly to the consumer and other kinds of marketing, will greatly influence mothers and families in their decisions to take on “how to feed their infants / toddlers”. [3]

Even for the labeling, the International Code has already stated to “state the superiority of breastfeeding and [give] a warning about health hazards, whereas the International Code has not been stating any kinds of “restricted claims” in such manner for the permitting advertising activities.

### **Rationale for NO marketing**

Globally, the breast milk substitutes companies are finding their ways to “escape” from the restrictions to promote their brands. In Hong Kong, the advertising for milk has now been shifted to icons and ideologies: e.g. showing harmonized relations between mothers and children, without touching the arena of any contents in nutrients and its benefits. This iconization by associating the audiences with the happiness and healthiness to their brands, is now becoming a trend.

In another way round, those companies will promote among key opinion leaders around the mothers, family members, healthcare professionals, young children care-takers, and mothers associations etc. Thus, such legislation cannot restrict the above marketing activities, which is currently already violating the WHO International code of marketing.

### **Experiences in Australia**

The experiences in Australia for such escaping “loophole” in marketing have been clearly observed. In an Australian public health study, even no infant formula advertising is allowed, the breast milk substitutes advertising has been increasing greatly. [4] This causes the short duration of mothers to keep breastfeeding in Australia. In 2010, only 42% of infants between 6 to 12 months received any breast milk; and even lower in toddlers (19 to 24 months), for only 7%. [5] The negative impact on breastfeeding from this cross-marketing in follow-on / toddlers’ formula is obviously seen.

Another study in Australia has shown that, advertising in toddlers' milk is providing a disguise in association of infant formula. A research revealed that, 66.8% of the respondents reported for seeing an advertisement for infant formula: with those who had only seen non-retail advertising, more than twice as likely to believe that they had seen such an advertisement as those who had only seen retail advertising. [6]. That means, toddlers' milk advertisement has de-facto infant formula advertising effect. Public are prone to recognize the salience of the brand via logo / colour / packaging. Thus, the claims for nutrients or labeling context are only constituting a small portion in their mindshare.

A research in neuroeconomics highlighted that, how marketing might take advantage of normal neurological processes to increase likelihood of consumer 'mistakes'. [7] Such marketing techniques are trying to manipulate choice contexts, so as to increase time pressures or stress, and then they will try to influence their audience on the emphasis to various product attributes in consumer decision-making.

### **The bottom line**

We urge the government to take this opportunity to restate the overarching principles. The legislation should follow on the WHO International Code of marketing. Throughout 3 decades, these codes are still valid and demonstrating their significance, with more and more concrete evidences in public health. The marketing ban should be carried forward to enhance more exclusive breastfeeding and supporting toddlers in feeding. Instead of constructing a mechanism of approving the claims, the basis of NO marketing in these breast-milk substitutes, are more essential in the functionality, than restricting them only by wordings.

We suggest the government to make a wider perspective, not just in a particular "food labeling issue"; but this issue of breastfeed should be in a more comprehensive way by supporting mothers and nurturing an environment for minimizing the negative impact on breast-milk substitutes marketing.

Best regards,



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**References:**

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