

**Submission to Panel on Food Safety and Environmental Hygiene of the Legislative Council on the 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**

**10 February 2015**

**Preamble**

I welcome the Government to initiate the legislative regulation of the Nutrition and Health Claims on Infant Formula, Follow-up formula and Prepackaged Foods for Infant and Young Children Under the Age 36 Months. It demonstrates the continued political leadership and commitment to combat the local aggressive marketing of formula milk and food products following the development of the voluntary Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children (HK Code).

Early nutrition has impacts on long-term health and lays the foundation of future population health. Protecting breastfeeding from undue commercial influences, alongside with other effective public health interventions like implementing Baby Friendly Initiative in healthcare facilities, supportive measures in workplace and community, is of paramount importance to cultivate a supportive social environment conducive to optimal and young child feeding practices.

Nevertheless, Hong Kong is notorious for the rampant marketing of formula milk and food products, in particular the promotion of unscientifically substantiated health and nutrition claims, which negatively impact the feeding practices of the vulnerable infant and young children population. In 2013, HKD 2.7 billion was spent on promotion of formula milk,<sup>1</sup> which made breastfeeding promotion difficult to compete. In 2012, a study reported a high proportion of local young children having unbalanced diet with an over consumption of formula milk.<sup>2</sup> A significant proportion of parents thought that nutrients added in follow-up formula promote the brain development of children, but cannot found in other foods.

International Code of Marketing of Breastmilk Substitutes was adopted at the World Health Assembly (WHA) in 1981.<sup>3</sup> Subsequent relevant World Health Assembly (WHA) Resolutions were made in light of scientific and marketing developments. WHA resolutions (WHA58.32, 2005<sup>4</sup>; WHA63.23, 2010<sup>5</sup>) urged the Governments “to end inappropriate promotion of food for infants and young children and to ensure that nutrition and health claims shall not be permitted for foods for infants and young children, except where specifically provided for, in relevant Codex Alimentarius standards or national legislation.”

With the above considerations, it is crucial that the regulation on nutrition and health claims on formula products and prepackaged food for infants and young children **adopts a restrictive approach.**

## **Reponses to the Proposed Regulatory Framework**

### Infant formula:

Infant formulae are similar in composition as they have to adhere to the essential composition as required by the Codex Standards or national standards, while they may vary in the level of the optional ingredients, like DHA, taurine, etc. Allowing claims on infant formula inflates the advantages of infant formula over the superiority of breastfeeding, which not only undermines breastfeeding but is misleading to parents and family members who opt for formula milk feeding for their children. Therefore, nutrition claims and health claims should not be allowed in infant formula.

### Follow-up formula:

Promotion of formula-up formula, which bears very similar names / logo and packaged to look like infant formula, is a powerful strategy for brand advertising of formula milk companies. Evidence revealed parents failed to distinguish between advertising for infant formula and follow-up formula.

Follow-up formulae and infant formula are generally similar in composition except the former generally have higher protein and nutrient content than the latter. Health authorities considered follow-up formula is not necessary as a substitute to breastmilk from the nutrition or health point of view (WHA29.28, 1986).<sup>6</sup> And also in 2013, World Health Organization (WHO) reiterated that follow-up formula is “unnecessary as well as not a suitable substitute for breastmilk, due to its content”.<sup>7</sup>

In view of the latest scientific evidence and local situation, no nutrition claim and health claim should be allowed in follow-up formula, i.e. a restrictive approach should be adopted.

### Infant and Young Child (IYC) Foods:

A restrictive approach should be adopted for infant and young child food (IYC food), i.e. other function claim and disease risk reduction claim should not be allowed.

Nutrition claims (nutrient content and comparative claims) and nutrient function claims should only be permitted if they are of high importance to the health of infants and young children (principle 4) and should be scientifically substantiated and have undergone credible evaluation process (principle 5).

For those *scientifically substantiated claims for IYC Foods*, there should be a rigorous and transparent mechanism of approving nutrition and health claims with explicit assessment criteria like accepting claims approved by jurisdictions or authorities with credible evaluation process. The process of assessment and approving claims should avoid conflict of interests.

## Conclusion

In sum, I support the adoption of a restrictive approach for infant formula, follow-up formula and IYC foods.

## The HK Code

In June 2010, the Department of Health (“DH”) set up The Taskforce on Hong Kong Code of Marketing of Breastmilk Substitutes (“the Taskforce”) to develop and promulgate the HK Code. In drafting the HK Code, the Taskforce has made reference to the World Health Organization’s International Code of Marketing of Breastmilk Substitutes (WHO Code) issued in 1981, the relevant subsequent WHA Resolutions, local marketing practices and their impacts on the feeding and nutrition of infants and young children.

The Government initiated a four-month public consultation on HK Code on 26 October 2012. During the period, views and comments were received from a board range of respondents from different sectors. Subsequently, various concessions of the HK Code were recommended to be made by key Taskforce members after balancing views of a range of stakeholders.

Having considered the lengthy process of legislation, the Government is urged to launch the voluntary HK Code with the code articles on claims retained without further delay, while speeding up the legislation to safeguard the nutritional health of our young generation.

Dr Lilian Leong,  
former Chairman of Taskforce on Hong Kong Code of Marketing of Breastmilk Substitutes and member of the Committee on the Promotion of Breastfeeding.

## Reference

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<sup>1</sup> 「偏食奶粉」易致偏食 廣告宣傳盛 熱量高影響正餐胃口，明報，2014年2月3日

<sup>2</sup> Luk WY, Leung S, Leung, C. A Survey of Infant and Young Child Feeding in Hong Kong: Milk Consumption. Department of Health, Hong Kong SAR Government; 2012.

<sup>3</sup> WHO International Code of Marketing of Breastmilk Substitutes. 1981.

<sup>4</sup> WHA resolution May 2005 [http://www.who.int/nutrition/topics/WHA58.32\\_icycn\\_en.pdf](http://www.who.int/nutrition/topics/WHA58.32_icycn_en.pdf) accessed 2015.2.7

<sup>5</sup> WHA resolution May 2010 [http://www.who.int/nutrition/topics/WHA63.23\\_icycn\\_en.pdf?ua=1](http://www.who.int/nutrition/topics/WHA63.23_icycn_en.pdf?ua=1) accessed 2015.1.30

<sup>6</sup> WHA 1986 resolution 39.28  
[http://www.who.int/nutrition/topics/WHA39.28\\_icycn\\_en.pdf?ua=1](http://www.who.int/nutrition/topics/WHA39.28_icycn_en.pdf?ua=1) Accessed 2015.1.30

<sup>7</sup> Information on concerning the use and marketing of follow-up formula. WHO 2013.  
[http://www.who.int/nutrition/topics/WHO\\_brief\\_fufandcode\\_post\\_17July.pdf?ua=1](http://www.who.int/nutrition/topics/WHO_brief_fufandcode_post_17July.pdf?ua=1) accessed 2015.1.30