



29 June 2012

Dr Hon LEUNG Ka-lau  
Chairman of Panel on Health Services  
Room 806, Legislative Council Complex,  
1 Legislative Council Road,  
Central, Hong Kong

**Re: Development of a Hong Kong Code of Marketing of Breastmilk Substitutes**  
**Post-meeting submission**

Dear Dr Leung,

The Hong Kong Infant and Young Child Nutrition Association (HKIYCNA/the Association) would like to thank again for inviting us to attend the meeting of the Panel on Health Services held on 16 April 2012 to share our views on the development of a Hong Kong Code of Marketing of Breastmilk Substitutes (Hong Kong Code). The Association is now writing to provide further viewpoints subsequent to the meeting.

The Association would like to clarify the definition of “breastmilk substitute” and “infant formula”, as well as “follow up formula” to facilitate the following discussion.

- According to the WHO Code, “breastmilk substitute” means any food being marketed or otherwise presented as a partial or total replacement for breastmilk, while “infant formula” means a breastmilk substitute formulated industrially in accordance with applicable CODEX Alimentarius standards, to satisfy the normal nutritional requirements of infants up to between 4 and 6 months of age.
- According to CODEX STAN 156-1987, “follow-up formula” means a food intended for use as a liquid part of the weaning diet for the infant from the 6th month on and for young children. In the UK, a very similar definition applies to the same food category, which is named as “follow-on formula”. Annex 3 of the WHO Code has also specified that any other fluid, solid or semi solid food intended for infants and given after the first 4 to 6 months of life can no longer be considered as a replacement for breastmilk substitute. Such foods only complement breastmilk or breastmilk substitutes, and are thus referred as complementary foods.



## **1. Legislation is the effective means to end all forms of inappropriate promotion of breastmilk substitute**

In the LC Paper (No. CB(2)1640/11-12(05)) and (No. CB(2) 2250/11-12(01)) submitted by the Food and Health Bureau (FHB), the Government took reference to a number of countries for their voluntary implementation of the WHO Code. However, with further review of the situations in the referred countries, it is discovered that the UK and Malaysia have legislative measures to regulate the marketing of infant formula, while adherence to the regulatory code is obligatory on the entire Infant Food Industry in Singapore. Moreover, according to the information from UNICEF, in April 2011, there are 103 countries with some form of legislation on infant formula marketing (Appendix 1). Thus, it is clearly observed that legislation is the prevailing form of implementation for the matter in discussion.

According to the Infant Formula and Follow-on Formula (England) Regulations 2007 in the UK, only promotion of infant formula is restricted while promotion of follow-on formula is allowed. This is to ensure that parents and caregivers are not deprived of the access to scientifically substantiated information which will allow them to make informed nutritional choices for their children, especially when introducing complementary food. Moreover, an independent research conducted by the UK Government has evidenced that there was no or very little confusion in the minds of the public over infant formula and follow on formula on shelf and in advertising. Therefore, the code developing by the government should only cover products up to 6 months.

## **2. Marketing code and food labeling matters should be addressed separately**

Regarding the way to regulate food labeling of infant food, it seems that there will likely be a discrepancy between the plan of the Government and the common practices around the globe. The Government's plan to cover nutrition labelling under the Hong Kong Code, which is intended to voluntarily regulate marketing behaviour initially, cannot be found in other developed countries. As an example in Australia and New Zealand, labeling is regulated under the Australia and New Zealand Food Standard Code which is separated from its marketing code. While at the international level, the food-labelling matters are considered within the remit of the CODEX Commission, thereby the WTO. Given that the marketing code and the food regulation are having different emphases, with the former focuses on promotional behavior and the latter focuses on labelling and



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claims, the food labeling gap should be addressed separately from the marketing code for food for young children below 36 months.

To conclude, the Association agrees to end all forms of inappropriate promotion of breastmilk substitutes. It supports the principles of the WHO Code to contribute to the provision of safe and adequate nutrition for infants and strongly believes that the Hong Kong Code should be based on the international standard, appropriate development principles (scientific evidence and Risk Analysis Principles), other appropriate countries regulations and multi-lateral agreements to govern only the marketing behaviors of breastmilk substitutes. Food labelling and claims can be addressed appropriately through taking regulation guidance from the international standard – CODEX Alimentarius and related multi-lateral agreements.

Should you have any questions, please do not hesitate to contact our President, Mr Clarence Chung at 3102 1600 or [enquiry@hkiycna.hk](mailto:enquiry@hkiycna.hk).

Submitted by the Hong Kong Infant and Young Child Nutrition Association

Enclosure

National Implementation of the International Code of Marketing of Breastmilk Substitutes (April 2011), UNICEF

cc:

Dr York Chow, GBS, JP,  
Secretary for Food and Health

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All Taskforce Members on Hong Kong Code of Marketing of Breast-milk Substitutes

Members of Health Services Panel in Legislative Council



National Implementation of the International Code of Marketing of Breastmilk  
Substitutes (April 2011)

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**Law**

Afghanistan  
Albania  
Bahrain  
Benin  
Botswana  
Brazil  
Burkina Faso  
Cameroon  
Cape Verde  
Costa Rica  
Dominican Rep  
Fiji  
Gabon  
Gambia  
Georgia  
Ghana  
Guatemala  
India  
Iran  
Lebanon  
Madagascar  
Maldives  
Mozambique  
Nepal  
Pakistan  
Palau  
Panama  
Peru  
Philippines  
Saudi Arabia  
Sri Lanka  
Tanzania  
Uganda  
Uruguay  
Venezuela  
Yemen  
Zimbabwe

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**Many provisions law**

Argentina  
Austria  
Azerbaijan  
Bangladesh  
Belgium  
Bolivia  
Cambodia  
Czech Republic  
China  
Colombia  
Denmark  
Egypt  
Djibouti  
Finland  
France  
Germany  
Greece

Hungary  
Indonesia  
Ireland  
Italy  
Jordan  
Kyrgyzstan  
Lao (PDR)  
Latvia  
Luxembourg  
Malawi  
Mali  
Mexico  
Netherlands  
Nicaragua  
Niger  
Nigeria  
Norway  
Oman  
Poland  
Portugal  
Papua New Guinea  
Senegal  
Slovenia  
Sweden  
Spain  
Tajikistan  
Tunisia  
United Kingdom  
Viet Nam  
Zambia

19

**Few provisions law**

Algeria  
Armenia  
Canada  
Chile  
Congo, Dem. Rep. Of  
Cuba  
Estonia  
Ethiopia  
Guinea  
Guinea-Bissau  
Israel  
Japan  
Macedonia  
Mongolia  
Paraguay  
Qatar  
Turkey  
Turkmenistan  
United Arab Emirates

11

**Voluntary**

Australia  
Ecuador  
Honduras  
Kenya  
Kuwait  
Malaysia  
New Zealand  
South Africa  
Swaziland  
Thailand  
Trinidad & Tobago

8

**Some Provisions Voluntary**

Bhutan  
Guyana  
Hong Kong  
Jamaica  
Korea (Rep.)  
Liberia  
Singapore  
Switzerland

14

**Measure drafted awaiting final approval**

Bosnia/Herzegovina  
Burundi  
Congo  
Côte d'Ivoire  
El Salvador  
Haiti  
Iraq  
Malta  
Moldova  
Morocco  
Namibia  
Rwanda  
Sierra Leone  
Togo

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**Being studied**

Angola  
Belarus  
Croatia  
Eritrea  
Lesotho

Lithuania  
Mauritania  
Mauritius  
Myanmar (Union of)  
Romania  
Russian Federation  
Slovakia  
Syrian Arab Republic  
Uzbekistan

2

**Action to end Free Supplies only**

Libyan Arab Rep.  
Sudan

6

**No action**

Central African Rep.  
Chad  
Somalia  
United States  
Iceland  
Kazakhstan

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**No information**

Bulgaria  
Equatorial Guinea  
Korea (DPR)  
Netherlands Antilles  
Niue  
Federal Rep. Of Yugoslavia  
Sao Tome & Principe  
Tokelau  
Ukraine  
US Virgin Islands

## KEY TO CATEGORIES

<b>Law:</b>	These countries have enacted legislation or other legal measures encompassing all or substantially all provisions of the International Code.
<b>Many provisions law:</b>	The countries in this category have enacted legislation or other legal measures encompassing many of the provisions of the International Code.
<b>Few provisions law:</b>	These countries have enacted legislation or other legal measures encompassing a few provisions of the International Code.
<b>Voluntary:</b>	In these countries, the government has adopted all, or nearly all provisions of the International Code through non-binding measures.
<b>Some provisions voluntary:</b>	In these countries, the government has adopted some, but not all provisions of the International Code through non-binding measures.
<b>Measure drafted awaiting final approval:</b>	In these countries, a final draft of a law or other measure has been recommended to implement all or many of the provisions of the International Code and final approval is pending.
<b>Being studied:</b>	A government committee in each of these countries is still studying how best to implement the International Code.
<b>Action to end free supplies only:</b>	In these countries, the government has taken some action to end free and low-cost supplies of breastmilk substitutes to health care facilities but has not implemented other parts of the International Code.
<b>No action:</b>	These countries have take no steps to implement the International Code.
<b>No information:</b>	No information is available for these countries.