



SUBMISSION TO HONG KONG LEGISLATIVE COUNCIL  
PANEL ON HEALTH SERVICES  
REGARDING REGULATION OF FORMULA PRODUCTS AND FOODS FOR  
INFANTS AND YOUNG CHILDREN

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As a member of the Hong Kong Infant and Young Child Nutrition Association, Abbott supports the Government's goal of regulating the marketing of breastmilk substitutes in order to promote, protect and support breastfeeding. Breastfeeding is the best means of feeding infants in the first months of life; iron-fortified infant formulas prepared according to international standards are the only safe and nutritious alternative to breastmilk. Appropriate rules are essential to ensure manufacturers, mothers and caregivers, health care professionals, and public health officials can work together to support the best health outcomes for infants.

Abbott believes Hong Kong should enact legally enforceable regulations to govern the marketing of breastmilk substitutes. A mandatory regulation would enhance the other goals of the proposed Code, including in respect of labeling and quality standards.

Articles 8 and 9 of the draft Code deal with labeling and quality standards of "designated products". Labeling communicates specific characteristics of a product. For a product such as infant formula whose contents are regulated by a standard, a label is the outcome of a scientific process, with parameters established by international standards under Codex, and embodied in national food safety legislation. We urge the government to legislate the standards on composition, labeling and quality according to the Codex, adhering to all aspects with no deviations.

We note that Hong Kong has not included food for children under 36 months in its food nutrition labeling scheme. Other jurisdictions including the EU have a science-based process for assessing health claims related to foods for children over the age of 6 months. Australia and New Zealand are developing regulation to govern health claims on food labels. We urge the Government to move quickly to develop requirements under the scheme for foods designed for infants and young children.

Extending the scope of the proposed Code on marketing practice to 36 months goes beyond the intent of the WHO Code, which limits disciplines on marketing to products for children up to six months and designed as breastmilk substitutes. This was done to give parents access to a full range of information about complementary foods for children once breastmilk is insufficient to provide complete nutrition. Expanding the scope of prohibitions to three years would deny mothers and caregivers access to information about the range of foods available to foster their child's growth. We urge the Government to move the scope of the Code in line with comparable developed countries.

Our final comment relates to the use of trademarks. Section 8.2.1 (a) of the Draft Code limits the use of marks to a single trademark. It is a well recognized principle of



intellectual property law that owners of trademarks should be protected from requirements to use trademarks in a specific form that undermine the ability to distinguish one good from another. Manufacturers use trademarks to communicate the identity of products to consumers, often in a variety of combinations to communicate information about product segments, age ranges and price. Limiting the ability of manufacturers to communicate important information to mothers and caregivers through the trademark is likely to create consumer confusion and will undermine their ability to make a correctly informed choice. Article 9.1 of the WHO Code states that labels, including brand labels, should be “designed to communicate necessary information about the appropriate use of the product”. Trademarks play a role in this process by telling mothers and caregivers which age group the product is designed for, its price grade and whether it has particular characteristics. We urge the Government to follow appropriate international intellectual property treaties and the terms of the WHO Code in setting requirements for labels.