

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2048/13-14(06)

Ref : CB2/PL/HS

**Panel on Health Services**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 21 July 2014**

**The Hong Kong Code of Marketing and Quality  
of Formula Milk and Related Products,  
and Food Products for Infants and Young Children**

**Purpose**

This paper summarizes the concerns of members of the Panel on Health Services ("the Panel") on the Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants and Young Children ("the Hong Kong Code").

**Background**

2. The Steering Committee on Prevention and Control of Non-Communicable Diseases endorsed the proposal of developing and implementing a code of marketing of breastmilk substitutes for Hong Kong in February 2010 as part of a comprehensive strategy to promote, protect and support breastfeeding. A taskforce was set up in June 2010 under the Department of Health ("DH") to draft the Hong Kong Code with reference to the International Code of Marketing of Breastmilk Substitutes promulgated by the World Health Organization in 1981 ("the WHO Code") and the relevant subsequent resolutions passed by the World Health Assembly.

3. The Government launched a public consultation on the draft version of the Hong Kong Code, which aims to contribute to the provision of safe and adequate nutrition for infants and young children by protecting breastfeeding, and ensuring the proper use of formula milk, formula milk related products (including feeding bottles, teats and pacifiers) and food products for infants and young children up to the age of 36 months on the basis of adequate and unbiased

information and through appropriate marketing practices, on 26 October 2012. The draft document includes provisions on the following areas to provide voluntary guidelines to manufactures and distributors, health workers and healthcare facilities -

- (a) promotional practices for designated products to the public;
- (b) production and distribution of informational and educational materials related to breastfeeding and formula milk feeding and nutrition to the general public, pregnant women and mothers;
- (c) promotion in healthcare facilities;
- (d) distribution of informational materials related to designated products to health workers, and the sponsorship of continuing education activities for health professionals;
- (e) labelling for formula milk, food products for infants and young children and formula milk related products; and
- (f) quality standards of formula milk and food products for infants and young children.

### **Deliberations of the Panel**

4. The Panel discussed and received views of deputations on issues relating to the Hong Kong Code at a meeting in April 2012 and at a joint meeting with the Panel on Food Safety and Environmental Hygiene in November 2012. The deliberations and concerns of members are summarized below.

#### Marketing of breastmilk substitutes

5. Noting the benefits of breastfeeding in ensuring physical and psychosocial health and well-being of mother and child, and the positive impacts of breastfeeding on the long-term health of the breastfed subjects, members were concerned that the rate of exclusive breastfeeding for four to six months after birth had remained low at less than 15%. Most members supported putting in place measures to regulate the marketing practices of breastmilk substitutes in order to protect and support breastfeeding. There was a view that promotion of infant formula for infants under the age of six months should be banned.

6. The Administration advised that with reference to local and international research studies, it had identified three factors affecting the prevalence of breastfeeding, which were the support given to breastfeeding mothers during the perinatal and postnatal periods by healthcare facilities and health workers; the support in workplace and community; and the aggressive marketing of formula milk products. In the past few years, DH had provided relevant training for its medical staff, encouraged public hospitals to implement measures to support breastfeeding and had undertaken to promote breastfeeding with a view to enhancing public acceptance of breastfeeding. The Hong Kong Code would also be conducive to the promotion of and protection for breastfeeding.

7. Members urged the Administration to step up its efforts in providing support for mothers in sustaining exclusive breastfeeding and promoting breastfeeding. They called on the Administration to allocate more resources to create a breastfeeding-friendly environment in the community. Consideration should also be given to making the provision of baby care facilities in office buildings and shopping malls a mandatory requirement.

#### Nutrition labelling and health claims of infant formula and follow-up formula

8. Some members considered it important to provide nutrition information on labels of formula products and foods intended for infants and young children. They also expressed grave concern about the misleading and exaggerated health and nutritional claims made in some infant formula and follow-up formula advertisements. It was noted that provisions on nutritional composition and labelling including the use of nutrition and health claims were specified under the Hong Kong Code. Noting that a two-month public consultation exercise on the legislative proposals to amend the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W) to prescribe nutritional composition for infant formula and nutrition labelling for infant formula, follow-up formula and foods intended for infants and young children under the age of 36 months was launched on 20 November 2012, these members urged the Administration to expeditiously introduce the legislative proposals.

9. The Administration advised that subject to views received, it planned to enact the legislation on nutritional composition and nutrition labelling in 2013. Before the enactment of the proposed legislation, the relevant articles of the Hong Kong Code would serve as guidelines to manufacturers and distributors of formula products and foods for infants and young children with respect to nutrition labelling and nutritional composition of these products.

10. As regards the regulation of claims, the Administration advised that there was a lack of international consensus on the matter. That said, it had already started to examine various regulatory options for claims and would take into account international practices as well as the current situation in Hong Kong in

mapping out the way forward. In view of the complexity and controversies concerning the regulation of claims, more time would be needed for consultation among stakeholders and the public before a consensus could be reached. The Administration would tackle the issue of regulating claims at a later stage in 2013. Meanwhile, the relevant articles of the Hong Kong Code would serve as guidelines with respect to the claims of these products. It should also be noted that it was an offence under section 61(2) of the Public Health and Municipal Services Ordinance (Cap. 132) ("the Ordinance") for a person to publish or involve in the publication of an advertisement which falsely described a food, or was likely to mislead as to the nature, substance or quality of the food. Upon conviction, the person would be liable to a fine at level 5 (i.e. \$50,000) and imprisonment for six months.

### Implementation of the Hong Kong Code

11. Noting that the Hong Kong Code was proposed to be implemented in the form of voluntary guidelines, some members were concerned about the compliance with the provisions by the trade. There was a view that the Administration should impose penalty against non-compliance or make public the names of those parties which failed to comply with the Hong Kong Code. Some members went further to suggest that the Administration should incorporate the Hong Kong Code into the legislation, as more than 100 countries had already enacted legislation or other legislative means to enforce all or certain provisions of the WHO Code.

12. The Administration stressed that the proposed voluntary nature of the Hong Kong Code could provide flexibility for the trade. Many countries such as Australia, New Zealand, Singapore and Malaysia had formulated voluntary guidelines applicable in their own countries for compliance by the trade with reference to the WHO Code. Upon implementation of the Hong Kong Code, DH would conduct regular surveys to manufacturers and distributors including advertisements in the media, promotional activities at retail level, sales inducement devices, etc. It would also carry out studies in collaboration with the Consumer Council or non-governmental organizations, or commission academic units to conduct studies with specific themes. The Centre for Food Safety ("CFS") would be responsible for monitoring the trade's compliance with the requirements of nutrition labelling, nutritional composition and claims of the designated products. An Advisory Panel would also be set up to oversee the monitoring system and consider the surveillance or survey reports from DH and CFS, and complaints lodged by members of the public.

13. Members noted the Administration's plan to finalize and issue the Hong Kong Code in the second quarter of 2013 after taking into account the views collected during the public consultation period which commenced on 26 October 2012 and was scheduled to close on 31 December 2012. Some members

expressed dissatisfaction with the Administration for not inviting the trade to participate in the drafting of the Hong Kong Code. They requested an extension of the consultation period to provide more time for the trade and the public to submit their views on the draft version of the Hong Kong Code.

## **Recent developments**

### Public consultation exercise for the Hong Kong Code

14. On 21 December 2012, DH announced that the public consultation period for the Hong Kong Code would be extended by two months to close on 28 February 2013, so as to give parties concerned sufficient time to consider the draft version of the Hong Kong Code and submit their views.

Legislative proposals relating to nutritional composition for infant formula and nutrition labelling for infant formula, follow-up formula and foods intended for infants and young children under the age of 36 months

15. On 9 June 2014, the Director of Food and Environmental Hygiene, in exercise of the power under section 55(1) of the Ordinance, made the Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2014. The Amendment Regulation aims to regulate nutritional composition and nutrition labelling of formula products and prepackaged food for infants and young children under the age of 36 months. A subcommittee was formed on 20 June 2014 to scrutinize the Amendment Regulation. Its first meeting was held on 2 July 2014 and the next meeting is scheduled for 22 July 2014 to receive views from deputations on the Amendment Regulation.

16. According to the relevant Legislative Council Brief issued by the Food and Health Bureau (File Ref: FH CR 4/3231/13), CFS is studying the local and international situations on the use of nutrition and health claims in the products concerned. In light of the study, the Administration will examine the possible strategies on regulating such claims in 2014.

## **Relevant papers**

17. A list of the relevant papers on the Legislative Council website is in **Appendix**.

**Relevant papers on the Hong Kong Code of Marketing  
and Quality of Formula Milk and Related Products,  
and Food Products for Infants and Young Children**

Committee	Date of meeting	Paper
Panel on Health Services	16.4.2012 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">CB(2)2250/11-12(01)</a>
Panel on Food Safety and Environmental Hygiene and Panel on Health Services	20.11.2012 (Item II)	<a href="#">Agenda</a> <a href="#">Minutes</a>

Council Business Division 2  
Legislative Council Secretariat  
15 July 2014