

Response to Consultation document 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 HK.

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We are writing to express our views on the proposed five overarching principles stated in the consultation document. In our view, the government should implement the restrictive approach that any nutrition and health claims should be prohibited in infant formula, follow-up formula, as well as IYC foods, and all advertising of infant formula for children under 6 months of age. The following are our reasons to support the restrictive approach:

1. All other pre-packaged foods for sale in Hong Kong are required to provide detailed nutritional information and are prohibited from making unrealistic health claims as a marketing strategy. Other pre-packaged food products targeted at infants and children under 36, such as rusks and baby meals are required to conform to the Food Labelling regulations in regard to health claims, and there is no justifiable reasons for pre-packaged milk-based formulae not to be treated the same as other pre-packaged children's foodstuffs. Milk formula and related products should not be treated any differently in regard to unrealistic claims for health or growth benefits than any other pre-packaged foodstuff.
2. Advertising associated with present labels are often unrealistic and when presented on TV, imply nutritional gains, particularly in cognitive gains which are unjustified by the level of existing evidence. In other words, such claims, being inflated, are inherently misleading for consumers and this is particularly important in Hong Kong where education pressures on children and their families are likely to make such claims more persuasive.

*"In December 2009, a federal court upheld a \$13.5 million jury verdict against manufacturer Mead Johnson & Co. for false and misleading advertising; the court permanently barred Mead Johnson from claiming that its Enfamil LIPIL infant formula would give babies better visual and brain development than ingredients in store-brand formula."*¹

New parents are faced with a bewildering array of adaptations to make. Most Hong Kong Families now have no more than one child, and are themselves mostly bottle-fed so there is little opportunity to learn from earlier experience or their own mothers. As a result, most new mothers look to media for information on how to care for their new born. While post-natal depression is widely recognized, post-natal anxiety is a widespread problem that is rarely acknowledged. Crying babies are often interpreted as being hungry, and the marketing of formula plays on breast-feeding mothers' insecurities about the adequacy of their milk supply.² While it is undoubtedly the case that some mothers are unable to adequately feed their babies, it is not by any means true for most mothers. However, the blitz of formula marketing targetting this group not only raises doubt about feeding adequacy but the unrealistic nutritional claims imply that breast milk is somehow inferior when it comes to things such as brain development, a highly sensitive area in educationally-competitive Hong Kong.

Under conditions of anxiety, uncertainty is greater and consumers are more susceptible to the inflated claims made in information provided by marketing and media. Television adverts featuring dancing toddlers, genius and socially-suave children serve to feed parental anxieties that, even if they are not using formula for their child, other mothers may be, and their children might have a competitive advantage.²

However, the most important group to be protected against advertising-induced anxieties are new mothers who are trying to establish breast feeding. This can be challenging, as indicated in point 4 below, breast feeding is hard work for the baby, one of the reasons it is so beneficial when compared to bottle feeding. Mothers who have worries about breast feeding and are exposed to formula advertising in the absence of an equal emphasis on breast feeding are likely to be more at risk of interpreting any initial feeding difficulties as failure.³ This will lead to replacement of breast with formula feeding.⁴

"Formula companies use emotional rhetoric to focus on mothers' feelings and intuition rather than knowledge in making decisions. In their marketing propaganda, formula companies cloak and draw attention away from what is actually important in infant feeding. For example, in some of their articulations, love is more significant than breast milk or formula. Their argument is that it is love that counts in infant feeding and care, not what goes into the baby. We see how ludicrous this displacement strategy is when we consider how we would we feel if the tobacco industry used the same argument: "It doesn't matter if you smoke in front of your baby, as long as you love them".

Another, perhaps even more insidious, formula company strategy is to provide 'information' about breast and bottle feeding under the premise of 'helping' mothers to make an informed choice. This 'service' comes in the

*form of pamphlets, websites, advertorials in magazines, new baby packs, telephone carelines and even assimilated via the bating of health professionals. However when we examine more closely the content of this 'information' we notice how the material is tailored to exploit mothers' fears regarding their breast milk supply, or concerns regarding their partners' ability to bond with their baby"*⁵

3. Breastfeeding is universally recognized as the optimal feeding approach to children under the age of 6 months. Yet, Hong Kong has one of the lowest rates for babies being fed on breast milk exclusively until the age of six months. There is strong evidence that breastfeeding remains beneficial for babies up to two years following birth and increasingly so for mothers.
 - a. Breast fed children have a range of better health indicators in the first two years of life regarding incidence of a variety infections particularly those of the upper and lower respiratory tract, and gastrointestinal tract⁶ compared to their formula fed counterparts and as more mature children, teens and adults, those who were breast fed may be less prone to a range of important chronic non-communicable health problems, such as overweight and asthma.^{7,8}
 - b. A large meta-analytic review incorporating data from over 69,000 children demonstrates that breast feeding reduces the risks of overweight and obesity in childhood by around one fifth (adjusted odds ratio 0.78, 95% CI (0.71, 0.85)).⁷
 - c. Another meta analytic systematic review of 15 prospective studies found that children exclusively breast fed have a 30% (Odds ratio 0.70 (95% CI 0.60 to 0.81)) lower risk (almost 50% lower in families with a history of allergies OR = 0.52) of developing asthma⁸, and given the serious air pollution in Hong Kong, this risk is likely much higher here for bottle fed babies.
 - d. Breast fed babies also have better oral architecture as the nipple interacts with the baby's mouth to facilitate optimum oral development of the gums and teeth and jaw. Breastfeeding is a complex process needing coordinated efforts by all the muscles of the mouth and jaw. Infants have to 'work' all the muscles during breastfeeding in a way that doesn't happen with bottle feeding, potentially influencing later tongue and swallowing control^{9,10}
 - e. Breast fed babies are also less likely to develop speech disorders, and delaying bottle feeding until after 9 months is also protective against speech disorder; the relative odds of subsequent speech disorders for children with a delayed use of a bottle was around one third of that in children without a delayed use of a bottle (OR: 0.32, 95% CI: 0.10-0.98).¹¹
 - f. Finally, mothers who fail to breast feed have increased incidence of premenopausal breast cancer, ovarian cancer, retained gestational weight gain, type 2 diabetes, myocardial infarction, and the metabolic syndrome.¹² The extremely high rates of formula feeding in Hong Kong over the past 40 years are one highly

plausible explanation for the epidemic of early onset breast cancer women are now experiencing.¹³

For these reasons, we argue strongly that to protect the health and reduce the costs on society of the consequences of widespread formula feeding of babies from birth, and the health of their mothers, that all advertising of formula milk and related products targeting children under the age of 6 months be prohibited in Hong Kong. The need of some parents to buy formula for very young babies means formula would still be available, but any promotion of formula for babies less than six months of age should be terminated immediately.

4. In Hong Kong, there has been an established strategy of discouraging breast feeding uptake among new mothers by several approaches – these include formula manufacturers and their agents supplying free samples and discharge packs for distribution to newborn mothers, in the knowledge that once a baby feeds from a bottle for a day or two, he/she will not make the effort to adapt to feeding from the breast. This has happened despite the formula industry promising to adhere to a voluntary agreement not to do this. As elsewhere in the world, the industry has cynically put its profits before child health.⁵ This in the face of consistent evidence, requests and promises to act more responsibly. The reasons are to ensure the \$11.5Bn annual market for infant formula is not threatened.
5. Lastly, the issue of protecting “consumer choice” will no doubt be argued by the industry and its supporters as a major reason for not introducing the changes proposed in the draft legislation. However, this argument, which has been widely used by industries worldwide, is well recognized to be a sham. This is the same strategy used by the tobacco industry to delay the implementation of regulation on tobacco advertising. In effect, there is evidence that consumer choice declines abruptly when presented with more than four choices of a product having effectively the same characteristics. Yet these industries argue that if consumer choice is reduced, then consumers are worse off. This is a superficially seductive argument, yet the opposite is the case. In fact fewer options lead to much better choices. For example, people are six times more likely to buy from a given product category where there are only 6 choices than when there are 24.¹⁴ Having four times as many choices reduces people’s willingness to buy items, and they are also less satisfied with too much choice.¹⁴ Hence, “overall, choice overload reduces engagement, decision quality, and satisfaction.”¹⁵

In our view, what has been labeled ‘choice addiction’ is a marketing professional’s way to ensure they stay in business and so they encourage this in providers. The more business they have, the more money they make. Simple. But for an industry like the tobacco and formula feed industries to use the argument that reduction of consumer choice is a reason not to introduce legislation to control unscrupulous and unjustifiable claims regarding products that harm is deceitful. Consumers

will not suffer under the proposed legislation, the industry know this, but would have LegCo scared into believing that they would, and that passing this legislation would bring retribution from the community on your head.⁷ This will not happen, just as no consequences of note followed the introduction of the food labeling legislation when it was introduced, despite dire shroud-waving warnings by the Hong Kong Retail Association that 50% of the produce in Hong Kong's stores would disappear. In fact quite the opposite has happened.

In summary, we feel there are strong grounds to justify that:

1. There be a complete cessation of all advertising of food products or supplements, of any type however so described, aimed at parents but for consumption by children and infants under the age of 6 months of age.
2. As with all other prepared packaged foodstuffs in Hong Kong, baby formula packaging and any and all associated advertising or marketing thereof be subject to controls on what kinds of health claims can be made. These should be limited to only such claims as are clearly supported by consistent evidence of benefit in humans significantly over and above those seen for breast feeding. In particular, products claiming to offer beneficial neurological development should be proscribed unless such benefits are reliably demonstrated to produce consistent and measurable differences in development outcomes superior to those seen in breast feeding. These restrictions should apply to all forms of marketing, including point-of-sale and all product packaging.

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