



中華人民共和國香港特別行政區政府總部食物及衛生局
Food and Health Bureau, Government Secretariat
The Government of the Hong Kong Special Administrative Region
The People's Republic of China

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5 April 2013

Miss Betty MA
Clerk to Subcommittee on
Import and Export (General) (Amendment) Regulation 2013
Legislative Council Complex,
1 Legislative Council Road,
Central, Hong Kong

Dear Miss Ma,

**Subcommittee on
Import and Export (General)(Amendment) Regulation 2013**

1. At the meeting of 28 March, Members expressed concern that the definition of powdered formula (配方粉) in the Import and Export (General)(Amendment) Regulation 2013 (“Amendment Regulation”) would cover some formula products intended for adults which may also be consumed by persons under 36 months. Some Members would like the Administration to clarify what formula products are intended to be covered by the definition.
2. The definition of powdered formula as provided for in the Amendment Regulation aims to cover milk powder or soya milk powder for consumption by persons of any age under 36 months, thereby ensuring an sufficient and stable supply of formula products for infants and young children in Hong Kong.

3. The Administration has considered whether it can be specified in the definition of powdered formula that only formula products “for consumption by persons of 0-36 months only” are included, so as to address the question stated in paragraph 1 above. However, adoption of this phrase as part of the definition of powdered formula will create a huge loophole since manufacturers may circumvent the Amendment Regulation by slightly changing the target group of the product, for example, specifying that it is for consumption by persons of 0-37 months.

4. In fact, if “for consumption by persons of 0-36 months only” is adopted as part of the definition of powdered formula, no fewer than 80 types of powdered formula for consumption by infants and young children would not be subject to control under the Amendment Regulation as they are targeted “for consumption from birth”, “for consumption from 6 months”, “for consumption by persons aged above 9 months”, “for consumption by persons aged above 10 months”, “for consumption by persons aged above 12 months”, “for consumption by persons aged 1-7 years”, etc.

5. Therefore, to avoid creating a loophole while giving due regard to the existing demarcation of target groups of powdered formula products available in the market, the Administration cannot adopt the wording “for consumption only by persons of 0-36 months” as part of the definition of powdered formula.

6. To clearly reflect our policy intent, our proposed amendment (please see Annex) specifies that the powdered formula is: “for...persons of any age under 36 months (notwithstanding it is also claimed, if applicable, to be suitable for consumption by persons of any age over 36 months)”.

7. Some Members would like the Administration to clarify what formula products are covered by the definition. The definition of powdered formula in the Amendment Regulation does not cover milk powder for consumption only by persons above 36 months, such as those intended for pregnant women as well as those which are prescribed for particular adult age groups (e.g. persons aged 51 years or above).

8. As to the concern of some Members that the definition of powdered formula covers some formula products intended for adults which may also be consumed by persons under 36 months, as far as the Administration is aware, there are 6 types of such products available in the market and some of their manufacturers have amended or are prepared to amend the labels of relevant products by specifying persons above 36 months as the target group, with a view to reflecting their target customers more clearly.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Jeff Leung', with a long horizontal flourish extending to the right.

(Jeff LEUNG)

for Secretary for Food and Health

Proposed new definition

powdered formula (配方粉) means any substance in powder form that, having regard to any product descriptions and users instructions (if applicable) and any other relevant circumstances, is intended for or claimed to be for consumption, as milk powder or soya-based formula powder, in liquid form by persons of any age under 36 months (notwithstanding it is also claimed, if applicable, to be suitable for consumption by persons of any age over 36 months) to satisfy their nutritional requirement;