



13 November 2012

**Baby Friendly Hospital Initiative Hong Kong Association
Submission to the Legislative Council
Panel on Food Safety and Environmental Hygiene and
Panel on Health Services on
Regulation of formula products and foods for infants and young children
for Joint meeting on Tuesday, 20 November 2012**

Baby Friendly Hospital Initiative Hong Kong Association (BFHIHKA) welcomes the government initiative to regulate the marketing and quality of formula milk and related products, and food products for infants and young children.

The points stressed in BFHIHKA's previous submission to the Legislative Council Panel on Health Services in April 2012 (attached) continue to hold. They are summarized below with supplemental information in light of the release of the draft Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children (the Hong Kong Code).

1. Protection of breastfeeding is an important public health issue

The risks of formula feeding are no less significant in developed countries. Further to the health cost savings in breastfeeding identified by the US mentioned in the April submission, a recent study in the UK, Preventing Disease and Saving Resources,¹ came to a similar conclusion that breastfeeding will save the National Health Service millions of pounds, and lead to tens of thousands of fewer hospital admissions and general practitioner consultations.

¹ Available at

<http://www.unicef.org.uk/BabyFriendly/News-and-Research/News/Breastfeeding-could-save-the-NHS-millions/> accessed 12 November 2012

2. Breastfeeding should not have to compete with commercial promotion of breastmilk substitutes

The industry claims advertisements promoting their products do not affect mothers' breastfeeding based on surveys sponsored by the industry. This is contrary to a report that in 2011, 1.6 billion Hong Kong dollars were spent on such advertising and promotion,² the sole purpose of which is to increase the sale of such products. Public funds should be much better used than competing with this level of commercial promotion. The cost of commercial promotion is no doubt also being shouldered by the consumer of the products. The impact of formula marketing on breastfeeding has been well reviewed.³

3. Industry considers mothers having “not enough breastmilk,” “going back to work,” as main reasons for giving up breastfeeding, not its advertising and promotional activities

There is no argument that to enable mothers to breastfeed a multipronged approach is required. This includes a Hong Kong breastfeeding policy, a breastfeeding co-ordinator, a multisectoral breastfeeding committee, the implementation of the WHO Ten Steps to Successful Breastfeeding, extension of maternity leave provision, creation of mother friendly work places with nursing breaks, and more community facilities. These do not detract from the urgent need to regulate marketing practices which are also an essential element in the approach. The current marketing directed at the whole community plays an important role in encouraging mothers, and exerting pressure on them by people around them, to use formula milk, leading to their perception of not having enough breastmilk through a supply and demand phenomenon.

² Information from the Department of Health:

http://www.fhs.gov.hk/english/adhoc/hkcode/leaflet_public.pdf accessed 12 November 2012

³ Kaplan DL and Graff KM. Marketing breastfeeding – reversing corporate influence on infant feeding practices. J Urban Health. 2008. 85(4):486-504

4. Mothers' right to information

Mothers have the right to choose their method of infant feeding based on unbiased scientific information. The Department of Health has updated information on infant feeding which is freely available to parents in both electronic and printed means. Mothers are also able to receive information from health workers. Furthermore, they can request factual product information under the proposed Hong Kong Code.

5. HK Code covering formulas for use beyond 6 months

This is a necessity in line with changing marketing practice to make use of formula milk for use beyond 6 months to market formula milk for use prior to 6 months by using similar branding. WHO has clearly stated that follow on formula is unnecessary. Infants on formula milk can continue to consume infant formula with the introduction of appropriate complementary foods at 6 months and change to cow's milk at 12 months. Excessive use of follow on formula especially with higher protein content than infant formula contributes to the problem of an unbalanced diet and obesity.

6. HK Code should be voluntary or mandated by legislation

The adoption of a voluntary Code should be seen as an interim measure pending legislation to be introduced as soon as possible if it is evident that reliance on voluntary compliance is ineffective. Nevertheless, irrespective of what government measures are instituted, according to the WHO International Code of 1981, manufacturers and distributors (M&Ds) have the responsibility to practice according to the Code and monitor their own practice.

Additional comments

7. Need for stronger consequences for non-compliance with the Hong Kong Code

The proposed monitoring mechanism whereby even names of M&Ds whose violations have been substantiated cannot be released to the public is a strong disincentive for compliance with the Hong Kong Code. As breastfeeding is an important public health issue, public interest should override the concern of

confidentiality. M&Ds value public corporate image more than other implications.⁴

8. Legislations on nutrition labelling both composition and claims

BFHIHKA has always advocated that there should be legislation on nutrition labelling for food products for infants and young children below 36 months, being more vulnerable, as for that above 36 months. The discovery in mid-2012 of iodine deficiency in certain brands of infant formula available in Hong Kong may prompt a focus on legislation on nutrition composition but legislation on nutrition claims are equally important. The ground work being done through the Hong Kong Code should expedite the process.

The Hong Kong Code allows promotion of food products for infants and young children outside health facilities. It is important to heed WHO's specific call to "end inappropriate promotion of food for infants and young children" and that "nutrition and health claims shall not be permitted for foods for infants and young children, except where specifically provided for, in relevant Codex Alimentarius standards or national legislation" WHA resolution 63.23 (2010). Hence legislation considered should cover not only formula milk for infants and young children but also other food products.

9. Health Worker Responsibilities

The Hong Kong Code allows sponsorship of continuing educational activities related to maternal and child health under certain conditions for health workers by M&Ds subject to review. The World Health Assembly (WHA) resolutions 49.15 (1996) and again 58.32 (2005) called on attention towards conflicts of interest of such activities. It is hoped that the health profession will view this as an opportunity to work towards supporting its own continuing education in the near future.

⁴ Lutter CK. The International Code of Marketing of Breast-milk Substitutes: lessons learned and implications for the regulation of marketing of foods and beverages to children. Public Health Nutr. 2012 Oct 4:1-6

10. Grace period for labels to comply with the Hong Kong Code

Labels of infant and follow-on formula milk differ in different countries having to abide by local requirement and cater for the local market. Therefore M&Ds have much experience in modifying the design of the labels of their products wherever the origin of their products. There is no reason for an undue delay to the compliance with the Hong Kong Code. Furthermore, as the Hospital Authority has been purchasing infant formula since 2010 with requirements on labelling, major M&Ds have ample experience in modifying labels within a reasonable period of time in order to continue with the supply of their products. This could be taken as a reference for the grace period before labels should comply with the Hong Kong Code.

11. Public education on implications of changing marketing strategies

Other than education on breastfeeding, there should also be public education on newer marketing strategies especially through the much less transparent social media.⁵ The public should be alerted to the implication of such activities.

Conclusion

The voluntary Hong Kong Code should be seen as an interim measure prior to legislation. A generation of children has already been affected by the lack of action to give effect to the principles and aim of the WHO Code of 1981 and subsequent relevant WHA resolutions. Hong Kong children should wait no longer.

⁵ Abrahams S. Mild and social media: Online communities and the International Code of Marketing of Breast-milk Substitutes. *J Hum Lact.* 2012; 28:400-6.



11 April 2012

Baby Friendly Hospital Initiative Hong Kong Association

Submission to Panel on Health Services on

Development of a Hong Kong Code of Marketing of Breastmilk Substitutes

The World Health Assembly (WHA) of the World Health Organisation (WHO) adopted a resolution in 1981 with overwhelming support from member states to protect and promote breastfeeding and ensure the proper use of breastmilk substitutes when necessary. This resolution is commonly known as the International Code of Marketing of Breastmilk Substitutes (the Code). Under the Code, governments have the responsibility to take action to give effect to the principles and aims of the Code. The development of a Hong Kong Code of Marketing of Breastmilk Substitutes (HK Code) is therefore long over due. Furthermore, since 1981, in response to updated scientific evidence and changes in marketing practices, the WHA passed a number of related resolutions, all with the same legal standing as the 1981 Code, i.e. recommendations from the WHA. Hence the HK Code taking into account the subsequent relevant WHA resolutions is the appropriate approach.

Protection of breastfeeding is a public health issue

WHO recommends exclusive breastfeeding for 6 months and with the introduction of safe and appropriate complementary foods, continue breastfeeding for up to two years of age or beyond. Breastfeeding is not just a lifestyle choice but a public health issue. Round the world, over 1 million children can be saved each year by exclusive breastfeeding. Even in developed countries, feeding infants formula milk instead of breastfeeding puts the children at risk of more middle ear infections, chest infections, gut infections, sudden infant death syndrome, allergic disorders, obesity, diabetes, childhood cancers and worse neurodevelopmental outcomes. Mothers who do not breastfeed are at higher risks of cancers of the breast and ovary, high blood pressure, diabetes, and heart and blood vessel disease. Apart from the fact that every child has the right to “the enjoyment of the highest attainable standard of health” according to the Convention on the Rights of the Child, the healthcare cost of such disease burden is not negligible. It is estimated that if 90% of mothers in the United States exclusively breastfeed for 6 months, there would be a savings of US\$13 billion per year. Scientific data for these information are well summarised in an article from the American Academy of Pediatrics published in March 2012.¹



Breastfeeding should not have to compete with commercial promotion of breastmilk substitutes

Breastmilk substitutes are not ordinary commercial products because breastfeeding is an important public health issue. Each month, the commercial sector in Hong Kong is spending tens of millions of dollars on milk powder advertisements. There is reservation that public money should be used in a similar way as competition to bring out public health messages. By regulating the marketing of breastmilk substitutes, public education would not be such an uphill battle and funds could be better spent in support of mothers to breastfeed with enhanced effect.

Mothers cite “not enough breastmilk,” “baby refuse to feed on the breast,” “going back to work,” as main reasons for giving up breastfeeding. Mothers think they are not influenced by advertisements. Why not support mothers to breastfeed in other ways first instead of regulating marketing of breastmilk substitutes?

There is no doubt that a multi-pronged approach is required to promote, support and protect breastfeeding. This is clearly laid down by WHO and UNICEF in the Innocenti Declaration in 1990 and reinforced in 2005.² The different measures include having an infant and young child feeding policy, implementation of the WHO Ten Steps to Successful Breastfeeding and the International Code of Marketing of Breastmilk Substitutes and subsequent relevant WHA resolutions in their entirety, maternity protection, and support at work and in the community. They are all important and their effects interlinked and complementary to each other. One does not wait for completion of one measure before instituting the other. Regulating marketing practices of breastmilk substitutes is of such importance that this is the focus of some 15 WHA resolutions since 1981.³

Although most mothers are aware that breastfeeding is good so that the breastfeeding initiation rate in Hong Kong was 79.2% in 2010,⁴ the exclusive breastfeeding rate at 4 to 6 months was only 14.8%. The reasons are multiple, not the least the community perception, with the unregulated marketing of formula milk, that artificial feeding is the norm - breastfeeding is good, if you can - while the reverse should be the truth. Human infants being fed human milk is the norm. Artificial feeding puts children at health and developmental risks.

The rapid decline in breastfeeding rate is partly related to mothers' motivation to persist in their effort to breastfeed being undermined by the misleading developmental and health claims of formula milk, portrayed as equivalent to or even better than breastfeeding. Similarly exposed friends and family members, with all their good intentions, show their care and concern for mothers by encouraging mothers to supplement with formula milk. Breastmilk production is regulated by supply and demand. When mothers who perceive themselves as not having enough



milk, especially in the early days after delivery before breastmilk comes in, are encouraged or pressurised to give supplemental formula milk to their infants, the less breastmilk these mothers will produce. Naturally the reason then given by mothers for stopping breastfeeding altogether is “not enough breastmilk.” Mothers who physically cannot produce enough milk are few and far between. When supplements are given with a bottle and teat, the babies have difficulties suckling on the breast. Regulation of marketing practices therefore also includes feeding bottles and teats. Close to half of mothers with infants do not go out to work so maternity leave is not the answer to all breastfeeding related issues although longer maternity leave and mother baby friendly workplaces are very important. Whatever the subjective impression of mothers, if formula advertisements do not influence behaviour and increase sales, with a corresponding reduction in breastfeeding, there will not be the massive investments in such activities by the commercial sector.

Not many Hong Kong mothers exclusively breastfeed. Formula milk is a necessity. Hong Kong is a free market. Mothers have a right to information to choose which formula. Why should commercial promotion be regulated?

It is a vicious cycle that the more formula milk is promoted, the less mothers breastfeed exclusively, the more formula milk seems to be required. The Code regulates marketing practices. It does NOT prohibit the sale of breastmilk substitutes. There are legitimate reasons for the use of formula milk but not the promotion of its use through misleading claims. The Hong Kong Bill of Rights states that the freedom of opinion and expression may be subject to restrictions for the protection of public health in line with the International Covenant on Civil and Political Rights which also applies to Hong Kong. A WHA resolution in 2005 was specifically concerned with nutrition and health claims used to promote breastmilk substitutes as superior to breastfeeding and called for the prohibition of such claims. This call was extended to foods for infants and young children in a WHA resolution in 2010.

The Code does not only protect breastfeeding infants but also those that are formula fed. The Code has specific requirements on the quality, ingredients, composition, labelling, storage and safe preparation of formula milk. Mothers who wish to purchase formula milk have a right to such information in making their choice. Such information should be provided by manufacturers. Addition of new nutrients into formula milk of which benefits are evidence based should be a mandatory requirement for all formula milk so that no infant consuming such milk should miss out on the benefits. Hence claims for such additions to identify individual formulas are superfluous and only serve as product identification for marketing purposes to increase sales to the detriment of breastfeeding. For infants with special dietary requirement, health care workers are the appropriate source of advice.



Should the HK Code cover formulas for use beyond 6 months?

In 1981, there were only infant formulas. To circumvent the 1981 Code, follow-up formulas were produced marketed in containers with names, designs and claims similar to individual manufacturer's infant formula. A WHA resolution in 1986 declared that follow-up formula is unnecessary while the WHA resolution in 2001 affirmed that breastfeeding should be continued to 2 years of age or beyond. Many benefits of breastfeeding are related to the duration of breastfeeding. Therefore a code on marketing of breastmilk substitutes should at least cover formula milk for use up to 24 months⁵ instead of remaining 30 years behind time based on the Code in 1981.

On the other hand, HK had chosen to protect children 36 months and above with the Nutrition Labelling and Nutrition Claim regulation that came into force in 2010. It is logical that formula milk for use between 24 and 36 months is also covered by the new HK Code. In fact WHA's concerns have moved over the years beyond breastfeeding to complementary foods through the Global Strategy for Infant and Young Child Feeding.⁶ The relevant WHA resolution in 2010 urged an end to inappropriate promotion of foods for infants and young children by prohibiting nutrition and health claims on such products. The Department of Health being proactive in addressing optimal infant and young child nutrition through to age 3 years is to be applauded.

Should the HK Code be voluntary or mandatory by legislation?

WHA recommends that "National policies and measures, including laws and regulations" be adopted to give effect to the principles and aim of the Code. Had action been taken in 1981, Hong Kong would have had ample time to draft and implement relevant legislations. It is better late than never. Since Hong Kong is drafting a voluntary HK Code, it allows manufacturers the opportunity to demonstrate their claimed support for breastfeeding and infant and child health, exercise their corporate social responsibility and enhance their corporate image. A HK Code by legislation would be an urgent step should the voluntary system appear not to gain the cooperation of the commercial sector. More than a generation of children and their mothers had already missed the protection from a strong HK Code.



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