# 立法會 Legislative Council

LC Paper No. CB(2)2350/13-14 (These minutes have been seen by the Administration)

Ref: CB2/SS/8/13

# Subcommittee on Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2014

# Minutes of meeting held on Tuesday, 22 July 2014, at 9:00 am in Conference Room 1 of the Legislative Council Complex

**Members** : Hon Alice MAK Mei-kuen, JP (Chairman)

**present** Hon WONG Ting-kwong, SBS, JP

Hon Cyd HO Sau-lan, JP Dr Hon LEUNG Ka-lau

Hon Alan LEONG Kah-kit, SC Hon Steven HO Chun-yin Dr Hon KWOK Ka-ki Hon KWOK Wai-keung

Dr Hon Helena WONG Pik-wan

Hon TANG Ka-piu, JP

**Members**: Hon Vincent FANG Kang, SBS, JP

absent Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN

Dr Hon Elizabeth QUAT, JP

**Public Officers**: Items I and II

attending

Professor Sophia CHAN Siu-chee, JP Under Secretary for Food and Health

Mr Jeff LEUNG Wing-yan

Principal Assistant Secretary for Food and Health (Food) 1

Mr Henry LAI

Assistant Secretary for Food and Health (Food) 2

Dr HO Yuk-yin, JP

Consultant (Community Medicine) (Risk Assessment and Communication)

Centre for Food Safety, Food and Environmental Hygiene Department

Dr Raymond HO Lei-ming Principal Medical Officer (Risk Management) Centre for Food Safety, Food and Environmental Hygiene Department

Dr Allen CHAN Chi-wai Senior Medical Officer (Risk Assessment) Centre for Food Safety, Food and Environmental Hygiene Department

Mr HO Kwok-wai Scientific Officer (Nutrition Labelling) Centre for Food Safety, Food and Environmental Hygiene Department

Mr CHIU Cheuk-ling Superintendent (Food Surveillance) 2 (Acting) Centre for Food Safety, Food and Environmental Hygiene Department

Miss Elaine NG Pui-kei Senior Government Counsel Department of Justice

Miss Shirley LI Kwan-ting Government Counsel Department of Justice

# Attendance by invitation

: Item I

La Leche League (Hong Kong)

Ms Cecilia WONG Tin-wai Representative

自由黨關注批發零售小組

Mr Peter SHIU Convener Democratic Alliance for the Betterment and Progress of Hong Kong

Mr Benny C B POON
Deputy Spokesperson on Food Safety and Environment
Hygiene Affair

Hong Kong Breastfeeding Mothers' Association

Miss Sharon TSUI Ying Vice-Chairlady

Wyeth (Hong Kong) Holding Company Limited

Miss Veronica SZE Associate Director, Public Affairs and Communications

Hong Kong Infant and Young Child Nutrition Association

Mr Clarence CHUNG President

Baby Friendly Hospital Initiative Hong Kong Association

Dr Patricia IP Vice-Chairman

Mead Johnson Nutrition (Hong Kong) Limited

Dr Hector Solorio, Ph. D. Vice President, Research & Development Operations Asia Pacific

Danone Nutricia Early Life Nutrition (Hong Kong) Limited

Mr Bruno Chevot General Manager

Hong Kong Society for the Protection of Children

Mr MAK Kang-ying Service Director

# Hong Kong Catholic Breastfeeding Association

Ms Connie CHAN Lai-sheung Vice-Chairman (Public Affair)

## Abbott Laboratories Limited

Mr Andrew WONG Ka-chai Regulatory Affairs Manager (Abbott Nutrition International)

#### Nestle Hong Kong Limited

Ms Eleanor CHAN
Director - Legal & Corporate Affairs, Hong Kong

## FrieslandCampina (Hong Kong) Limited

Miss Natalie YUEN Public Affairs Manager

#### Alliance for Children's Commission

Ms Eliza CHAN Member

**Individual** 

Ms TSANG Pui-yu

# Mamamilkbaby Alliance

Ms KAM Yeung-tse Chairperson

## Breastfeeding MaMa Station

Ms Corona CHAN Wai-yan Founder

#### Individual

Miss Joey ANG Wing-pui

**Passion Babies** 

Ms CHEUNG Yiu-sum

Host

Hong Kong Committee for UNICEF

Ms Joyce CHAN Assistant Manager

<u>Individual</u>

Mr HO Hing-cheong

Clerk in : Ms Alice LEUNG

attendance Chief Council Secretary (2) 2

**Staff in** : Miss Winnie LO

**attendance** Assistant Legal Adviser 7

Miss Karen LAI

Council Secretary (2) 6

Mr Richard WONG Council Secretary (2) 2

Miss Emma CHEUNG Legislative Assistant (2) 2

Action

# I. Meeting with deputations and the Administration

<u>The Subcommittee</u> deliberated (index of proceedings attached at Annex).

2. <u>The Subcommittee</u> received views from the 22 deputations/individuals attending the meeting (see **Annex**) on the Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2014 ("the Amendment Regulation"), and noted three written submissions from other organizations/individual which/who did not attend the meeting (LC Paper Nos. CB(2)2070/13-14(03), CB(2)2070/13-14(01) and CB(2)2086/13-14(02)).

#### Follow-up actions required of the Administration

Admin

3. The Administration was requested to provide a consolidated written response to views and concerns expressed by deputations.

## **II.** Meeting with the Administration

[LC Paper Nos. CB(2)2070/13-14(05), CB(2)2070/13-14(06), Legislative Council Brief File Ref: FH CR 4/3231/13, L.N. 90 of 2014, LC Paper No. LS62/13-14 and CB(2)1933/13-14(02)]

- 4. <u>The Subcommittee</u> deliberated (index of proceedings attached at **Annex**).
- 5. <u>Members</u> noted that the Subcommittee would continue its discussion on the Administration's responses to issues raised at the meeting on 2 July 2014 at the next meeting.

#### III. Any other business

6. <u>Members</u> agreed to schedule further meetings to scrutinize the Amendment Regulation.

(*Post-meeting note*: The Subcommittee had subsequently scheduled three meetings to be held on 29 September, 8 October and 20 October 2014.)

7. There being no other business, the meeting ended at 11:46 am.

Council Business Division 2
<u>Legislative Council Secretariat</u>
26 September 2014

# Proceedings of the meeting of the Subcommittee on Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2014 on Tuesday, 22 July 2014, at 9:00 am in Conference Room 1 of the Legislative Council Complex

Time	Speaker	Subject(s)	Action		
marker	_	-	Required		
Item I - M	Item I - Meeting with deputations and the Administration				
000640 - 001118	Chairman	The Chairman's opening remarks.			
001119 - 001447	Chairman Ms Cecilia WONG Tin- wai, La Leche League (Hong Kong)	Presentation of views [LC Paper No. CB(2)2070/13-14(01)]			
001448 - 001749	Chairman Mr Peter SHIU,自由黨關 注批發零售小組	Mr Peter SHIU's expression of support for the Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2014 ("the Amendment Regulation") and concerns about difficulties of small- and medium- sized manufacturers and retailers in meeting the proposed composition and labeling requirements. He pointed out that the saleable period for infant formula was about two to three years but the proposed grace period was only 18 months.			
001750 - 002026	Chairman Mr Benny C B POON, Democratic Alliance for the Betterment and Progress of Hong Kong	Mr Benny POON's concern that there was overlapping between products which were defined as infant formula and follow-up formula as the definition of infant formula would cover products for consumption by persons of any age up to and including 12 months and the follow-formula would cover products for persons of any age from six months to under 36 months. His expression of disappointment that the subject of regulation of health claims of formula products and prepackaged food for infants and young children under the age of 36 months had not been studied.			
002027 - 002311	Chairman Miss Sharon TSUI Ying, Hong Kong Breastfeeding Mothers' Association	Presentation of views [LC Paper No. CB(2)2103/13-14(01)]			

Time marker	Speaker	Subject(s)	Action Required
002312 - 002530	Chairman Miss Veronica SZE, Wyeth (Hong Kong) Holding Company Limited	Presentation of views [LC Paper No. CB(2)2090/13-14(01)]	Acquired
002531 - 002758	Chairman Mr Clarence CHUNG, Hong Kong Infant and Young Child Nutrition Association	Presentation of views [LC Paper No. CB(2)2090/13-14(02)]	
002759 - 003057	Chairman Dr Patricia IP, Baby Friendly Hospital Initiative Hong Kong Association	Presentation of views [LC Paper No. CB(2)2090/13-14(04)]	
003058 - 003408	Chairman Dr Hector Solorio, Mead Johnson Nutrition (Hong Kong) Limited	Presentation of views [LC Paper No. CB(2)2103/13-14(02)]	
003409 - 003627	Chairman Mr Bruno Chevot, Danone Nutricia Early Life Nutrition (Hong Kong) Limited	Presentation of views [LC Paper No. CB(2)2090/13-14(05)]	
003628 - 003926	Chairman Mr MAK Kang-ying, Hong Kong Society for the Protection of Children	Presentation of views [LC Paper No. CB(2)2103/13-14(03)]	
003927 - 004228	Chairman Ms Connie CHAN Laisheung, Hong Kong Catholic Breastfeeding Association	Ms Connie CHAN's view that breastfeeding was the best way to ensure the nutrition of infants.	
004229 - 004529	Chairman Mr Andrew WONG Ka- chai, Abbott Laboratories Limited	Presentation of views [LC Paper No. CB(2)2090/13-14(06)]	
004530 - 004737	Chairman Ms Eleanor CHAN, Nestle Hong Kong Limited	Presentation of views [LC Paper No. CB(2)2070/13-14(02)]	

Time marker	Speaker	Subject(s)	Action Required
004738 - 005046	Chairman Miss Natalie YUEN, FrieslandCampina (Hong Kong) Limited	Presentation of views [LC Paper No. CB(2)2086/13-14(01)]	Required
005047 - 005410	Chairman Ms Eliza CHAN, Alliance for Children's Commission	Presentation of views [LC Paper No. CB(2)2103/13-14(04)]	
005411 - 005713	Chairman Ms TSANG Pui-yu	Presentation of views [LC Paper No. CB(2)2103/13-14(05)]	
005714 - 010020	Chairman Ms KAM Yeung-tse, Mamamilkbaby Alliance	Ms KAM Yeung-tse's views that regulation should be imposed on health claims and advertising as well as promotion of formula products; and that the Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children ("Hong Kong Code") should be implemented as early as possible.	
010021 - 010333	Chairman Ms Corona CHAN Waiyan, Breastfeeding MaMa Station	Presentation of views [LC Paper No. CB(2)2153/13-14(01)]	
010334 - 010555	Chairman Miss Joey ANG Wing-pui	Miss Joey ANG's expression of support for breastfeeding and the traders should put a stop to such misleading and exaggerated advertising of formula products.	
010556 - 010847	Chairman Ms CHEUNG Yiu-sum, Passion Babies	Presentation of views [LC Paper No. CB(2)2103/13-14(06)]	
010848 - 011148	Chairman Ms Joyce CHAN, Hong Kong Committee for UNICEF	Presentation of views [LC Paper No. CB(2)2103/13-14(07)]	
011149 - 011453	Chairman Mr HO Hing-cheong	Mr HO Hing-cheong's expression of support for breastfeeding and view that the Government should implement the Hong Kong Code so as to ensure that the advertisements of formula products would give accurate and balanced information of the relevant product.	

Time marker	Speaker	Subject(s)	Action Required
011454 - 012331	Chairman Admin	The Administration's consolidated responses to views and concerns expressed by deputations -	
		(a) results of the public consultation revealed that while the public advocated a shorter grace period, most traders requested a minimum grace period of two years to get prepared for the legislation. Having considered the views received, the Administration proposed introducing a two-year grace period for follow-up formula and prepackaged food for infants and young children. However, given infant formula was the sole source of nutrition for infants, a shorter grace period of 18 months was proposed for infant formula for better protection of infants' health. If the same grace period should be provided across the board, the Administration would only consider proposing a shorter grace period of 18 months for all;	
		(b) the Administration had technical meetings with the trade in the past few months and had exchanged views on the technical guidance notes and testing methods. The Centre for Food Safety ("CFS") would consult the trade on the provisional draft of the technical guidance notes. The finalized guidance notes would be released after the completion of scrutiny of the Amendment Regulation;	
		(c) the Administration noted that many deputations requested for early implementation of the Hong Kong Code and the regulation of health claims of formula products. At the meeting of the Panel on Health Services on 21 July 2014, the Administration had advised that CFS was studying the local and international situations on the use of nutrition and health claims of the formula products concerned and planned to study the regulation of health and nutrition claims. It was hoped that a public consultation would be conducted around	

Time marker	Speaker	Subject(s)	Action Required
		the end of 2014. As for the Hong Kong Code, the Administration would need to refine the draft Code and would announce the modified Hong Kong Code;	
		(d) the Administration had set up the Committee on Promotion of Breastfeeding under the purview of the Food and Health Bureau to oversee and coordinate breastfeeding promoting and supporting activities; and	
		(e) the Administration would enhance breastfeeding support in workplaces and public venues and strengthen publicity and public education on breastfeeding as the best source of nutrition for infants.	
		At the request of the Chairman, the Administration agreed to provide a consolidated written response to deputations' views.	Admin
012332 - 012853	Chairman Dr Helena WONG Mr Peter SHIU,自由黨 關注批發零售小組	Dr Helena WONG considered that while the Administration had introduced a legislative proposal to implement nutrition composition and labelling requirements for formula products and prepackaged food for infants and young children, it should give a timetable for the implementation of the Hong Kong Code and regulation of health claims on formula products and prepackaged food for infants and young children. She took the view that the technical guidance notes should be ready for the trade's reference prior to the completion of the scrutiny of the Amendment Regulation.	
		In response to Dr WONG's question about the length of grace period, Mr Peter SHIU pointed out that small-sized manufacturers/traders would have difficulties in selling out all stock products if the grace period was 18 months as the saleable period of most of the formula products was two to three years.	

Time	Speaker	Subject(s)	Action
012854 - 013417	Chairman Mr Alan LEONG Admin Mr Clarence CHUNG, Hong Kong Infant and Young Child Nutrition Association	Mr Alan LEONG indicated that the Civic Party supported in principle the Amendment Regulation. He considered that given that the grace period had commenced on the gazettal date of 13 June 2014, the Administration should release the technical guidance notes, which provided detailed information on the tolerance limits and testing methods, to the trade as soon as possible.	Required
		The Administration's reiteration that CFS had exchanged views with the trade on the technical guidance notes at a number of technical meetings in the past two years. CFS would continue to consult with the trade on the provisional draft in the coming two months and the finalized version would be publicized when the scrutiny of the Amendment Regulation was completed.	
		Mr Alan LEONG invited deputations to respond to his enquiry whether the trade would have difficulties if a shorter grace period of 18 months was given. Mr Clarence CHUNG responded that manufacturers needed time to perform calibration of the composition of their products with the new requirements to ensure compliance with the Amendment Regulation and the calibration results might require their products to be reformulated. As the grace period had already commenced since mid June, they were worried that they might not have sufficient time to prepare for the changes if they had to wait for another three more months for the finalized version of technical guidance notes.	
013418 - 013852	Chairman Ms Cyd HO Miss Veronica SZE, Wyeth (Hong Kong) Holding Company Limited Miss Sharon TSUI Ying, Hong Kong Breastfeeding Mothers' Association Miss Natalie YUEN, FrieslandCampina	Ms Cyd HO invited deputations to respond to her view that the manufacturers should consider affixing a label on the containers of formula products to promote the advantages of breastfeeding.  Miss Veronica SZE and Miss Natalie YUEN responded that at present, there was also a statement promoting breastfeeding on the containers of formula products, and breastfeeding facilities were available at their	

Time marker	Speaker	Subject(s)	Action Required
	(Hong Kong) Limited	offices.	
		Miss Sharon TSUI stressed that formula products could not replace breastfeeding which was the best source of nutrient for infants.	
013853 - 014458	Chairman Admin Ms Eleanor CHAN, Nestle Hong Kong Limited Mr Bruno Chevot, Danone Nutricia Early Life Nutrition (Hong Kong) Limited Dr Hector Solorio, Mead Johnson Nutrition (Hong Kong) Limited	The Chairman asked the deputations whether the trade could accept a grace period of 18 months for all formula products and prepackaged food for infants and young children if the Administration could expedite the release of the technical guidance notes.  The Administration's advice that the provisional draft would be available in the next two months while the finalized version of the technical guidance notes after the	
	(Hong Kong) Limited	enactment of the Amendment Regulation.	
		Ms Eleanor CHAN responded that Nestle Hong Kong Limited would accept a grace period of 18 months if the technical guidance notes including testing methods and tolerance limits could be issued to the trade before the completion of the scrutiny of the Amendment Regulation.	
		Mr Bruno Chevot responded that more time would be needed for calibration of the composition of their products and reformulation of products; and details of declaration of nutrition values on the labels should be worked out.	
		Dr Hector Solorio responded that a sufficient grace period should be allowed for manufacturers so as to ensure a smooth transition of the changes and introduction of products to Hong Kong which were in compliance with the new labelling requirements under the Amendment Regulation.	
014459 - 015353	Chairman Ms Cyd HO Dr Patricia IP, Baby Friendly Hospital	Ms Cyd HO invited deputations to give views on the regulation of advertising as well as promotion of formula products and how to promote breastfeeding.	
	Initiative Hong Kong Association	Dr Patricia IP, Ms Corona CHAN Wai-yan,	

Time marker	Speaker	Subject(s)	Action Required
	Ms Corona CHAN Waiyan, Breastfeeding MaMa Station Ms CHEUNG Yiu-sum, Passion Babies Ms KAM Yeung-tse, Mamamilkbaby Alliance	Ms CHEUNG Yiu-sum, and Ms KAM Yeung-tse expressed the views that -  (a) they were in general supportive of the proposed legislative proposal for introducing composition and labeling requirements for formula products and prepackaged foods for infant and young children under the age of 36 months;  (b) the Administration should expeditiously promulgate and implement the Hong Kong Code;  (c) the words of the statement regarding the promotion of breastfeeding printed on the containers of formula products were illegible; and  (d) the health claims and TV commercials and various promotion activities for formula products and prepackaged food should be regulated.	Required
015354 - 015653	Chairman Mr Andrew WONG Kachai, Abbott Laboratories Limited Admin Ms Cyd HO	Mr Andrew WONG reiterated the view that as the Administration had not released the final details of the technical guidance notes (e.g. tolerance limits), manufacturers would need a longer grace period of 24 months to re-formulate their products and conduct stability study.  The Administration's reiteration of its plan to consult the trade on the provisional draft of technical guidance notes and the timetable for release of the finalized version.	
015954 - 021308	Chairman Miss Joey ANG Wingpui Ms TSANG Pui-yu Ms Connie CHAN Laisheung, Hong Kong Catholic Breastfeeding Association Mr HO Hing-cheong Ms Joyce CHAN, Hong Kong Committee for	The Chairman invited deputations to give views on the length of the grace period and regulation of marketing and health claims of formula products.  The gist of views expressed by the deputations and individuals was as follow -  (a) as regards the grace period, some deputations queried why a grace period of 24 months should be provided for the manufacturers to prepare for the changes and for their product reformulation if	

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	UNICEF Ms Cecilia WONG Tinwai, La Leche League (Hong Kong) Miss Sharon TSUI Ying, Hong Kong Breastfeeding Mothers' Association	their products had already followed the Codex standards. There was also a strong view that on the premise of protecting infants' health, there was no need to provide a grace period to the trade;  (b) the Hong Kong Code should be implemented as early as possible and the health claims on the formula products should be regulated; and  (c) more resources should be allocated for the Committee on Promotion of Breastfeeding and other promotion and publicity work for breastfeeding.	
021309 - 021511	Chairman Mr Clarence CHUNG, Hong Kong Infant and Young Child Nutrition Association	<ul> <li>(a) the trade had been following the Codex standards but Codex did not provide for specific requirements for enforcement such as tolerance limits. The Administration should release such details as early as possible to facilitate the trade to adapt to the proposed composition and nutrition labelling requirements;</li> <li>(b) as there was fierce competition in the market, the marketing expenses for formula products were therefore very high; and</li> <li>(c) the Administration should strike a balance between the concerns of breastfeeding support groups and the trade when implementing the Hong Kong Code.</li> </ul>	
021512 - 021649	Chairman Ms Cyd HO Mr Andrew WONG Ka- chai, Abbott Laboratories Limited	Ms Cyd HO's view and Mr Andrew WONG's response about whether the deletion of the tolerance limits would shorten the time required to adapt to the composition and labelling requirements under the Amendment Regulation.	
021650 - 022606	Chairman Dr Helena WONG Mr Peter SHIU, 自由黨 關注批發零售小組	In response to Dr Helena WONG's enquiry, Mr Peter SHIU expressed the view that manufacturers would face great difficulties if tolerance limits would not be adopted.	

Time marker	Speaker	Subject(s)	Action Required
	Mr Steven HO Admin	Mr Steven HO's remarks that while he supported breastfeeding, he concurred with Mr Peter SHIU's view that for the purpose of considering enforcement action, CFS should adopt tolerance limits for nutrients in assessing whether a formula product was in compliance with the requirements under the Amendment Regulation.	
		The Administration responded that -	
		(a) in enforcing labelling requirements, CFS allowed some discrepancies between the measured quantity of nutrients and their declared values to accommodate change of nutrition content during storage due to factors like climate of different manufacturing countries;	
		(b) tolerance limits had been adopted for other food items, and the same standardized range of tolerance limits would be adopted for formula products under the Amendment Regulation; and	
		(c) issues regarding tolerance limits for formula products and prepackaged food had been discussed with different stakeholders during various technical meetings.	
		(extension of meeting by 15 minutes by the Chairman).	
Item II - N	Meeting with the Administratio	n	
022607 - 023117	Chairman Ms Cyd HO Admin	Ms Cyd HO's enquiries about the background and the source of reference for the proposed range of 80% to 120% for tolerance limits.  The Administration's responses that -	
		(a) the Codex standards were for nutrition composition and labelling without requirements on tolerance limits.  Different countries would set their own tolerance limits when they implemented the Codex standards in nutrition labelling in light of their own situations;	

Time marker	Speaker	Subject(s)	Action Required
		<ul> <li>(b) the tolerance limit for beneficial nutrients was set at ≥80% and that for harmful nutrients was set at ≤120%; and</li> <li>(c) the same approach was adopted by the Mainland and other jurisdictions including the United States and Singapore.</li> <li>In response to Ms Cyd HO's enquiry about the timetable for releasing the finalized version of technical guidance notes, the Administration undertook that CFS would continue to liaise and communicate with the trade on the technical guidance notes in the coming two months and provide the provisional draft of notes to the trade for reference prior to the completion of the scrutiny of the Amendment Regulation.</li> </ul>	
023118 - 023639	Chairman Dr Helena WONG Admin	In response to Dr Helena WONG's enquiries on tolerance limits and testing methods, the Administration advised that  (a) details of tolerance limits were in Appendix III to the Administration's responses to issues raised at the meeting on 2 July 2014 [LC Paper No. CB(2)2070/13-14(06)];  (b) in gist, the tolerance limit for nutrients with positive impact to health was ≥80% of the declared value; that for nutrients with negative impact was ≤120% of the declared value; for added vitamins and minerals, the tolerance limit was at least the declared value; and  (c) the Administration had exchanged views with different stakeholders on testing methods which would follow that of Codex and other methods considered appropriate.	
023640 - 024051	Chairman Admin	The Chairman's views and the Administration's responses about the timetable for the release of the technical guidance notes and the tolerance limits adopted by overseas jurisdictions.	

Time	Speaker	Subject(s)	Action
marker			Required
024052 - 024759	Chairman Dr Helena WONG Admin Ms Cyd HO	Dr Helena WONG's enquiries of and the Administration's responses about the reasons for setting no upper limit and a wider range of 80-180% between measured quantity and declared value for some nutrients such as Vitamins A and D.	
		The Chairman's remarks that the Subcommittee would continue its discussion on the Administration's responses to issues raised at the meeting on 2 July 2014 at the next meeting.  Schedule of the next meeting.	

Council Business Division 2 <u>Legislative Council Secretariat</u> 26 September 2014