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Submission to Panel on Food Safety and Environmental Hygiene of  
the Legislative Council on the  
Public consultation 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 Hong Kong  
10 February 2015

**Preamble**

UNICEF Baby Friendly Hospital Initiative Hong Kong Association (BFHIHKA) welcomes the government initiative to regulate, through legislation, nutrition and health claims on infant formula, follow-up formula, and pre-packed foods for infants and young children under the age of 36 months. This is long overdue when the corresponding legislation for food products for use over 36 months of age already came into force in 2010.

WHO recommends that “infants should be exclusively breastfed for the first six months of life to achieve optimal growth, development and health. Thereafter, to meet their evolving nutritional requirements, infants should receive nutritionally adequate and safe complementary foods while breastfeeding continues for up to two years of age or beyond.”<sup>1</sup> Furthermore WHO encourages the use of locally available, indigenous complementary foods for infants and young children.

Other than the International Code of Marketing of Breastmilk Substitutes adopted at the World Health Assembly (WHA) in 1981<sup>2</sup>, WHA resolution (WHA63.23)<sup>3</sup> in 2010, recognized that “the promotion of breast-milk substitutes and some commercial foods for infants and young children undermines progress in optimal infant and young child feeding.” Governments were urged “to end inappropriate promotion of food for infants and young children and to ensure that nutrition and health claims shall not be permitted for

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<sup>1</sup> WHO’s infant feeding recommendation [http://www.who.int/nutrition/topics/infantfeeding\\_recommendation/en/](http://www.who.int/nutrition/topics/infantfeeding_recommendation/en/) accessed 2015.1.30

<sup>2</sup> WHO International Code of Marketing of Breastmilk Substitutes. 1981  
<http://www.who.int/nutrition/publications/infantfeeding/9241541601/en/> accessed 2015.1.30

<sup>3</sup> WHA resolution May 2010 [http://www.who.int/nutrition/topics/WHA63.23\\_icycn\\_en.pdf?ua=1](http://www.who.int/nutrition/topics/WHA63.23_icycn_en.pdf?ua=1) accessed 2015.1.30



foods for infants and young children, except where specifically provided for, in relevant Codex Alimentarius standards or national legislation.”

National legislation varies between countries taking into account the local situation, nutrition and health policies. The amount of promotion of formula milk products for infants and young children seen in HK is rarely found in any other city. HKD 2.7 billion was spent on promotion of formula milk in 2013<sup>4</sup>, exceeding the budget of the Department of Health (DH) for services for the elderly, women and children.<sup>5</sup> A local study done by the DH and Chinese University of HK found a high prevalence of unbalanced diet in young children in HK with an over consumption of formula milk.<sup>6</sup> A significant proportion of parents believed that follow-up formula had added nutrients that promote the brain development of children not found in other foods. It is therefore important that HK’s proposed regulation on nutrition and health claims on formula products and prepackaged food for infants and young children takes a restrictive approach.

## Opinion on Proposed Regulations

### *Infant formula*

No nutrition and health claims should be allowed.

Nutrients scientifically proven to be required for the growth and development of infants should be in all infant formula permitted for sale. The international standard is laid down in Codex<sup>7</sup>. No purpose is served by highlighting individual nutrients common to all infant formula other than to expand the market share of the product and the market of that category of products to the detriment of breastfeeding.

### *Follow-up formula*

No nutrition and health claims should be allowed.

Follow-up formulas are introduced by manufacturers to by-pass the 1981 WHO International Code of Marketing of Breastmilk Substitutes. WHO declared follow-up formula as unnecessary in 1986 (WHA29.28)<sup>8</sup>

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<sup>4</sup> 「偏食奶粉」易致偏食 廣告宣傳盛 熱量高影響正餐胃口，明報，2014年2月3日

<sup>5</sup> The 2013-14 Budget, HKSAR. <http://www.budget.gov.hk/2013/eng/pdf/head037.pdf> accessed 2015.1.30

<sup>6</sup> Luk WY, Leung S, Leung, C. A Survey of Infant and Young Child Feeding in Hong Kong: Milk Consumption. Department of Health, Hong Kong SAR Government; 2012.

<sup>7</sup> Standard for Infant Formula and Formulas for Special Medical Purposes Intended for Infants. Codex standard 72-1981 amended 2011. <http://www.codexalimentarius.org/standards/list-of-standards/> accessed 2015.1.30

<sup>8</sup> WHA 1986 resolution 39.28 [http://www.who.int/nutrition/topics/WHA39.28\\_icycn\\_en.pdf?ua=1](http://www.who.int/nutrition/topics/WHA39.28_icycn_en.pdf?ua=1)



and in 2013 that follow-up formula is “unsuitable when used as a breast-milk replacement from six months of age onwards.”<sup>9</sup> Although claims may be allowed in some countries, the situation in HK as described above calls for a restrictive approach.

### *Infant and Young Child Foods*

Other function claims and reduction of disease risk claims should not be allowed.

Nutrient content, comparative and function claims should only be allowed if Principle 4 and 5 are adhered to, i.e. the nutrients or constituents are of high importance to health of infants and young children, Nutrient Reference Values applicable to our local population are available and the claims could be scientifically substantiated and have undergone a credible evaluation process.

### *Inclusion of advertisements*

BFHIHK fully supports the inclusion of advertisements and other promotions through whatever channel in the regulation other than labels and packaging.

### *Grace Period*

The grace period of compliance for infant and follow-up formula for which claims are not allowed should be short.

## **Other Considerations**

### *What are claims*

According to Codex Alimentarius<sup>10</sup>, “a claim is any representation which states, suggests or implies that a food has particular characteristics relating to its origin, nutritional properties, nature, production, processing, composition or any other quality.” Guidelines should be devised for the interpretation of the definition with examples, and updated according to changes in marketing strategies. This would facilitate the monitoring process and the report of violations. As a start, other than statements, graphics and trademarks increasingly used as claims should be covered by the regulation.

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Accessed 2015.1.30

<sup>9</sup> Information on concerning the use and marketing of follow-up formula. WHO 2013.

[http://www.who.int/nutrition/topics/WHO\\_brief\\_fufandcode\\_post\\_17July.pdf?ua=1](http://www.who.int/nutrition/topics/WHO_brief_fufandcode_post_17July.pdf?ua=1) accessed 2015.1.30

<sup>10</sup> Codex Alimentarius General Guidelines on Claims

[file:///C:/Documents%20and%20Settings/user/My%20Documents/Downloads/CXG\\_001e%20\(1\).pdf](file:///C:/Documents%20and%20Settings/user/My%20Documents/Downloads/CXG_001e%20(1).pdf) accessed 2015.1.30

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Baby Friendly Hospital Initiative (BFHI) is an UNICEF initiative to promote, protect and support breastfeeding.  
香港醫院運動是聯合國兒童基金會致力推動、護及支持母乳。  
[www.babyfriendly.org.hk](http://www.babyfriendly.org.hk) [www.unicef.org.hk](http://www.unicef.org.hk)



*Taking reference from approved claims from other countries*

There needs to be stringent assessment of the evaluative process of claims by authorities of different jurisdictions before taking reference from these authorities. Otherwise HK will be in danger of having a hotpot of “approved” claims not conducive to the health of our children.

*Panel making the above decisions / evaluations*

Members should have the expertise but no conflict of interest.

*What is food and what is medicine*

There needs to be a clear means of identification of products that could be a food or a medicine for ease of monitoring as to which regulations apply e.g. 開奶茶。

*What is a formula for special medical purposes*

This requires clear definition. As an example, formula promoted for “picky eaters” should not fall into this category. Furthermore, formula for special medical purposes should be available only under medical prescription and used under medical supervision.

*Age coverage*

Food products intended for the use of infants and young children should clearly state the age of recommended use. The current practice of some baby foods using graphics of infants to denote such information without stating the age clearly is unacceptable.

Infant and young child foods should not be labeled for use below the age of 6 months, making reference to WHO’s recommendation for infant and young child feeding. This does not preclude the introduction of such foods below the age of 6 months under medical advice.

Products labeled for use for both below and above the age of 36 months should be covered by the proposed regulation.

## **Conclusion**

When Hong Kong has major concerns with population sustainability, BFHIHK trusts the government will adopt a restrictive approach so as not to compromise the health and development of the future pillars of our society. As legislation takes time, it is essential that HK implements the voluntary Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young



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Children as soon as possible. Articles related to claims should be retained in the interim. Prior to legislation on claims being in place, the spirit of both WHO and Codex Alimentarius's recommendation that nutrition and health claims shall not be permitted "except where specifically provided for in national legislation" should be the basis of any modifications of the draft.

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