

13 July 2015

To Members of the Legislative Council
c/o Legislative Council Secretariat
Legislative Council
Hong Kong Special Administrative Region

**Re: Proposed Regulatory Framework on Nutrition and Health Claims on
Infant Formula, Follow-up Formula, and Prepackaged Foods for Infant and
Young Children Under the Age of 36 months in Hong Kong**

Nutritional intake and feeding practices in the first 1000 days of life have tremendous impact on the health of a child and the effect is life-long. We welcome the Government to bring more regulatory structure to products that have a potential health and nutritional impact on young children. We are most encouraged that the responses have been favourable and the vast majority of traders and members of the public supported the regulation of claims. The introduction of the proposed regulatory framework is timely and we fully endorse the government adopting a “restrictive approach” as an important first step.

We understand that there may be concerns or arguments that the restrictions if applied to follow-up formulae (for 6-36 months) and prepackaged food would affect consumers' right to information or supply of such products in the market. We have therefore prepared this paper with background information for our Honorable Members of the Legislative Council to better understand why the restrictions need to extend to follow-up formulae and prepackaged foods for up to 36 months of age, with the support of evidence and to address the concerns.

1. The Nature of claims

As people are increasingly aware of the relationship between diet and health, the use of nutrition or health claims on food product labelling and advertising has become an important *marketing tool* by the food industry to attract consumer attention and influence their choices.

Globally, there have been calls for clearer rules and tighter controls on claims by governments due to concerns that health claims could be misleading. The International Code of Marketing of Breastmilk Substitutes (WHO, 1981) and subsequent relevant World Health Assembly (WHA) Resolutions (WHA58.32, 2005; WHA63.23, 2010) repeatedly urge governments *“to end inappropriate promotion of food for infants and young children and to ensure 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.”*^{1,2}

The primary aim of regulation on claims is therefore to protect consumers while ensuring fair competition within the food industry.

2. Follow-up Formula is not necessary

Follow-up formulae generally have higher calorie and nutrient content than breastmilk, infant formula and cow milk. Excessive consumption of energy-dense follow-up formula displaces a child’s appetite for a more balanced diet, and may contribute to childhood obesity with risks of non-communicable diseases in adulthood. The World Health Organization (WHO) reiterates that follow-up formula is *“unnecessary as well as not a suitable substitute for breastmilk, due to its content”* (2013),³ while the European Commission states that the use of milk-based “growing-up” formula does not bring additional value to a balanced diet in meeting the nutritional requirements of young children (EFSA, 2013).⁴

Given that follow-up formula is unnecessary and an unsuitable substitute for breastmilk, children between 6 and 24 months of age should be consuming an increasing amount of solid foods, and yet, breastmilk remains the most appropriate liquid part of a progressively diversified diet. For babies not being breastfed, those under the age of 1 year can take infant formula, while those above 1 year can take full cream milk, fermented milk or yogurt, etc. Children of 2 to 5 years should be having regular meals with the family and eating a balanced diet.⁵

3. Aggressive marketing of follow-up formula and its impact on local infant feeding practices

Ample overseas and local literature consistently demonstrates that advertising follow-up formula is a powerful tool, not only for the promotion of the follow-up formula itself, but will link to infant formula of the same brand (which bears very similar names, logos and packaging). It has been repeatedly shown that parents often fail to distinguish between advertising for the two products.^{6,7,8,9}


Advertising follow-up formula using exaggerated claims is an extremely common marketing strategy in Hong Kong. The aggressive marketing by the industry is evidenced by the escalating annual spending on advertising formula products for children under 36 months, which increased from HK\$ 1.5 billion in 2011 to HK\$ 2.7 billion in 2013.¹⁰ The majority of the spending was on follow-up formulae.

A survey conducted by the Department of Health (2012) showed a high prevalence of unbalanced dietary patterns with excessive milk consumption and a significant proportion of parents had misconceptions about the nutritional value of follow-up formula milk, which reflected the powerful influence of aggressive advertising using misleading claims.¹¹ While we appreciate the Government's subsequent efforts in enhancing parent education on infant and young child feeding, we consider a restrictive approach to regulating these claims indispensable.

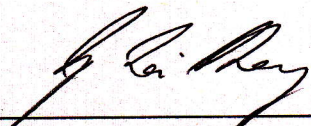
4. Consumer rights to information

We consider the "Food and Drugs (Composition and Labelling) (Amendment) (No.2) Regulation 2014" adequate in ensuring that consumers have ready access to information on the nutrient content of formula and food products, as it mandates nutrition labelling of infant formula, follow-up formula and prepackaged food for infants and young children under the age of 36 months. There is thus no question of consumers being devoid of information by prohibiting claims on these products.

In conclusion, we would like to reiterate that the impact of early nutrition on long term health such as risk of obesity is now well recognized. Nonetheless, the youngest of our population are unable to defend themselves. We therefore strongly urge our Honorable Members of the Legislative Council to bear the best interest of our children in mind. Your support and your endorsement for the restrictive approach to regulating claims on all formula products, including follow-up formula, as well as prepackaged food for infants and young children under the age of 36 months will prevent the promotion of biased or even misleading information, and enable parents to make appropriate infant feeding choices.



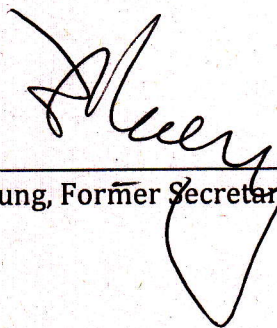
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- ¹⁰ 「偏食奶粉」易致偏食_廣告宣傳盛_熱量高影響正餐胃口, 明報, 2014年2月3日
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