

立法會

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Panel on Food Safety and Environmental Hygiene

Background brief prepared by the Legislative Council Secretariat for the meeting on 13 January 2015

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

Purpose

This paper provides background information on issues relating to the 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, and summarizes the major views and concerns of Legislative Council ("LegCo") Members on the subject.

Background

Drafting of the Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants and Young Children

2. The Steering Committee on Prevention and Control of Non-Communicable Diseases¹ ("the Steering Committee") endorsed in February 2010 the proposal of developing and implementing a code of marketing of breastmilk substitutes for Hong Kong as part of a comprehensive strategy to support breastfeeding. A taskforce was set up in June 2010 under the Department of Health ("DH") to draft the Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants and Young Children ("the Hong Kong Code"). A public consultation

¹ The Steering Committee was set up in 2008 for implementing the strategic framework set out in the document entitled "Promoting Health in Hong Kong: A Strategic Framework for Prevention and Control of Non-communicable Diseases", which was published by DH in the same year.

exercise on the draft version of the Hong Kong Code was launched by the Administration on 26 October 2012².

3. At the joint meeting of the Panel on Food Safety and Environmental Hygiene ("the FSEH Panel") and the Panel on Health Services ("the HS Panel") on 20 November 2012, Members were briefed by the Administration on the latest developments of the regulation of formula products and foods for infants and young children as follows -

- (a) the draft version of the Hong Kong Code was aimed to contribute to the provision of safe and adequate nutrition for infants and young children by protecting breastfeeding, and ensuring the proper use of formula milk, formula milk related products and food products for infants and young children up to the age of 36 months on the basis of adequate and unbiased information and through appropriate marketing practices. The Administration proposed that the Hong Kong Code be voluntary in nature and traders would be encouraged to follow the Hong Kong Code upon its implementation;
- (b) the Administration would introduce legislative proposals to impose nutritional composition and labelling requirements on formula products and prepackaged foods intended for infants and young children under the age of 36 months; and
- (c) the Administration considered that there was complexity and controversies concerning the regulation of nutrition and health claims on formula products and food intended for infants and young children under the age of 36 months, and would examine various regulatory options for such claims and take into account international practices as well as the current situation in Hong Kong in mapping out the way forward.

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

4. At the FSEH Panel meeting on 12 March 2013, the Administration briefed Members on the results of the public consultation on the legislative proposals relating to the nutritional composition and nutrition labelling of formula products and prepackaged food for infants and young children under the age of 36 months. Noting that the regulation of nutrition and health claims was not included in the legislative proposals, Members urged the Administration to introduce legislative proposals for regulating such claims.

² The Administration initially set 31 December 2012 as the deadline of the public consultation, and subsequently extended the consultation period for two months until 28 February 2013.

5. On 9 June 2014, the Director of Food and Environmental Hygiene, in exercise of the power under section 55(1) of the Public Health and Municipal Services Ordinance (Cap. 132) ("PHMSO"), made the Food and Drugs (Composition and Labelling) (Amendment) (No.2) Regulation 2014 ("the Amendment Regulation") with a view to ensuring that infant formula, follow-up formula and pre-packaged food for infants and young children under the age of 36 months were properly labelled to reflect the values of important nutrients; and as far as infant formula was concerned, it must be nutritionally adequate, so as to protect the health of infants and young children under the age of 36 months.

6. Members agreed at the House Committee meeting on 20 June 2014 to form a subcommittee to scrutinize the Amendment Regulation. During the scrutiny of the Amendment Regulation, the Subcommittee on Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2014 ("the Subcommittee on the Amendment Regulation") were advised that the Administration was studying the local and international situations on the use of nutrition and health claims in formula products and prepackaged food for infants and young children under the age of 36 months, and planned to examine the possible strategies on regulating such claims in 2014.

Members' concerns

7. The views and concerns expressed by Members on the subject at various committee meetings, including the FSEH Panel, the HS Panel and the Subcommittee on the Amendment Regulation, are summarized in the ensuing paragraphs.

Regulation of the marketing of formula products

8. Members expressed grave concern about the misleading and exaggerated health claims made in some formula products advertisements. They urged the Administration to expeditiously introduce legislation to regulate the marketing of formula products. There was also a suggestion that the promotion of formula products for infants under the age of six months should be banned in order to support breastfeeding. Members urged the Administration to set a legislative timetable for regulating such claims.

9. According to the Administration, in view of the complexity and controversies concerning the regulation of nutrition and health claims, and the lack of international consensus on the standard to be adopted, it would need more time to gauge views of stakeholders and the public. It was the

Administration's plan to start tackling the issue of regulating such claims at a later stage in 2013. Meanwhile, the relevant articles of the Hong Kong Code would serve as guidelines with respect to the claims of the formula products. Furthermore, it was an offence under section 61(2) of PHMSO for a person to publish or involve in the publication of an advertisement which falsely described a food, or was likely to mislead as to the nature, substance or quality of the food. Upon conviction, the person would be liable to a fine at level 5 (i.e. \$50,000) and imprisonment for six months.

Timetable for introducing legislative proposals

10. When the Subcommittee on the Amendment Regulation received deputations' views at its meeting on 22 July 2014, many Members shared the views of some deputations that regulation should be imposed on health claims and advertising and the Administration should ensure that the advertisements of formula products would give accurate and balanced information. The Administration was urged to provide a timetable for the regulation of health claims on formula products and prepackaged food for infants and young children and the implementation of the Hong Kong Code.

11. The Administration advised that the Centre for Food Safety 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 such claims. It was the Administration's plan that a public consultation on the subject would be launched at around the end of 2014.

Recent developments

12. According to Administration's paper [LC Paper No. CB(2)2048/13-14 (05)] provided for the HS Panel meeting on 21 July 2014, taking into account the legislative exercise on the nutrition labelling and nutritional composition requirements as well as the plan to regulate health and nutrition claims, the Administration would need to refine the draft Hong Kong Code such that it would not overlap with the legislation on labelling, quality and claims.

13. The Administration will brief the FSEH Panel on the public consultation document 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 at the meeting on 13 January 2015.

Relevant papers

14. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
8 January 2015

Relevant papers on
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

Committee	Date of meeting	Paper
Panel on Health Service	16.4.2012 (Item V)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene and Panel on Health Services	20.11.2012 (Item II)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	12.3.2013 (Item IV)	Agenda Minutes
Subcommittee on Food and Drugs (Composition and Labelling) (Amendment) (No.2) Regulation 2014	2.7.2014 (Item II)	Agenda Minutes
	22.7.2014 (Items I and II)	Agenda Minutes

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