

For information
on 20 March 2017

Legislative Council Panel on Health Services

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

PURPOSE

This paper briefs Members on the Government's plan to promulgate the voluntary Hong Kong Code of Marketing of Formula Milk and Related Products, and Food Products for Infants & Young Children in mid-2017 to protect breastfeeding and support the optimal feeding of infants and young children ("IYC") aged below 36 months.

BACKGROUND

The benefit of breastfeeding and recommendation by the World Health Organization ("WHO")

2. The superiority of breastfeeding in ensuring physical and psychosocial health and well-being of mother and child as well as the important impacts of early nutrition on long-term health are widely recognised. In addition to clear short-term health benefits such as protection from gastrointestinal and middle-ear infections in children, breastfeeding has also been shown to be protective against obesity and development of non-communicable diseases in adulthood. On top of that, studies have also shown that breastfeeding could protect against premenopausal breast cancer in mothers.

3. The benefits of breastfeeding are shown to be proportional to its duration and exclusiveness. The WHO has made a global public health recommendation that infants should be exclusively breastfed for the first

6 months of life to achieve optimal growth, development and health and thereafter, to meet their evolving nutritional requirements, infants should receive nutritionally adequate and safe complementary foods while breastfeeding continues up to 2 years of age or beyond¹. The creation of an environment that protects, promotes and supports breastfeeding requires a systemic approach, which includes, among others, enabling parents to make informed decisions on infant feeding free from commercial influence. To this end, the WHO developed and World Health Assembly (“WHA”) adopted the International Code of Marketing of Breastmilk Substitutes (“1981 WHO International Code”) in 1981 to empower mothers to make fully informed decisions on infant feeding free from commercial influence and to recommend restrictions on marketing practices of breastmilk substitutes so that breastfeeding can thrive and risks arising from feeding by formula milk can be minimized. Subsequent resolutions issued by the WHA have clarified and updated certain provisions of the 1981 WHO International Code to align with scientific advances and evolving marketing strategies and also urged member states to implement the 1981 WHO International Code and relevant WHO recommendations.

4. In May 2016, WHO issued the “Guidance on ending the inappropriate promotion of foods for infants and young children” (“2016 WHO Guidance”) which recommends that *“products that function as breast-milk substitutes should not be promoted. A breast-milk substitute should be understood to include any milk, in either liquid or powdered form, that are specifically marketed for feeding infant and young children up to age of 3 years (including follow-up formula and growing-up milks). It should be clear that the implementation of the 1981 WHO International Code and subsequent relevant WHA resolutions covers all these products.”*

5. The “Marketing of breast-milk substitutes: National implementation of the international code, Status Report 2016” published jointly by the WHO, the United Nations Children’s Fund (commonly known as “UNICEF”) and the International Baby Food Action Network in May 2016 has found that, of the 194 countries analysed in the above status report, 135 have in place some form of legal measures related to the 1981 WHO International Code and subsequent WHA resolutions.

¹ “Global strategy for infant and young child feeding” issued by WHO in 2003.

Local situation

6. With the concerted effort of the Government and various sectors of the community over the years, the local ever-breastfeeding rate on hospital discharge has increased from 66 % in 2004 to 88.5 % in 2015. According to surveys conducted by the Department of Health (“DH”), although the exclusive breastfeeding rate for infants at 4 months of age has increased from 19% for babies born in 2012 to 27 % for those born in 2014, it is still considered relatively low. Parental knowledge and attitudes are major determinants of their feeding practices and the dietary patterns of their children. There is evidence revealing suboptimal IYC feeding practices and widespread parental misconception on milk feeding in Hong Kong. The “Infant and Young Child Feeding Survey” conducted by DH in 2010 showed the unbalanced food consumption pattern of children aged 12 months and above, which was characterized by inadequate intake of vegetables and fruits and high intake of protein-rich foods and formula milk. Children who drank more milk than the recommended volume (480 ml per day) generally consumed a smaller amount of grains, vegetables and fruits².

7. The above survey conducted by DH also revealed that over 80 % of surveyed parents agreed or strongly agreed that milk was indispensable for growth and development of a child. About half (53.4 %) of the parents agreed that follow-up formula “is added with nutrients that promote the child’s brain development which cannot be found in other foods” and one-fourth (25.4 %) believed that follow-up formula “can replace other food to provide nutrients”. The findings probably reflect the permeation of aggressive formula advertising and parents’ lack of awareness of the nutritive value of homemade food using everyday ingredients. It is also worrying that over-reliance on follow-up formula may displace children’s appetite for eating a variety of foods, making it difficult for children to establish a healthy eating habit.

² A Survey of Infant and Young Child Feeding in Hong Kong. Department of Medicine and Therapeutics and Centre for Nutritional Studies, The Chinese University of Hong Kong and Family Health Service, Department of Health, HKSAR. 2012.

8. The Government has a long-standing commitment to protect, promote and support the optimal feeding of IYC. In February 2010, the Steering Committee on Prevention and Control of Non-Communicable Diseases, chaired by the Secretary for Food and Health, endorsed the proposal of the Working Group on Diet and Physical Activities (“Working Group”) to develop and implement a code of marketing of breastmilk substitutes in response to the aggressive marketing of formula milk in Hong Kong, which is considered one of the contributing factors to the low exclusive breastfeeding rates in the local community. To take this forward, the Taskforce on Hong Kong Code of Marketing of Breastmilk Substitutes³ (“Taskforce”) was set up in June 2010 by DH to develop and promulgate a code of marketing and quality of formula milk⁴ and related products and food products for IYC. In drafting the code for Hong Kong, the Taskforce has referred to the 1981 WHO International Code and the relevant subsequent WHA resolutions. In addition, the Taskforce also considered the potential impacts of local marketing practices on parental attitudes and practices of feeding IYC.

9. The Government presented an information paper (LC Paper No. CB(2)2048/13-14(05)) and briefed the Legislative Council Panel on Health Services on 21 July 2014 regarding the results of the 4-month public consultation (from 26 October 2012 until 28 February 2013) for the draft code entitled “the Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children” (“2012 draft HK Code”) prepared by the Taskforce. The 2012 draft HK Code covered, apart from infant formula, the follow-up formula and food products intended for children up to 36 months old. In addition to the provisions on marketing, labelling and quality of designated products⁵ applicable to manufacturers and distributors, the draft code also provided guidelines to health workers, healthcare and child care facilities.

³ Membership of the Taskforce comprises a multidisciplinary team drawn from community organizations, professional bodies, academia, and government bureau and departments.

⁴ Formula milk includes infant formula and follow-up formula.

⁵ In 2012 draft HK Code, “designated product” means –

- any formula milk;
- any formula milk related products;
- any food products for IYC; and
- any other product declared as a designated product by the DH for the purposes of the code.

10. As indicated in the above paper, the views collated at the public consultation on the 2012 draft HK Code were diverse⁶. In general, the healthcare sector, NGOs and members of the public supported the 2012 draft HK Code to enable parents to make informed decisions on infant feeding free from commercial influence. However, traders considered that the 2012 draft HK Code should align with the practices of some developed countries which only govern the marketing of breastmilk substitutes for infants up to 6 months old, and some of them considered the 2012 draft HK Code contained language that went beyond the voluntary nature of the code and expressed concerns regarding the conformity with the principles and objectives underpinning the World Trade Organization (“WTO”) Agreements as well as international human rights provisions.

LATEST DEVELOPMENT

Refining the code

11. We have conducted thorough deliberation of the detailed provisions of the code taking into account the views collected in the public consultation mentioned above, comments expressed thereafter, and the latest guidance and principles laid down by the WHO and the local context.

12. In finalising the code, we have struck a balance between the concerns expressed by the trade and the calls from healthcare professionals/general public for the Government to take actions against aggressive marketing of breastmilk substitutes that undermine breastfeeding. The finalised code is now entitled “Hong Kong Code of Marketing of Formula Milk and Related Products, and Food Products for Infants & Young Children” (“HK Code”). Similar to the 2012 draft HK Code, the major provisions of the HK Code cover the dos and don’ts for

⁶ Out of the 158 written submissions received, a total of 87 submissions indicated support to the 2012 draft HK Code as they considered the 2012 draft HK Code an important step to promote and protect breastfeeding and to ensure the quality and safety of IYC food products. They were mostly from the healthcare sector, non-governmental organisations (“NGOs”) and the general public. 63 written submissions including those from the trade on the whole did not support the 2012 draft HK Code and its provisions on marketing practices.

the manufacturers and distributors of designated products⁷ as well as the healthcare sector in certain areas including –

- (a) Promotional practices for designated products to the public;
- (b) The production and distribution of informational and educational materials related to breastfeeding and formula milk feeding and nutrition to the general public, pregnant women and mothers;
- (c) Promotion in health care facilities;
- (d) The distribution of informational materials related to designated products to health workers, and the sponsorship of continuing education activities for health professionals; and
- (e) Labelling for formula milk, food products for IYC and formula milk related products.

A summary of the HK Code is at [Annex I](#), whereas the full version, which shall be formally promulgated in mid-2017, is at [Annex II](#).

13. We note there were debates over the age limit of the 2012 draft HK Code which was set at 36 months. The promulgation of the 2016 WHO Guidance (see paragraph 4 above) has clarified that the coverage of breastmilk substitutes under the 1981 WHO International Code and relevant subsequent WHA resolutions includes follow-up formula and growing-up milks intended for feeding IYC up to 36 months old. Hence, we maintain that the HK Code should be applicable to designated products for IYC up to 36 months old. That said, the HK Code has incorporated a number of modifications to address the following issues –

- (a) **Compliance with WTO Agreements and human right provisions** – To ensure that the HK Code is a truly and entirely

⁷ In HK Code, “designated product” means –

- any formula milk;
- any formula milk related products;
- any prepackaged food for IYC; and
- any other product declared as a designated product by the DH for the purposes of the code.

voluntary code both in its formulation and in practice, we have, in consultation with our legal advisor, replaced the “Implementation and Monitoring” section with a section on “Implementation and Evaluation” whereby surveys will be conducted to assess the overall trends in marketing practices of designated products with a view to evaluating the overall effectiveness of the HK Code. The HK Code would not be backed up by any sanctions, neither would it restrict stakeholders’ right to freedom of expression. The HK Code applies to local and overseas manufacturers and distributors of designated products marketed in Hong Kong without discrimination, and it imposes no obstacles to international trade and human right given its voluntary nature.

- (b) **Making informed choices by parents** – The spirit of the HK Code is to protect and promote breastfeeding, as well as to ensure the proper use of breastmilk substitutes when necessary, on the basis of adequate and unbiased information and through appropriate marketing. While the guidelines provided by the HK Code recommend that there should be no unsolicited promotional messages and advertising of formula milk, manufacturers and distributors are free to provide correct and factual product information via their websites, and upon a person’s request via any electronic or physical means, provided that such information would not convey biased information or discourage breastfeeding. The above guidelines would not impose any restrictions that hinder parents from making informed choices.
- (c) **Product information and product label** –
 - (i) We have revised the code as far as labelling requirements of the designated products are concerned such that the HK Code now no longer includes restriction over the use of trade marks and logos on product labels which are essential for product identification and differentiation;
 - (ii) We have suitably revised the code with reference to recommendations by the 2016 WHO Guidance to clearly

define the types of messages that should not appear on product information and labels. These include, for example, any image and text or other representation that are likely to undermine breastfeeding, or suggest that the product is nearly equivalent or superior to breastmilk; and

- (iii) Unlike the 2012 draft HK Code, the HK Code does not contain provisions on nutritional composition and nutrition labelling. Relevant requirements have already been set out in legislation enacted in 2014.

- (d) **Nutrition and health claims** – The Government conducted a separate public consultation in 2015 on the proposed regulatory framework of nutrition and health claims for formula products and food for IYC under the age of 36 months. The Government is now working on legislative proposals taking into account views expressed during the above public consultation, our international obligations and the latest international development. In this regard, the voluntary HK Code no longer contains provisions related to nutrition and health claims. The matter will be dealt with separately as indicated above.

14. The voluntary HK Code has been revised taking into account views from different sectors. The current version of the HK Code has addressed the major concerns raised by the trade and healthcare professionals/general public. We believe the HK Code can strike a proper balance between the need to ensure that caregivers receive clear and accurate information on feeding IYC and to address trade concerns.

Responses from Stakeholders

15. For launching of the HK Code, we have recently conducted a series of briefing sessions for relevant stakeholders including healthcare professionals and institutions, chambers of commerce, formula milk traders, breastfeeding advocacy organisations, retailers and distributors in Hong Kong. A list of relevant stakeholders (25 organisations from healthcare and academic sectors, 7 NGOs and 26 organisations from the trade) who attended the briefings is at [Annex III](#). The DH also attended

meetings of some of the above organisations to provide further details of the HK Code. The HK Code receives support from different stakeholders in general, and particularly the healthcare professionals, health professional organisations and academic institutions. They consider that the promulgation of the HK Code, which largely follows the principle of the recommendation put forth by the WHO, is an important step to protect breastfeeding and to ensure that formula milk and related products would not be marketed in a way that may cause confusion and undermine breastfeeding. However, some members of the trade reiterate their concerns on applying the HK Code to IYC beyond 6 months old and inconsistent practice among traders due to the voluntary nature of the HK Code. We have explained to the trade the unequivocal clarification made in the 2016 WHO Guidance on the coverage of IYC up to 36 months old. We have also briefed the trade the refinements made in addressing their concerns as set out in paragraph 13 above. We would continue to promote the full adoption of the HK Code by the trade and to evaluate its effectiveness in a timely manner.

16. We note that some stakeholders express concerns about the effectiveness of the HK Code, which is voluntary in nature, in changing the marketing practices of formula milk products. We consider that the implementation of the voluntary HK Code is the first and important step in raising the awareness of and educating the trade and the public about the need for protecting breastfeeding and IYC's feeding from undue commercial influence. We believe that as the support for the HK Code from parents and the general public, healthcare professionals, and community stakeholders gradually builds up, the good marketing practices recommended by the HK Code will become community standards for which the trade will observe in formulating their marketing strategy for breastmilk substitutes.

Publicity of the HK Code

17. The DH will work with the Committee on Promotion of Breastfeeding (“the Committee”) to promote the HK Code through various channels and platform. After launching the HK Code, the DH will organize briefing/ workshops to further promote and enhance compliance with the HK Code amongst traders, healthcare workers and professionals and other relevant stakeholders.

MEASURES TO PROMOTE BREASTFEEDING

18. The launching of the HK Code is just part of the Government's effort to attain optimal IYC feeding practices. Ongoing and concerted effort by the Government and various sectors of the community to promote breastfeeding are necessary. In addition to the launching of HK Code, a series of multi-faceted measures have been implemented in phases to strengthen professional support for breastfeeding in healthcare facilities; to strengthen public's acceptance and support of breastfeeding; to support working mothers to sustain breastfeeding by encouraging the community to adopt breastfeeding friendly workplace policy; to promote and support breastfeeding in public places through promotion of breastfeeding friendly premises and provision of babycare facilities; and to strengthen the surveillance on local breastfeeding.

WAY FORWARD

19. The Government plans to promulgate the voluntary HK Code around mid-2017. We will review the overall effectiveness of the HK Code after its implementation through regular surveys that assess the overall trends in marketing practices of designated products. Feedback and suggestions from members of the public will be collated and analysed. Assessment on the overall effectiveness of the HK Code will be reported to the Committee, which will further advise the Government on the future strategies and actions to promote and protect breastfeeding and IYC nutrition.

ADVICE SOUGHT

20. Members are invited to note the content of this paper.

**Food and Health Bureau
March 2017**

Hong Kong Code of Marketing of Formula Milk and Related Products, and Food Products for Infants & Young Children (“HK Code”)

A Summary of the HK Code

<u>Article</u>	<u>Major Provisions</u>
1. Title of the Code	This Code is named as the Hong Kong Code of Marketing of Formula Milk and Related Products, and Food Products for Infants & Young Children.
2. Aim and Scope	<p>The Code aims to contribute to the provision of safe and adequate nutrition for infants and young children by protecting breastfeeding and ensuring the proper use of designated products, on the basis of adequate and unbiased information and through appropriate marketing.</p> <p>The Code applies to the following <u>designated products</u> for infants and young children under 36 months old :</p> <ul style="list-style-type: none">▪ Infant formula▪ Follow-up formula▪ Formula milk related products : Feeding bottles and teats▪ Prepackaged food products for infants and young children
3. Definitions	Terms used in the Code are defined.
4. Information and Education (to the general public, expectant parents and parents)	<p><u>Information and education provided by manufacturers or distributors (M&Ds)</u></p> <p>M&Ds of designated products should not perform/sponsor educational activities nor produce and distribute educational/informational materials on <i>breastfeeding and formula milk feeding</i>.</p> <p>Nevertheless, M&Ds may :</p> <ul style="list-style-type: none">▪ distribute and reproduce the information/educational materials on <i>breastfeeding and formula milk feeding</i> prepared by the Department of Health, with the source of information acknowledged, and

<u>Article</u>	<u>Major Provisions</u>
	<ul style="list-style-type: none"> ▪ produce, donate or distribute informational / educational materials <i>on matters related to infants and young children other than breastfeeding and formula milk feeding,</i> provided that such materials do not contain the name, brand name, packshot, logo and / or trade mark of any formula milk and formula milk related product. <p><u>Provision of product information by M&Ds</u></p> <p>M&Ds should only provide product information about formula milk, feeding bottles and teats <u>upon request</u>, via electronic (e.g. websites, emails) or physical means (e.g. hotlines, at the premises of retailers or at health care facilities). The information provided should be factual and correct and does not undermine or discourage breastfeeding.</p> <p>Notification of pre-order service for formula milk provided by any parties should only contain essential information pertaining to the operation of order and delivery.</p> <p><u>Information and education provided by other parties</u></p> <p>Parties other than M&Ds may produce or distribute informational / educational materials on <i>infant-and-young-child feeding and nutrition</i>, provided that such materials :</p> <ul style="list-style-type: none"> ▪ do not contain the brand name, logo or trade mark of formula milk and formula milk related product nor the name of M&Ds except for matters concerning public health / risks, and for patient care; and ▪ explain the relevant points about breastfeeding, complementary feeding, formula or bottle feeding as specified.
5. Promotion to the Public	<p>M&Ds should not carry out promotional activities involving formula milk, and formula milk related products. Such activities include but are not limited to advertising, using sales inducement devices, and giving free samples.</p> <p>M&Ds may promote prepackaged food for infants and young children, provided that the promotional activity does not :</p>

<u>Article</u>	<u>Major Provisions</u>
	<ul style="list-style-type: none"> ▪ cover infants less than 6 months of age, ▪ take place in health care facilities, and ▪ promote formula milk or formula milk related products. <p>M&Ds should not seek directly or indirectly personal details of infants, young children, expectant parents or parents of children under the age of 36 months; or inviting their participation in activities including baby shows and mother craft activities, for the purpose of promoting designated products.</p>
6. Promotion in Health Care Facility	<p>M&Ds of designated products should not -</p> <ul style="list-style-type: none"> ▪ offer free or low-cost supplies of designated products; ▪ provide equipment, gifts or samples; and ▪ promote or distribute designated products to any person via health workers / health care facilities.
7. Information and Promotion to Health Workers	<p>Informational materials about products provided by M&Ds should be limited to scientific and factual matters.</p> <p>M&Ds may provide designated products to health workers only for the purpose of professional evaluation or research at the institutional level.</p> <p><u>Sponsorship of Continuing Medical Education Activities :</u></p> <ul style="list-style-type: none"> ▪ M&Ds should exert no influence on the choice of speakers, topics to be discussed and sponsorship recipients. ▪ Any interest in or relationship with M&Ds should be disclosed. ▪ M&Ds should not distribute gifts/ materials or promote designated products through the continuing education activity.
8. Labelling	<p>The container or label of a designated product should not :</p> <ul style="list-style-type: none"> ▪ include any image, text or other representation that is likely to undermine or discourage breastfeeding, that makes a comparison to breastmilk, or that suggests that

<u>Article</u>	<u>Major Provisions</u>
	<p>the product is nearly equivalent or superior to breastmilk;</p> <ul style="list-style-type: none"> ▪ promote bottle feeding; and ▪ convey an endorsement by a professional or other body. <p>Product labels of formula milk, feeding bottles and teats should clearly state breastfeeding as the norm of infant feeding. Product labels of formula milk should also clearly state the need for the advice of a health professional before the use of formula milk and the health hazards of its use.</p>
9. Implementation and Evaluation	<p>M&Ds themselves are responsible for monitoring their marketing practices according to the principles and aim of the HK Code.</p> <p>Non-governmental organisations, professional groups, institutions and individuals concerned are invited to draw the attention of M&Ds to activities which do not follow the principles and aim of this Code.</p> <p>All parties are invited to collaborate with the Government to evaluate the overall effectiveness of this Code.</p> <p>Surveys will be conducted from time to time to evaluate the overall trends in marketing practices of designated products. Feedback and suggestions from members of the public will also be collated and analysed. The overall effectiveness of the HK Code will be reported to the Committee on Promotion of Breastfeeding, which will further advise the Government on the future strategies and actions to promote and protect breastfeeding and infant-and-young-child nutrition.</p>

Food and Health Bureau
 Department of Health
 March 2017

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

**Food and Health Bureau &
Department of Health,
Government of the Hong Kong Special
Administrative Region**

[] 2017

Background

The superiority of breastfeeding in ensuring physical and psychosocial health and well-being of mother and child as well as the important impacts of early nutrition on long-term health are widely recognised. In addition to clear short-term health benefits such as protection from gastrointestinal and middle-ear infections in children, breastfeeding has also been shown to be protective against obesity and development of non-communicable diseases in adulthood.^{1,2,3,4} A systematic review conducted by the World Health Organization (“WHO”) reaffirmed the long-term benefits of breastfeeding, including the significant improvement in performance of intelligence test.⁵ On top of that, studies have also shown that breastfeeding could protect against premenopausal breast cancer in mothers. The benefits of breastfeeding are shown to be proportional to its duration and exclusiveness.

Suboptimal breastfeeding practices incur considerable economic loss and preventable infant deaths even in developed countries with good sanitation and standard of care. An economic study of the United States (“US”) revealed that if 90% of US families comply with exclusive breastfeeding for 6 months as recommended by Healthy People 2010, it would save \$13 billion/year and prevent an excess of 911 deaths.⁶ Another study of the United Kingdom also showed that even moderate increase in breastfeeding rate (i.e. 100% of babies breastfed at hospital discharge and 65% of women exclusively breastfeeding at 4 months) would be translated into cost savings for the health service of £27 million and tens of thousands of fewer hospital admissions and consultations by the general practitioners.⁷

WHO has made a global public health recommendation that infants should be exclusively breastfed for the first 6 months of life to

¹ Gluckman PD, Hanson MA, Mitchell MD. Developmental origins of health and disease: reducing the burden of chronic disease in the next generation. *Genome Medicine*. 2010 Feb 24; 2(2):14.

² Koletzko B, von Kries R, Closa R, et al. Can infant feeding choices modulate later obesity risk? *American Journal of Clinical Nutrition*. 2009 May;89(5):1502S–8S.

³ Ip S, Chung M, Raman G, Chew P, et al. Breastfeeding and maternal and infant health outcomes in developed countries. *Evidence Report / Technology Assessment (Full Rep)*. 2007 Apr;(153):1-186.

⁴ ESPGHAN Committee on Nutrition, Agostoni C, Braegger C, Decsi T, et al. Breast-feeding: A commentary by the ESPGHAN Committee on Nutrition. *Journal of Pediatric Gastroenterology and Nutrition*. 2009 Jul;49(1):112-25.

⁵ Horta BL & Victoria CG. Long-term benefits of breastfeeding: a systematic review. WHO. 2013.

⁶ Bartick M & Reinhold A. The Burden of Suboptimal Breastfeeding in the United States: A Pediatric Cost Analysis. *Pediatrics*. 2010 May;125(5):e1048-56.

⁷ Renfrew MJ, Pokhrel S, et al. Preventing disease and saving resources: the potential contribution of increasing breastfeeding rates in the UK. Unicef. October 2012.

achieve optimal growth, development and health and thereafter, to meet their evolving nutritional requirements, infants should receive nutritionally adequate and safe complementary foods while breastfeeding continues for up to 2 years of age or beyond.⁸

The creation of an environment that protects, promotes and supports breastfeeding requires a systemic approach, which includes enabling parents to make informed decisions on infant feeding free from commercial influence, ensuring policies and practices of maternal-and-child-health facilities are supportive of breastfeeding, and building family-friendly social policies and community services. To protect breastfeeding from being undermined by inappropriate commercial practices, the WHO developed and adopted the International Code of Marketing of Breastmilk Substitutes (“International Code”) in 1981 to empower mothers to make fully informed decisions on infant feeding free from commercial influences and to recommend restrictions on marketing practices of breastmilk substitutes so that breastfeeding can thrive and risks arising from feeding by formula milk can be minimized. Subsequent World Health Assembly (“WHA”) resolutions have been passed to clarify and update certain provisions of the International Code to align it with scientific advances and evolving marketing strategies.

In July 2013, a WHO statement entitled “Information concerning the use and marketing of follow-up formula” (“2013 WHO Statement”) was published to specifically address the issue of marketing of follow-up formula.⁹ The 2013 WHO Statement remarked that “*a number of studies strongly suggest a direct correlation between marketing strategies for follow-up formula and perception and subsequent use of these products as breastmilk substitutes.*” The 2013 WHO Statement maintained that “*follow-up formula is unnecessary and unsuitable when used as a breastmilk replacement from six months of age onwards*”. It concluded that “*if follow-up formula is marketed or otherwise represented to be suitable, with or without modification, for use as a partial or total replacement for breastmilk, it is covered by the Code. In addition, where follow-up formula is otherwise represented in a manner which results in such product being perceived or used as a partial or total replacement for breastmilk, such product also falls within the scope of the Code.*”

⁸ WHO. Global strategy for infant and young child feeding, 2003. Available at <http://www.who.int/nutrition/publications/infantfeeding/9241562218/en/>. Accessed on 6 September 2016.

⁹ Information concerning the use and marketing of follow-up formula. WHO. 2013. Available at http://www.who.int/nutrition/topics/WHO_brief_fufandcode_post_17July.pdf Accessed on 6 September 2016.

In May 2016, WHO issued the “Guidance on ending the inappropriate promotion of foods for infants and young children” (“2016 WHO Guidance”).¹⁰ The 2016 WHO Guidance recommended that *“products that function as breast-milk substitutes should not be promoted. A breast-milk substitute should be understood to include any milk, in either liquid or powdered form, that are specifically marketed for feeding infant and young children up to age of 3 years (including follow-up formula and growing-up milks). It should be clear that the implementation of the International Code and subsequent relevant WHA resolutions covers all these products.”* On 28 May 2016, the sixty-ninth WHA urged all member states to implement the International Code and WHO recommendations on marketing of foods to children.

The Government of the Hong Kong Special Administrative Region (“the Government”) has all along endeavoured to protect, promote and support optimal feeding of infants and young children. In February 2010, the Steering Committee on Prevention & Control of Non-Communicable Diseases (“Steering Committee”), chaired by the Secretary for Food and Health, endorsed the proposal of the Working Group on Diet and Physical Activities (“the Working Group”) to develop and implement a code of marketing of breastmilk substitutes. The Working Group was set up under the Steering Committee to promote healthy diet and physical activity in Hong Kong. The proposal to develop a code of marketing of breastmilk substitutes is part of the action plan recommended by the Working Group and was made in response to the aggressive marketing of formula milk in Hong Kong, which is considered one of the contributing factors to the low breastfeeding rates in the local community.

In June 2010, the Department of Health set up the Taskforce on Hong Kong Code of Marketing of Breastmilk Substitutes (“the Taskforce”) to develop a code of marketing of breastmilk substitutes for Hong Kong. Membership of the Taskforce comprises representatives from community organisations, professional bodies, academia, and Government bureau and departments.

In drafting the code for Hong Kong, the Taskforce has referred to the International Code and the relevant subsequent WHA resolutions. In

¹⁰ Guidance on ending the inappropriate promotion of foods for infants and young children. WHO. 2016. Available at <http://www.who.int/nutrition/topics/guidance-inappropriate-food-promotion-iyc-process/en/> Accessed on 6 September 2016.

addition, the Taskforce also considered the potential impacts of local marketing practices on parental attitudes and practices of feeding infants and young children. The Taskforce also held three meetings with representatives of six multinational formula milk companies to listen to their views. The Taskforce subsequently submitted a draft of the Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children (“the 2012 draft HK Code”) to the Government for public consultation, which was conducted from 26 October 2012 to 28 February 2013. The results of the public consultation on the 2012 draft HK Code and the way forward were reported to the Legislative Council Panel on Health Services on 21 July 2014.

Taking into account the findings from the public consultation, comments expressed thereafter, the legislation enacted in 2014 regarding requirements on nutritional composition of infant formulae and nutrition labelling of infant formulae, follow-up formula products and prepackaged foods for infants and young children under the age of 36 months, and the issuance of the 2016 WHO Guidance, the code for Hong Kong has now been finalized and is entitled as “the Hong Kong Code of Marketing of Formula Milk and Related Products, and Food Products for Infants & Young Children” (“the HK Code”).

The HK Code is **voluntary** in nature and aims to contribute to the provision of safe and adequate nutrition for infants and young children without interfering with the sale of products for infant-and-young-child feeding. The Government, in collaboration with non-governmental organisations, professional groups and consumer organisations concerned, will evaluate the overall effectiveness of the HK Code. The trade is encouraged to make reference to the principles and aim of the HK Code in formulating its own marketing practices.

The practices of feeding infants and young children are affected by a multitude of socio-economic, cultural and environmental factors. The implementation of the HK Code is just part of the effort to attain optimal infant-and-young-child feeding practices. Ongoing and concerted actions by the Government and various sectors of the community are necessary for the purpose of protecting and promoting breastfeeding and hence optimal infant-and-young-child feeding. In April 2014, the Committee on Promotion of Breastfeeding was set up by the Food and Health Bureau

to provide advice on strategies and action plans to further protect, promote and support breastfeeding in Hong Kong and to oversee their effective implementation, as well as to evaluate the overall effectiveness of the HK Code after it has been promulgated. In addition, various measures have been implemented in phases to strengthen professional support for breastfeeding in healthcare facilities (e.g. through implementing the Baby-Friendly Hospital Initiative); to strengthen the publicity and education on breastfeeding, including the promotion of HK Code; to support working mothers to sustain breastfeeding by encouraging the community to adopt breastfeeding friendly workplace policy; to promote and support breastfeeding in public places through promotion of breastfeeding friendly premises and provision of babycare facilities; and to strengthen the surveillance on local breastfeeding.

[] 2017

DRAFT

Table of Content	Page
Background	i
Article 1 Title of the Code	1
Article 2 - Aim and Scope	2
2.1 The Aim	2
2.2 The Scope	2
Article 3 - Definitions	3
Article 4 - Information and Education	9
4.1 No information and education on breastfeeding and formula milk feeding by manufacturers and distributors	9
4.2 Product information provided by manufacturers and distributors	9
4.3 Information and education on other matters provided by manufacturers and distributors	10
4.4 Information and education on infants-and-young-children feeding and nutrition provided by parties other than manufacturers and distributors	11
4.5 Notification arrangement provided specifically for pre-order service for formula milk	13
Article 5 - Promotion to the Public	15
Article 6 - Promotion in Health Care Facility	17
Article 7 - Information and Promotion to Health Workers	18
7.1 Responsibilities of health workers	18
7.2 Product and product information for health workers	18
7.3 Sponsorship and benefit to health workers	18
Article 8 - Labelling	21
8.1 Label of designated products	21
8.2 Labelling requirements for formula milk	21
8.3 Labelling requirements for prepackaged food for infants and young children	23
8.4 Labelling requirements for formula milk related products	23
8.5 Exemptions	24
Article 9 - Implementation and Evaluation	26
Annex	27

Draft

Article 1 – Title of the Code

1 Title of the Code

This Code is named as the Hong Kong Code of Marketing of Formula Milk and Related Products, and Food Products for Infants & Young Children.

DRAFT

Article 2 – Aim and Scope

2.1 The Aim

The aim of this Code is to contribute to the provision of safe and adequate nutrition for infants and young children, by—

- (a) protecting breastfeeding; and
 - (b) ensuring the proper use of formula milk, formula milk related products, and prepackaged food for infants and young children under the age of 36 months,
- on the basis of adequate and unbiased information and through appropriate marketing.

2.2 Scope

This Code covers the marketing practices of designated products as defined in Article 3. It also applies to the information on the use of designated products.

Article 3 - Definitions

“advertisement”

- means any form of advertising intended for the general public which is published by any means including, but not limited to, the following –
 - (a) newspaper or other publication;
 - (b) television or radio broadcast;
 - (c) unsolicited electronic messages;
 - (d) distribution of samples or product flyers; or
 - (e) exhibition of pictures, models or films,
- and “advertise” will be construed accordingly.

“bottle feeding”

- means feeding liquid or semi-solid food from a bottle with a nipple.

“brand name”

- means a name given by the manufacturer to a product or range of products.

“breastfeeding”

- means breastfeeding of infants and young children, including nutrition of breastmilk.

“complementary food”

- means any food suitable or represented as suitable as an addition to breastmilk or formula milk for infants of or above the age of 6 months and young children of or below the age of 24 months.

“complementary feeding”

- means the transition from exclusive breastfeeding to eating family foods, which typically covers the period from 6 to 24 months of age, even though breastfeeding may continue to 2 years of age and beyond.

“container”

- includes every kind of box, bottle, tin, carton, package or wrapping enclosing an article or substance, but does not include an outer cover or wrapping superimposed for the purpose of consignment or delivery.

“Department of Health”

Article 3 - Definitions

- means the Department of Health of the Government of the Hong Kong Special Administrative Region.

“designated product”

- means –
 - (a) any formula milk;
 - (b) any formula milk related products;
 - (c) any prepackaged food for infants and young children; and
 - (d) any other product declared as a designated product by the Department of Health for the purposes of this Code.

“ distributor”

- means a person, corporation or other entity engaged in the sale, whether wholesale or retail, of any designated product.

“follow-up formula”¹¹

- means –
 - (a) a product that, according to its descriptions or instructions for use, is –
 - (i) represented as a replacement for human breastmilk or infant formula, and
 - (ii) intended for consumption as a liquid element in a progressively diversified diet by persons of any age from 6 months to under 36 months (even if it is also claimed in the descriptions or instructions, if applicable, to be suitable for consumption by persons of any other age); or
 - (b) a product marked or labelled as “follow-up formula” or “較大嬰兒配方產品” or “較大嬰兒配方奶”, or with any other words of similar meaning.

“formula milk”

- means infant formula, follow-up formula and formula for special medical purposes for infants and young children.

“formula milk feeding”

- means feeding by formula milk of infants and young children, including nutrition of formula milk.

¹¹ Food and Drugs (Composition and Labelling) Regulations (Cap. 132W).

Article 3 - Definitions

“formula for special medical purposes for infants and young children”¹²

- means a product that –
 - (a) according to its descriptions or instructions for use, is specially processed or formulated for the dietary management for, and intended for the exclusive or partial feeding of, persons of any age under 36 months (even if it is also claimed in the descriptions or instructions, if applicable, to be suitable for consumption by persons of any age from 36 months onwards) –
 - (i) who have limited or impaired capacity to take, digest, absorb or metabolize ordinary food or certain nutrients in it;
 - (ii) who have special nutrient requirements that are determined medically; or
 - (iii) whose dietary management cannot be achieved only by consumption of other food for special dietary uses or modification of normal diet; and
 - (b) may be used only under medical supervision.

“formula milk related product”

- means any feeding bottles and teats for infants and young children.

“health care facility”

- means any public or private institution or organisation or practice engaged directly or indirectly in the provision of health care or child care, including day-care centre, nursery, or other infants-and-young-children care facility.

“health professional”

- means a health worker with a professional degree, diploma or licence, such as a medical practitioner, nurse, midwife, dietitian, nutritionist, clinical psychologist or such other person as may be specified by the Department of Health for the purposes of this Code.

“health worker”

- means a person providing or who are in training to provide health care services in a health care facility, whether

¹² Food and Drugs (Composition and Labelling) Regulations (Cap. 132W).

Article 3 - Definitions

professional or non-professional, including voluntary unpaid worker.

“infant”¹³

- means a person not more than 12 months of age.

“infant formula”¹⁴

- means –
 - (a) a product that, according to its descriptions or instructions for use, is intended for consumption as a substitute for human breastmilk that is specially manufactured to satisfy, by itself, the nutritional requirements of persons of any age up to and including 12 months until the introduction of appropriate complementary feeding (even if it is also claimed in the descriptions or instructions, if applicable, to be suitable for consumption by persons of any age over 12 months); or
 - (b) a product marked or labelled as “infant formula” or “嬰兒配方產品” or “嬰兒配方奶”, or with any other words of similar meaning.

“label”

- means any tag, mark, pictorial or other descriptive matter, written, printed, stenciled, marked, embossed, attached or otherwise appearing on a container of a designated product.

“labelling”

- in relation to a designated product, includes any word, particulars, trade mark, brand name, pictorial matter or symbol relating to the designated product and appearing on the packaging of the designated product or on any document, notice, label, ring or collar accompanying the designated product.

“logo”

- means an emblem, picture or symbol by means of which a company or a product is identified.

¹³ Standard for Infant Formula and Formulas for Special Medical Purposes intended for Infants (Codex Stan 72-1981). Last modified 2016.

¹⁴ Food and Drugs (Composition and Labelling) Regulations (Cap. 132W).

Article 3 - Definitions

“manufacturer”

- means a person, corporation or other entity engaged in the business of manufacturing a designated product whether directly, through an agent, or through a person controlled by or under an agreement with it.

“marketing”

- means product promotion, distribution, selling and advertising, product public relations and information services and “market” will be construed accordingly.

“packshot”

- means any representation of a designated product either by photograph or graphic illustration.

“prepackaged food for infants and young children”¹⁵

- means any prepackaged food that, according to its descriptions or instructions for use, is intended for consumption by persons of any age under 36 months (even if it is also claimed in the descriptions or instructions, if applicable, to be suitable for consumption by persons of any age from 36 months onwards), but does not include any infant formula or follow-up formula.

“promote”

- means to employ any method of directly or indirectly encouraging a person to purchase or use a designated product.

“retailer”

- means any sale outlet or premises including, but not limited to, pharmacies, shops and supermarkets.

“sample”

- means a single or small quantities of a designated product provided without cost.

“trade mark”¹⁶

- means any sign which is capable of distinguishing the goods or services of one trader from those of others and may consist of words (including personal names), indications, designs, letters, characters, numerals, figurative elements, colours, sounds,

¹⁵ Food and Drugs (Composition and Labelling) Regulations (Cap. 132W).

¹⁶ Trade Marks Ordinance (Cap. 559).

Article 3 - Definitions

smells, the shape of the goods or their packaging or any combination of such signs.

“young children”

- means persons of any age from more than 12 months to under 36 months.

DRAFT

Article 4 – Information and Education

4.1 No information and education on breastfeeding and formula milk feeding by manufacturers and distributors

4.1.1 Except as allowed under Article 4.1.2, a manufacturer or distributor should not himself or herself, or by any other person on his or her behalf –

- (a) perform, carry out or sponsor educational functions or activities relating to breastfeeding and formula milk feeding which are intended to reach the general public, expectant parents or parents of children under the age of 36 months; or
- (b) produce informational or educational materials referring to breastfeeding and formula milk feeding and distribute such materials to the general public, expectant parents or parents of children under the age of 36 months or sponsor such production and distribution.

4.1.2 Provided that the materials to be distributed do not contain the name, brand name, packshot, logo and/or trade mark of a formula milk and formula milk related product (except the name and logo of the manufacturer or distributor), or refer to such product in any other manner, a manufacturer or distributor may (a) distribute to the public informational or educational materials on breastfeeding and formula milk feeding prepared by the Department of Health, and (b) reproduce all or parts of the materials mentioned in (a) for distribution to the public if there is no alteration of the content of the materials, and the Department of Health is acknowledged in the reproduced materials as the source of the information.

4.2 Product information provided by manufacturers and distributors

4.2.1 A manufacturer or distributor of formula milk and formula milk related product may provide information on specific brands of formula milk and formula milk related product via electronic (e.g. websites, emails) or physical means (e.g. hotlines, at the premises of retailers or at health care facilities) **upon request** provided that such information –

Article 4 – Information and Education

- (a) is restricted to correct and factual information;
- (b) does not include any image, text or other representation that is likely to undermine or discourage breastfeeding, that makes a comparison to breastmilk, or that suggests that the product is nearly equivalent or superior to breastmilk;
- (c) does not promote bottle feeding;
- (d) does not convey an endorsement or anything that may be construed as an endorsement by a professional or other body, unless this has been specifically approved by the Government;
- (e) be written in language appropriate to the target readership, e.g. Chinese and/or English; and
- (f) satisfies the requirements in Article 4.4.1(e).

4.2.2 The information referred to in Article 4.2.1 may include the name, address and telephone hotline of the manufacturer or distributor.

4.3 Information and education on other matters provided by manufacturers and distributors

4.3.1 A manufacturer or distributor may produce, donate or distribute informational or educational materials, or sponsor or perform educational activities on matters related to infants and young children other than breastfeeding and formula milk feeding, provided that –

- (a) such materials or activities do not display the name, brand name, packshot, logo and/or trade mark of any formula milk or formula milk related product (except the name and logo of the company) or refer to such product in any other manner;
- (b) such materials or activities are not associated with promotional practices not permitted under Article 5; and

Article 4 – Information and Education

- (c) such materials or activities, if related to complementary feeding, satisfied the requirements in Article 4.4.1 (e) (ii).

4.4 Information and education on infants-and-young-children feeding and nutrition provided by parties other than manufacturers and distributors

4.4.1 Informational and educational materials produced or distributed by parties other than manufacturers and distributors, whether written, audio or visual, which refer to infants-and-young-children feeding and nutrition and are intended to reach the general public, expectant parents or parents of children under the age of 36 months should –

- (a) contain only correct and factual information;
- (b) not include any image, text or other representation that is likely to undermine or discourage breastfeeding, that makes a comparison to breastmilk, or that suggests that the product is nearly equivalent or superior to breastmilk;
- (c) not promote bottle feeding;
- (d) not contain the brand name, logo or trade mark of formula milk and formula milk related product nor the names of any manufacturer or distributor of formula milk and formula milk related product, except for matters concerning public health / risks (e.g. government departments may recall products where product safety is a concern, Consumer Council may publish information comparing formula milk products) or for patient care (e.g. instruction by health professionals to purchase a special formula);
- (e) clearly and conspicuously explain the following matters, with reference to the age of the infants and young children and the stage of feeding in discussion and with regard to the nature of informational and educational materials made
 - - (i) where the materials are about breastfeeding –

Article 4 – Information and Education

- (A) the benefits and superiority of breastfeeding;
 - (B) the value of exclusive breastfeeding for the first 6 months followed by sustained breastfeeding up to 2 years or beyond;
 - (C) how to initiate and maintain exclusive and sustained breastfeeding;
 - (D) why it is difficult to reverse a decision not to breastfeed;
 - (E) the importance of introducing complementary food from the age of 6 months onwards; and
 - (F) how and why any introduction of bottle feeding or early introduction of complementary food negatively affects breastfeeding;
- (ii) where the materials are on complementary feeding –
- (A) the benefits and superiority of breastfeeding;
 - (B) the importance of introducing complementary food from the age of 6 months onwards, and the benefits of continuing breastfeeding while on complementary feeding;
 - (C) how and why any introduction of bottle feeding or early introduction of complementary food negatively affects breastfeeding; and
 - (D) that complementary food can easily be prepared at home using ordinary ingredients;
- (iii) where the materials are on feeding by formula milk or the use of a feeding bottle –
- (A) the benefits and superiority of breastfeeding;
 - (B) the value of exclusive breastfeeding for the first 6 months followed by sustained breastfeeding up to 2 years or beyond;
 - (C) why it is difficult to reverse a decision not to breastfeed;

Article 4 – Information and Education

- (D) instructions for the proper preparation and use of feeding bottle and teat, including cleaning and sterilisation of feeding utensils;
- (E) the health risks of feeding by formula milk, feeding by using a feeding bottle and teat and improper preparation of feeding bottle and teat;
- (F) explanations that powdered formula milk is not a sterile product and that to minimize the risks of serious illness, formula milk which is intended for consumption by infants under 6 months of age should be prepared using boiled water cooled down to no less than 70 °C¹⁷;
- (G) formula milk should be prepared one feed at a time and that the reconstituted formula milk should be consumed within 2 hours after preparation and any unused milk must be discarded; and
- (H) the financial implication of feeding an infant with formula milk.

4.5 Notification arrangement provided specifically for pre-order service for formula milk

4.5.1 Notification of pre-order service for formula milk provided by any parties should –

- (a) only contain essential information pertaining to the operation of order and delivery, i.e. company logo and the following information in text format:
 - company name;
 - contact channel;
 - methods of order/ delivery;
 - formula milk product's brand name; andshould not include any other pictures, graphics, product logos or product packshots; and

¹⁷ “Safe preparation, storage and handling of powdered infant formula: Guidelines” by World Health Organization in collaboration with the Food and Agriculture Organization of the United Nations (World Health Organization, 2007).

Article 4 – Information and Education

- (b) not promote formula milk or the brand(s) of these products in any manner.

DRAFT

Article 5 – Promotion to the Public

5.1 A manufacturer or distributor should not himself or herself, or by any other person initiated by or on his or her behalf, carry out any promotional activities involving formula milk and formula milk related products. Such promotional activities include but are not limited to –

- (a) advertising;
- (b) using sales inducement devices such as special displays, discount coupons, premiums, special sales, loss-leaders, tie-in sales, prizes or gifts; and
- (c) giving one or more samples of formula milk or formula milk related products to any person;

but do not include –

- (d) any establishment of pricing policies and practices intending to provide designated products at lower prices on a long-term basis;
- (e) provision of designated products or information or materials about designated products to health worker under Article 7.2;
- (f) provision of funding or sponsorship to health worker or associations of health workers under Articles 7.3.2 and 7.3.3;
- (g) collection of personal details of infants, young children, expectant parents, parents or carers of children under the age of 36 months for the purpose of merely providing customer services relating to order and delivery of product, and product enquiry;
- (h) provision of company's contact (e.g. hotline, URL of website/ email address/ name of mobile application) for the purpose of merely providing customer services relating to order and delivery of formula milk, product enquiry and obtaining product information; and
- (i) notification arrangement provided specifically for pre-order service of formula milk under Article 4.5.

Article 5 – Promotion to the Public

- 5.2 A manufacturer or distributor may promote prepackaged food for infants and young children, provided that the promotional practice—
- (a) does not take place in a health care facility;
 - (b) does not cover infants less than 6 months of age;
 - (c) satisfies the requirements under Articles 4.2.1(a) to (d) and 4.4.1 (e) (ii); and
 - (d) does not promote formula milk or formula milk related products.
- 5.3 A manufacturer or distributor should not himself or herself, or by any other person on his or her behalf—
- (a) seek directly or indirectly personal details of infants, young children, expectant parents or parents of children under the age of 36 months; or
 - (b) invite participation of infants, young children, expectant parents or parents of children under the age of 36 months in activities including baby shows, mother craft activities

for the purpose of promoting designated products.

Article 6- Promotion in Health Care Facility

- 6.1 A manufacturer or distributor should not himself or herself, or by any other person on his or her behalf –
- (a) donate or provide at a price lower than the wholesale price, any quantity of a designated product to a health worker or a health care facility;
 - (b) donate to or distribute within a health care facility any equipment, service or article such as pen, calendar, poster, note pad, growth chart, toy which refers to or may promote the use of a designated product; or
 - (c) promote designated product through health workers or health care facilities or distribute designated product through health workers or health care facilities to any person.

Article 7 - Information and Promotion to Health Workers

7.1 Responsibilities of health workers

- 7.1.1 Health workers should encourage and protect breastfeeding and those health workers who are engaged in particular with maternal and infant nutrition should make themselves familiar with their responsibilities under this Code, including the matters specified in Article 4.4.1 (e).
- 7.1.2 Health workers engaged in maternal and child health may demonstrate the use of infant formula or formula for special medical purposes for infants and young children to parents when it is considered necessary and, where demonstration of the use of infant formula is considered necessary, should give a clear explanation of the risks of the use of infant formula as well as the information specified in Article 4.4.1 (e)(iii)(A) to (H) during the demonstration.

7.2 Product and product information for health workers

- 7.2.1 Manufacturers or distributors may provide designated products to health workers or health care facilities only for the purpose of professional evaluation or research at the institutional level.
- 7.2.2 Notwithstanding Article 4, manufacturers or distributors may give any materials about a designated product to health workers if such materials –
 - (a) are restricted to scientific and factual matters regarding the technical aspects and methods of use of the product; or
 - (b) provide references to published peer-reviewed studies to support any representation that states or suggests that a relationship exists between the product or constituent thereof and health, growth or development of infants and young children.

7.3 Sponsorship and benefit to health workers

- 7.3.1 A manufacturer or distributor should not himself or herself, or by any other person on his or her behalf offer or give any gift or benefit to health workers or to associations of health workers

Article 7 - Information and Promotion to Health Workers

engaged in maternal and child health, except as allowed under Articles 7.3.2 and 7.3.3.

7.3.2 Subject to review, if any, to be carried out after this Code takes effect, a manufacturer or distributor should not himself or herself, or by any other person on his or her behalf offer health workers or associations of health workers funding for organising or participating in continuing education activities related to maternal and child health, unless the following requirements are satisfied –

- (a) the manufacturer and distributor exert no influence on the choice of speakers and topics to be discussed in such activities and the organisers sponsored have full autonomy to decide these matters;
- (b) the manufacturer and distributor exert no influence on the choice of sponsorship recipients and the associations to which sponsorship is provided have full autonomy to decide the recipients and the amount of sponsorship provided to each recipient;
- (c) the manufacturer and distributor require the following groups of persons participating in the continuing education activities to disclose any interest in or relationship with them by means of, except where otherwise specified, declaration in writing to the organisers and declaration in the printed materials for distribution to the participants in the continuing education activities –
 - (i) chairs of meetings;
 - (ii) speakers;
 - (iii) discussants (the disclosure may be made verbally, where appropriate); or
 - (iv) responsible persons or authors of programmes or articles published in the printed materials for distribution to the participants;

[Examples of interest or relationship which should be declared include –

- employment of the person himself or his close family members (including first degree relatives and spouse) by the manufacturer or distributor whose business is related to any topics to be discussed in the conference;

Article 7 - Information and Promotion to Health Workers

- receipt of any funding for research from the manufacturer or distributor;
 - receipt of any form of sponsorship from the manufacturer or distributor, e.g. contribution to registration / travel / accommodation expenses]
- (d) any acknowledgement of corporate sponsorship appearing in printed materials and in backdrops for the continuing education activities using company names or logos should not contain the name, brand name, packshot, logo and/or trade mark of any designated products or refer to such products in any other manner;
- (e) no commercial exhibits of designated product in the continuing education activities;
- (f) any exhibition stand of the manufacturer and distributor (of maximum size of 3m X 3m) should be separated from the plenary and break-out rooms;
- (g) the manufacturer and distributor do not distribute through the continuing education activities any gift, equipment, pen, calendar, poster, note pad, growth chart, toy or any other article or materials which may or may not promote or refer to the use of a designated product or donate such article or materials; and
- (h) refreshments, if any, provided by the manufacturer and distributor during delegate networking opportunities are not lavish.
- 7.3.3 Health workers and associations of health workers should only accept or receive research grants from manufacturers and distributors if, where the manufacturers and distributors have an interest in the subject matter of the research, the grants and any relationships, financial or not, with the manufacturers or distributors are disclosed in the printed materials publishing the result of the research.

Article 8 - Labelling

8.1 Label of designated products

8.1.1 The label affixed to a designated product should not –

- (a) include any image, text or other representation that is likely to undermine or discourage breastfeeding, that makes a comparison to breastmilk, or that suggests that the product is nearly equivalent or superior to breastmilk;
- (b) promote bottle feeding;
- (c) convey an endorsement or anything that may be construed as an endorsement by a professional or other body, unless this has been specifically approved by the Government.

8.1.2 The particulars required under Articles 8.2.1, 8.3.1 and 8.4.1 should appear in both English and Chinese if both languages are used in the labelling or marking of the designated product.

8.1.3 The label must be legible.

8.2 Labelling requirements for formula milk

8.2.1 The container of formula milk or the label affixed thereto should satisfy the following requirements –

- (a) indicate in a clear, conspicuous and legible manner the following particulars –
 - (i) instructions for appropriate preparation and use in words and / or in easily understood graphics;
 - (ii) the age for which the product is recommended in Arabic numerals;
 - (iii) a warning about the health risks of improper preparation and of introducing the product prior to the recommended age;
 - (iv) the required storage conditions both before and after opening of the product, taking into account climatic conditions;
 - (v) the batch number, date of manufacture and date before which the product is to be consumed,

Article 8 - Labelling

- taking into account climatic and storage conditions;
- (vi) the name and address of the manufacturer or distributor; and
 - (vii) the weight of milk powder in one level scoop;
- (b) contain the word “IMPORTANT NOTICE” in capital letters and indicates thereunder the statement “Breastfeeding is the normal means of feeding infants and young children. Breastmilk is the natural food for their healthy growth and development. Use of breastmilk substitutes may put infants at risk of diarrhoea and other illnesses, when compared with breastfed infants”;
- (c) contain the word “Warning” and indicates thereunder the following statement –
- (i) in the case of infant formula: “Before deciding to supplement or replace breastfeeding with this product, seek the advice of a health professional as to the necessity of its use. It is important for your baby’s health that you follow all preparation instructions carefully. If you use a feeding bottle before the establishment of breastfeeding, your baby may refuse to feed from the breast.”;
 - (ii) in the case of follow-up formula: “Before deciding to supplement or replace breastfeeding with this product, seek the advice of a health professional as to the necessity of its use. It is important for your baby’s health that you follow all preparation instructions carefully.”; and
- (d) contain the following statements under the instructions for preparation of formula milk in powdered form –
- (i) “Powdered formula milk is not a sterile product and may become contaminated during preparation”;
 - (ii) “It is necessary for formula milk to be prepared one feed at a time using boiled water allowed to

Article 8 - Labelling

cool down to no less than 70 °C¹⁸, which is intended for consumption by infants under 6 months of age”; and

(iii) “Discard any feed that has not been consumed more than two hours after reconstitution”;

- (e) include a feeding chart in the preparation instructions;
- (f) specify the source of protein contained in the formula milk; and
- (g) contain the information that infants should receive complementary food in addition to the formula milk from an age, as advised by a health worker, that is appropriate for their specific growth and development needs, and from 6 months of age onwards.

8.3 Labelling requirements for prepackaged food for infants and young children

8.3.1 The container of prepackaged food for infants and young children or the label affixed to these products should indicate in a clear, conspicuous and legible manner the following particulars –

- (a) the age for which the product is recommended in Arabic numerals and such age should not be less than 6 months; and
- (b) the particulars in Article 8.2.1 (a) (i), (iii), (iv), (v) and (vi).

8.4 Labelling requirements for formula milk related products

8.4.1 In addition to the relevant legal requirements stipulated in Toys and Children’s Products Safety Ordinance (Cap. 424) and the Consumer Goods Safety Ordinance (Cap. 456), the container or

¹⁸ “Safe preparation, storage and handling of powdered infant formula: Guidelines” by World Health Organization in collaboration with the Food and Agriculture Organization of the United Nations (World Health Organization, 2007).

Article 8 - Labelling

package of a formula milk related products or the label affixed thereto should indicate in a clear, conspicuous and legible manner the following particulars –

- (a) the word “IMPORTANT NOTICE” in capital letters and indicated thereunder the statement “Breastfeeding is the normal means of feeding infants and young children. Breastmilk is the natural food for their healthy growth and development. Use of breastmilk substitutes may put infants at risk of diarrhoea and other illnesses, when compared with breastfed infants”;
- (b) the statement “Warning: It is important for your baby’s health that you follow cleaning and sterilization instructions very carefully. If you use a feeding bottle before the establishment of breastfeeding, your baby may no longer want to feed from the breast”;
- (c) instructions for cleaning and sterilization in words and graphics;
- (d) a warning that infants should not be left alone to feed on bottle because of the risk of choking and children should not be fed for long period of time because extended contact with sweetened liquids, including formula milk, may cause severe tooth decay; and
- (e) the name and address of the manufacturer or distributor.

8.4.2 Formula milk related product should display the information required to be shown under the labeling requirements in Article 8.4.1 on the container or in a product insert.

8.5 Exemptions

8.5.1 Article 8.2.1 does not apply to formula for special medical purposes for infants and young children provided that the product is marked or labelled with –

- (a) the words “formula for special medical purposes” or “特殊醫用配方奶”, or any other words of similar

Article 8 - Labelling

meaning, in the name of the formula or in a conspicuous place of the package that is not in close proximity to other information on the package;

- (b) the words “USE UNDER MEDICAL SUPERVISION” or “在醫生指示下使用”, or any other words of similar meaning, in bold and in a conspicuous place of the package that is not in close proximity to other information on the package;
- (c) a statement stating “For the dietary management of (*fill in the disease, disorder or medical condition for which the formula is intended to be used or known to be effective*)”, or showing any other words of similar meaning; and
- (d) (if the formula poses a health hazard when consumed by a person who does not have the disease, disorder or medical condition stated in the statement) a warning statement and explanation on the hazard in bold and in a conspicuous place of the package that is not in close proximity to other information on the package.

8.5.2 Article 8.2.1 does not apply to infant formula or follow-up formula packed in a container that has a total surface area of less than 250 cm².

8.5.3 Article 8.3.1(b) does not apply to prepackaged food for infants and young children packed in a container that has a total surface area of less than 100 cm².

Article 9 – Implementation and Evaluation

- 9.1 Manufacturers and distributors are encouraged to regard themselves as responsible for monitoring their marketing practices according to the principles and aim of this Code, and for taking steps to ensure that their conduct at every level conforms to them.
- 9.2 Non-governmental organisations, professional groups, institutions and individuals concerned are invited to draw the attention of manufacturers and distributors to activities which do not follow the principles and aim of this Code.
- 9.3 Manufacturers and distributors, non-governmental organisations, professional groups, and consumer organisations are invited to collaborate with the Government to evaluate the overall effectiveness of this Code.
- 9.4 The evaluation plan is illustrated at Annex.

Annex

**Evaluation Plan of the
Hong Kong Code of Marketing of Formula Milk
and Related Products, and Food Products
for Infants & Young Children (“the HK Code”)**

The Evaluation System

1. To evaluate the overall effectiveness of the HK Code, the Department of Health will conduct surveys from time to time to assess the overall trends in marketing practices of designated products, including advertisements in the media, promotional activities at retail level, sales inducement devices, etc.. Feedback and suggestions from members of the public will also be collated and analysed. Assessment findings on the overall effectiveness of the HK Code will be reported to the Committee on Promotion of Breastfeeding, which will further advise the Government on the future strategies and actions to promote and protect breastfeeding and infants-and-young-children nutrition.

2. To facilitate collection of feedback from the public, a template for opinion collection is developed and can be accessed in the Family Health Service’s website of the Department of Health.

**List of stakeholders attending the briefing sessions on
Hong Kong Code of Marketing of Formula Milk and Related Products,
and Food Products for Infants & Young Children**

Relevant Stakeholders	Participating Organisations
Healthcare sector and academic institution	Hong Kong College of Obstetricians and Gynaecologists Hong Kong College of Paediatricians The Hong Kong Academy of Nursing The Hong Kong College of Paediatric Nursing Medical Council of Hong Kong Nursing Council of Hong Kong Midwives Council of Hong Kong The Federation of Medical Societies of Hong Kong The Hong Kong Paediatric Society The Obstetrical and Gynaecological Society Hong Kong Doctors Union Hong Kong Medical Association Hong Kong Midwives Association Hong Kong Nutrition Association Limited Hong Kong Society of Paediatric Respirology and Allergy Hong Kong Sanatorium Hospital Private Hospital Association Canossa Hospital Hong Kong Adventist Hospital Hong Kong Baptist Hospital Precious Blood Hospital (Caritas) St. Paul's Hospital St. Teresa's Hospital Tsuen Wan Adventist Hospital The Chinese University of Hong Kong
Non-governmental organisations	Hong Kong Committee for United Nations Children's Fund Baby Friendly Hospital Initiative Hong Kong Association Natural Parenting Network La Leche League Hong Kong HK Catholic Breastfeeding Association Hong Kong Breastfeeding Mothers' Association Breastfeeding Mama Station
Trade	American Chamber of Commerce in Hong Kong Australian Chamber of Commerce – Hong Kong and Macau The Belgium-Luxembourg Chamber of Commerce in Hong Kong

Relevant Stakeholders	Participating Organisations
	The British Chamber of Commerce in Hong Kong The Canadian Chamber of Commerce in Hong Kong Danish Chamber of Commerce Dutch Chamber of Commerce in Hong Kong European Chamber of Commerce in Hong Kong French Chamber of Commerce & Industry in Hong Kong German Chamber of Commerce Hong Kong General Chamber of Commerce The Hong Kong Japanese Chamber of Commerce & Industry The Indian Chamber of Commerce in Hong Kong International Chamber of Commerce - Hong Kong Israeli Chamber of Commerce in Hong Kong Italian Chamber of Commerce in Hong Kong and Macao The Korean Chamber of Commerce in Hong Kong The Mexican Chamber of Commerce in Hong Kong New Zealand Chamber of Commerce in Hong Kong Norwegian Chamber of Commerce in Hong Kong Spanish Chamber of Commerce Swedish Chamber of Commerce in Hong Kong Swiss Chamber of Commerce in Hong Kong Hong Kong Infant and Young Child Nutrition Association Hong Kong Retail Management Association Hong Kong General Chamber of Pharmacy Limited