



AmCham

THE AMERICAN CHAMBER OF COMMERCE IN HONG KONG

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

April 7, 2017

The American Chamber of Commerce in Hong Kong (“the Chamber”) appreciates the HKSAR Government’s effort contributing to the provision of safe and adequate nutrition for infants and young children in Hong Kong.

The Chamber understands that the latest draft of the Hong Kong Code of Marketing of Formula Milk and Related Products, and Food Products for Infants & Young Children (“Hong Kong Code”) was tabled to the Legislative Council Panel on Health Services on March 15, 2017 for discussion.

We refer to our previous submissions dated April 16, 2015 and July 18, 2014 (copies attached), regarding the regulatory framework in this area. This submission aims to provide relevant recommendations regarding the latest draft of the Hong Kong Code for the Panel’s consideration.

1. The Hong Kong Code should ensure a level playing field

The Chamber is of the view that if the Hong Kong Code, or similar regulations, were to be implemented in the form of voluntary guidelines only, it would not be able to achieve the objective of providing full and accurate information to consumers. It is anticipated that some industry players will probably choose not to comply and, in such situations, consumers will be confused by the different marketing behavior of manufacturers and distributors, thus becoming susceptible to being misguided by non-compliant marketing practices.

In addition, the voluntary nature of the Hong Kong Code would lead to unfairness and inequity in the market as there is no level playing field between compliant manufacturers and distributors and those non-compliant ones.

To ensure full compliance and a level playing field for market players, as well as to provide confidence and certainty to consumers, the Chamber urges the Panel to consider implementing the Hong Kong Code by legislation rather than the voluntary code.

2. Parents’ right to access information should be upheld

The Chamber appreciates the Government’s efforts to protect and promote breastfeeding, as well as to regulate the inappropriate marketing of breastmilk substitutes. Considering the same kind of marketing restriction practices in other developed countries with similar social and economic conditions to Hong Kong, such as Singapore, New Zealand and Australia, these countries regulate products for infants up to 6 or 12 months respectively, along the WHO recommendation that infants should be given appropriate complementary foods and introduced to a wide array of other foods. The Chamber believes that any over-regulation, i.e. regulating related products intended for children aged up to 36 months, will cause harm to the long-standing value of Hong Kong as an open and free market economy.

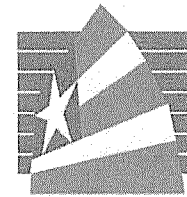
In addition, the fundamental right of consumers to information should be upheld, otherwise, the capability of parents who need to provide complementary food to their children to make informed choices will be undermined.

3. Manufacturers' right to provide information should be respected

Undoubtedly, exaggerated or misleading information should be prevented. Nevertheless, for responsible industry players who comply with all relevant regulations in Hong Kong, the Chamber supports that their right to communicate evidence-based information should be respected. Such information provision is regarded as fair participation in the Hong Kong market.

In summary, the Chamber supports the Government's efforts to promote breastfeeding, but any such efforts should ensure a balance between the legitimate interests of all stakeholders, including the industry and consumers. The Chamber also believes that the Government should allow more time for stakeholders' discussion and feedback on the latest draft of the Hong Kong Code to ensure that it truly protects the benefits of all parties involved and the Hong Kong community as a whole.

The American Chamber of Commerce in Hong Kong is the largest international chamber in Hong Kong and represents a broad and diverse membership.



AmCham

The American Chamber
of Commerce in Hong Kong
1904 Bank of America Tower
12 Harcourt Road, Hong Kong

April 16, 2015

Attn: Mr. C W Kwan
Chief Health Inspector
Risk Assessment Section
Center for Food Safety

Food and Environmental Hygiene Department
43/F, Queensway Government Offices,
66 Queensway, Hong Kong

Dear Mr. Kwan,

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

1. Focused consultation to regulate claims is appreciated.

The American Chamber of Commerce in Hong Kong ("AmCham") appreciates the HKSAR Government's latest effort in considering regulating nutrition and health claims of formula products and food for infants and young children. The consultation provides a good opportunity for the community to discuss the best approach and direction to regulate the claims to foster informed choice of nutritious food to support the growth of infant and young children.

AmCham supports the approach to separate claims regulation from the previous multi-barreled draft Hong Kong Code for Marketing and Quality of Formula Milk and Related Products, and Food Products for Infant and Young children, so that discussion is more focused on the important topic of claims.

2. Regulation should be balanced with parents' right to information and manufacturers' freedom of communication to foster informed choice.

While it is crucial to regulate any misleading or false claims of formula products and food to protect infant and young children's growth and development, it is equally important to regulate by taking an inclusive approach based on facts and scientific evidence.

Hong Kong, like many other developed countries with similar social and economic conditions, is where freedom to access information is much treasured, and the proportion of well-educated working mothers is high. Any over-regulation would be in contradiction to the long-standing value of Hong Kong as an open and free market economy.

Parents' right to access information should be upheld. The fundamental right of parents as consumers to receive product information is important, so that they can make informed choices to choose complementary food for their children. Meanwhile, to ensure fair participation in a free economy, Hong Kong needs to respect manufacturers' freedom to communicate information to customers.

Undoubtedly, exaggerated or misleading information should be prevented. Nevertheless, for responsible industry players who comply with all relevant regulations in Hong Kong, their right to communicate evidence-based information is crucial and should be respected. AmCham supports the implementation of a claims regulation that can achieve a fair balance of interests between different stakeholders.

3. Regulation should be based on an open, objective and comprehensive review and evaluation of scientific evidence.

All claims should be based on evidence. We support that nutrition and health claims should meet specific content conditions, while health claims should be scientifically substantiated and have undergone credible evaluation process.

Correspondingly, the Administration should set up designated expert panel and establish an approval mechanism so that any review and evaluation can be conducted in an open, objective and comprehensive manner. Naturally, the latest nutrition and health claims and scientific information around the world should be relied upon to ensure that Hong Kong is kept abreast of the most updated scientific research findings.

4. Regulation standards should follow international practices, which favor an open and inclusive approach regime.

In terms of regulation standards, AmCham encourages the Administration to make reference to international practices to take an inclusive approach in the regulatory regime. Hong Kong should consider recognizing claims already reviewed by overseas reputable regulatory bodies and approved in other developed countries/jurisdictions.

For instance, United States adopts a relatively open and inclusive approach in regulating claims. It allows infant and young child formula products to make different nutrient contents and health claims under various forms of regulation; some need no approval while others are required to meet specific conditions or regulations.

5. The Government should provide a clear timetable of the legislative process and cater sufficient time for transition.

In establishing the new regulatory mechanism and procedures, the Administration should provide a clear timetable for the legislative process, so that manufacturers, distributors and other stakeholders can participate in providing practical recommendations to the Administration and make plans for the transition. Meanwhile, to ensure a smooth transition and avoid disruption of supply to parents, a grace period of at least 24 months should be provided.

In summary: AmCham appreciates the Administration's efforts to conduct a focused consultation on regulating nutrition and health claims for infant formula, follow-up formula and pre-packaged foods for infant and young children. Any such regulation to be implemented should be transparent, balanced and in line with international practice. Parents' right of access to information and manufacturers' right to freedom of communication to foster informed choice must be respected. Claims should be based on scientific evidence, the review and evaluation of which by the Administration should be open, objective and comprehensive. Approval standards for claims should also follow international practices and be inclusive.

We look forward to working with the Administration to craft the relevant legislative proposals, and would be happy to further discuss the points made in this submission.

Yours sincerely,



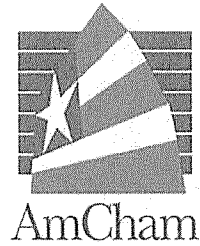
Peter J. Levesque
Chairman 2015



Richard R. Vuylsteke
President

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July 18, 2014



Dr. Ko Wing-man, BBS, JP
Secretary for Food & Health
Food and Health Bureau
18/F, East Wing, Central Government Offices
2 Tim Mei Avenue, Tamar, Hong Kong

The American Chamber
of Commerce in Hong Kong
1904 Bank of America Tower
12 Harcourt Road, Hong Kong

Dear Dr. Ko,

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

The American Chamber of Commerce in Hong Kong (“AmCham”) would like to express its appreciation for the HKSAR Government’s effort in regulating nutrition labeling and claims of formula products and food for infants and young children, as well as promoting, protecting and supporting breastfeeding in Hong Kong.

We understand that the Government will share the consultation result of the Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants and Young Children (“Hong Kong Code”) at the meeting of the Panel on Health Services of the Legislative Council on July 21, 2014. In addition to the submission in response to the public consultation of the Hong Kong Code during the consultation period, we would like to take this opportunity to further share our views as below.

1. The Hong Kong Code should align with the WHO Code and global best practices

Taking reference to the International Code of Marketing of Breast-milk Substitutes (WHO Code), which encourages exclusive breastfeeding for infants during their first 6 months after birth, and the practices in developed countries with similar social and economic conditions to Hong Kong, AmCham believes that any biased or over-regulation of marketing activities, i.e. regulating related products intended for children aged up to 36 months, will be contrary to the long-standing value of Hong Kong as an open and free market economy.

2. Parents’ right to access information should be upheld

Considering the fundamental right of consumers to information, any ban on marketing and promotional activities should be limited to products for infants aged under 6 months. Otherwise, the capability of parents who need to provide complementary food to their children to make informed choices will be undermined.

3. Manufacturers’ right to provide information should be respected

Undoubtedly, exaggerated or misleading information should be prevented. Nevertheless, for responsible industry players who comply with all relevant regulations in Hong Kong, AmCham supports that their right to communicate evidence-based information should be respected. Such information provision is regarded as fair participation in the free economy of Hong Kong.

4. A voluntary code may bring confusion and unfairness

A voluntary code may bring unfairness and inequity in the market, and confuse consumers. Instead, legislative enactment will bring greater fairness and a level playing field. To ensure full compliance of the Hong Kong code, AmCham urges the Government to consider incorporating it into the legislation. Only with a mandatory approach will a level playing field for industry participants be ensured, and will consumers be provided with confidence and certainty.

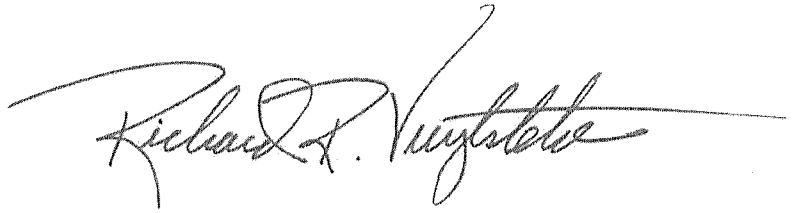
In summary, AmCham supports the Government's effort to promote breastfeeding and we welcome opportunities to further discuss with the Government regarding the Hong Kong Code. We look forward to working with the Government to formulate a suitable regulation that will truly protect the mutual benefits of all parties, including the trade and the consumers.

Thank you for your attention. If you have any questions, please feel free to contact Ms. Ming-Lai Cheung, Director, Government Relations and Public Affairs at 2530 6927 or via email: mcheung@amcham.org.hk.

Yours sincerely,



Peter Levesque
Chairman 2014



Richard Vuylsteke
President

CC: Legislative Council Panel on Health Services
Legislative Council Secretariat, Legislative Council Complex
1 Legislative Council Road, Central, Hong Kong

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