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SUBMISSION TO THE LEGISLATIVE COUNCIL PANEL ON HEALTH SERVICES

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

Mead Johnson Nutrition is a science-based company dedicated to developing high quality and innovative products that help meet the nutritional needs of infants and young children. We began operations in Hong Kong over 40 years ago and remain committed to enabling local parents and health care professionals to nourish Hong Kong’s children for a lifetime of potential. We are unwavering in our commitment to provide early life nutrition in a safe, collaborative and ethical manner.

We support the Government’s efforts to promote breastfeeding. There is significant research demonstrating evidenced-based approaches with proven results in increasing breastfeeding rates. We do not consider the plan to promulgate the latest draft HK Code in mid-2017 to be sound, reasonable or evidence-based in its approach.

In a submission to the Panel in 2012 commenting on the first draft of HK Code, our industry association expressed the view that as proposed, the Code did not address the primary barriers to breastfeeding in Hong Kong, including work related reasons.

Mead Johnson Nutrition encourages regulations that will raise industry standards and sensibly govern ethical marketing practices. Based on the revised HK Code made known to us in late February this year, it is clear that the Government has not taken into consideration the views of the trade or other dissenting stakeholder groups. The revised HK Code has intrinsically little change in coverage and scope since it was first proposed in 2012.

Our concerns regarding the Government’s plan to promulgate the revised HK Code include:

a) The revision process is not transparent or reasonable

The trade has not been updated or involved in the revision of the HK Code since the Government launched the last consultation in 2012. We were able to review the revised HK Code just one month ago. The proposed timeframe for it to be promulgated is overly swift

and unreasonable. There is insufficient time for the trade to review the specifics or to evaluate any business and market impacts, or to provide constructive contributions to the revision process to make the HK Code balanced, fair, evidence-based and effective in meeting its intended objective.

b) Parents will be deprived of critical nutrition information

Parents have an inherent right to access factual and science-based information to make informed choices to support the growth and health of their children. Survey results show that the vast majority of Hong Kong parents want information about both breastfeeding and formula products in order to make such choices. The revised HK Code will significantly reduce parents' access to critical information needed to identify products for their children that are high quality, safe and effective, and are produced according to specific CODEX standards. Furthermore, restricted access to this information could potentially lead to unintended negative health consequences. Many Hong Kong parents have practical needs to such information to support their feeding decisions and their own family and personal circumstances.

The best interests of children are served when the nutritional decisions made by their parents are informed by the best available evidence. It is crucial, therefore, that the provision of accurate, evidence-based information is preserved to enable consumers to make educated feeding decisions.

c) HK Code creates concerns about over-restriction and unfairness to business environment

There are analyses that the HK Code is more trade restrictive than necessary, lacks sufficient scientific evidence to substantiate the proposed restrictions and does not take into account evidence-based measures to increase breastfeeding rates. Under the HK Code, formula products, which are specially formulated to meet an infant or young child's nutritional and developmental needs, will be subject to very restrictive measures, while other foods commonly consumed by young children, often not nutritionally adequate, will be exempted. The HK government has a responsibility to ensure that nutrition policies being considered are grounded in science and support the public health of young children. Contrary to global trade rules, imported formulated milks for young children that meet science-based international standards will face prohibitions while locally provided products will not.

Importantly, the HK Code may lead to unintended public health consequences. Infant and young child nutrition products are continually improved to reflect recent scientific advances in nutrition and health. The HK Code would discourage product innovation by reducing manufacturers' ability to provide information about such advances, and stifle continued private investment in research. This may ultimately prevent infants and young children from benefitting from scientific advances in pediatric nutrition and runs counter to the goal of improving the health and well-being of Hong Kong's young children. Further, the HK Code limits parents' access to information that is crucial in helping them make informed decisions about feeding options for their families. Restricting parents' access to this vital information can lead to inappropriate food choices and poor nutritional outcomes which negatively impact the overall health of young children.

It should be pointed out that the proposed HK Code is in conflict with the UN Guidelines for Consumer Protection (1999), which notes that "promotional marketing and sales practices should be guided by the principle of fair treatment of consumers and should meet legal requirements. This requires the provision of the information necessary to enable consumers to take informed and independent decisions, as well as measures to ensure that the information provided is accurate" (Art. 22). "Governments should encourage all concerned to participate in the free flow of accurate information on all aspects of consumer products" (Art. 23). Further, "Governments should, within their own national context, encourage the formulation and implementation by business, in cooperation with consumer organizations, of codes of marketing and other business practices to ensure adequate consumer protection. Voluntary agreements may also be established jointly by business, consumer organizations and other interested parties. These codes should receive adequate publicity" (Art. 26).

Mead Johnson Nutrition shares the goal of improving nutrition for infants and young children, and recognizes the importance of enabling parents to have access to science-based nutrition information. We support the Government's efforts in increasing breastfeeding rates in Hong Kong. However, the extremely accelerated process for the development of the HK Code is contrary to an open and transparent approach that includes stakeholder input, scientific substantiation and consideration of alternative evidence-based policy measures. In addition, we are extremely concerned that such hasty promulgation of the revised HK Code will only create more confusion and worry among Hong Kong parents. For these reasons, we respectfully request that Government defer the promulgation plan and allow more time to undertake a transparent and meaningful consultation process to ensure the HK Code is supported by credible, science-

based evidence, does not discriminate against products that are designed to improve nutritional outcomes in young children, and includes input from all interested stakeholders before moving forward. That process should include the consideration of scientifically-substantiated, evidence-based measures that clearly support the objective of increasing breastfeeding rates in Hong Kong, as well as an impact analysis, and should engage all interested stakeholders to ensure that it truly protects the interests of the Hong Kong community as a whole.

Mead Johnson Nutrition (HK) Ltd.
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