



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.