

**SUBMISSION BY SAVE THE CHILDREN TO THE
Taskforce on Hong Kong Code of Marketing of
Breastmilk Substitutes**

**救助兒童會提交的香港母乳代用品銷售
守則**

February 2013

Contact

Frances Mason
Senior Hunger Policy Advisor

Rodney Heng

Save the Children UK
1 St John's Lane
London, EC1M 4AR
Telephone +44 (0)20 7012 6400
Fax +44 (0)20 7012 6963

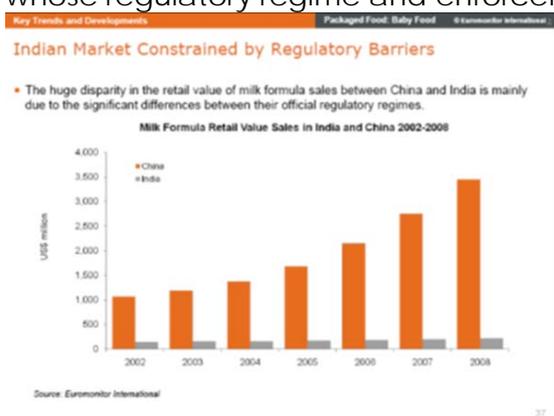
savethechildren.org.uk

Save the Children Hong Kong
Rm 1106, Leighton Center,
77 Leighton Road, Causeway Bay,
Hong Kong
Telephone +852 3160 8686
Fax +852 3160 8685

www.savethechildren.hk

A. Summary

1. *Save the Children is the world's independent children's rights organisation. Save the Children works in more than 120 countries. We save children's lives. We fight for their rights. We help them fulfil their potential.*
2. Breastfeeding saves lives. Research by Save the Children estimates that 830,000 newborn deaths could be prevented every year if all infants were given this breast milk in the first hour of lifeⁱ. It is not only through the 'power of the first hour' that breastfeeding is beneficial – if an infant is fed only breast milk for the first six months they are protected against major childhood diseases. A child that is not breastfed is 15 times more likely to die from pneumonia and 11 times more likely to die from diarrhoea.ⁱⁱ Around one in eight of the young lives lost each year could be prevented through breastfeeding,ⁱⁱⁱ making it the most effective of all ways to prevent the diseases and malnutrition that can cause child deaths.^{iv}
3. Save the Children commends the Taskforce's objective to introduce a marketing code. Strong national legislation is needed to regulate the activities of BMS companies as in our experience we have found that self-regulation is not effective. There is evidence from other countries that strong national law is the most effective way of ending code violations. An increasing number of countries are passing strong laws to regulate companies and enshrine the Code into national law. Kenya passed new legislation in September 2012, South Africa passed a new law in December 2012 and Vietnam in June 2012.
4. The regulatory regime of countries can have a strong impact on the sales of milk formula. The graph below from industry analysts Euromonitor International shows the huge disparity in the growth of infant formula sales between India, which has a relatively strong regulatory regime, which is enforced and China, whose regulatory regime and enforcement is weaker.



5. Scope & Definitions (Articles 2&3) 範圍及定義(守則第二及三條)

We welcome the scope of the Code to cover formula milk, formula milk related products and food products for infants and young children up to the age of 36 months. Save the Children agrees with UNICEF, the International Baby Food Action Network, and Baby Milk Action that follow-on formula should be regulated by the Code since the milk part of the infant's diet is

meant to be made up of breast milk up the age of two years or beyond, and the Code classes a breast-milk substitutes as “any food being marketed or otherwise presented as a partial or total replacement for breast milk”.

A report published in the Annals of Nutrition and Metabolism in November 2012 states that there is scientific evidence that follow-on milks are “dispensable” and “serve as breast-milk substitutes, hence their marketing should respect appropriate standards”.^v

The definitions of ‘advertisement’ should specifically include the use of online and social media, for example online baby clubs, which are increasingly used by BMS companies as a way to communicate directly with mothers.

6. Information and Promotion to Health Worker (Article 7) 向醫護人員提供資訊及推廣 (守則第七條)

Save the Children believes that one of the most concerning dimensions in the continued violations of the Code by some BMS companies is the alleged targeting of health workers. Unlike advertising or free gifts, these violations can be committed without leaving any evidence. Our research suggests that many BMS companies view health workers as a direct link to new mothers and infants who can recommend their products – the presumed rationale being that once a mother begins using a product recommended by their health worker, they are more likely to continue using the same brand.

We strongly agree that manufacturers and distributors should be prohibited from sponsoring health workers or providing gifts, funding or other benefits, particularly where this sponsorship or benefits is linked to sales of products.

We would encourage that the new Code should be accompanied by training programmes for all health workers.

7. Labelling (Article 8) 標籤 (守則第八條)

The provisions set out in the draft code makes for regulating the labelling of products welcome but we would encourage the Taskforce to go further and refine some elements.

While the WHO Code states that companies must include health warnings and details of the benefits of breastfeeding, in practice these warnings often cover only a small proportion of packaging which are written in small type and are designed to be unobtrusive. We believe that the suggested 2mm (Paragraph 8.2.1 (d)) currently outlined in the Hong Kong code is very small. Lettering of this height could easily be made unobtrusive or unnoticeable by clever packaging design, particularly on large 1kg tins. In order that these warnings do the job they are intended to do – of providing women with information - we would encourage the Taskforce to go further by stipulating the size of letters relevant to packaging and the position of the warning label.

There is precedent for this. Guidelines for the implementation of the Philippines Milk Code (2007) call for messages on the superiority of breastfeeding at the top and bottom of the front of all packaging, in Filipino and English. The lettering must be in bold capitals and a third of the size of the largest text on the package.^{vi}

In our new report, released on 18 February 2013, Save the Children recommendations go further still. We suggest that to strengthen the power of these warnings, national laws should specify that health warnings should cover one-third of any breast milk substitute packaging.

Save the Children is particularly pleased to see that the code would not allow labels to show any photographs, drawings or illustrations other than for illustrating methods of preparation. We are also pleased with the restrictions on the use of logos, but would suggest that the Taskforce consider that the elements of some logos are illustrations in themselves – for example shields, arms, hearts, animals – and that they could be used for similar purposes.

8. **Implementation and Monitoring (Article 10) 推行及監察(守則第十條)**

We are encouraged to see that a great deal of careful thought has gone into designing a Monitoring system that accompanies the Hong Kong Code. Save the Children would like to commend this effort and add some additional thoughts from our own experience.

There is a need for the Taskforce to be really clear about which groups are able to collaborate with the government, assist in monitoring violations of the Code and influence the members of the Advisory panel. The definition of ‘appropriate non-governmental organisations’ (paragraph 10.1) should specifically exclude business interest NGOs. Save the Children’s research has found that BMS companies have put their corporate competition aside to form groups to influence national governments. Furthermore there is a concerning trend for these industry groups to be formed in a way that lacks transparency. Their names can make the intention and membership of these groups unclear and at first glance they may appear to be acting solely in the interests of child nutrition rather than representing industry interests. An example of this is the Hong Kong Infant and Young Child Nutrition Association, which is a business interest lobby group made up of five BMS manufacturers - Abbott Laboratories Limited, Danone Baby Nutrition (HK) Limited, FrieslandCampina (Hong Kong) Limited, Mead Johnson Nutrition (Hong Kong) Limited, Nestlé Hong Kong Limited and Wyeth (Hong Kong) Holding Company Limited^{vii}

Save the Children believes that breast-milk substitute companies face an inherent conflict of interest because their rival product, breast milk, is both superior and free. Putting all other corporate or social aims of these companies aside, it is in the commercial interests of breast-milk substitute manufacturers to undermine breastfeeding and thus limit the use of the rival product.^{viii} To that end there needs to be a clear distinction between Business Interest NGOs, and other Public interest NGOs. The latter have a genuine role in acting as a watchdog and to assist the government in monitoring violations.

The advisory panel should have the ability to rule on code violations and should be able to do so without influence from the industry. We urge the

Taskforce to consider stronger methods of penalising the companies who continue to violate the code. Self-regulation does not work. We would like to see a mechanism to issue fines to companies who continue to violate the code included in the 'follow-up actions' detailed on page 40.

Finally, we would like to question why the Taskforce recommends that anonymous complaints are not followed up (Annex 1, par 7). This could deter potential industry whistle-blowers who may have evidence of large scale or high level violations. It may also mean that shop workers or health professionals who are concerned about code violations in their workplace do not come forward for fear their job may be put at risk. We would suggest that provisions be made for complaints to be received in a way that respects the confidentiality of those raising concerns.

ⁱ Save the Children, *Superfood for Babies: How overcoming barriers to breastfeeding will save Children's Lives*, forthcoming, February 2013

ⁱⁱ UNICEF, *Pneumonia and Diarrhoea: Tackling the deadliest diseases for the world's poorest children*, 2012

ⁱⁱⁱ Defined as exclusive breastfeeding in the first six months of life and continued breastfeeding from 6–11 months

^{iv} Jones, G et al., 'How many child deaths can we prevent this year?', *Lancet Child Survival Series*, 2003, 362:65-71

^v Koletzko, B, Bhutta, Z A et al., 'Compositional Requirements of Follow-Up Formula for Use in Infancy: Recommendations of an International Expert Group Coordinated by the Early Nutrition Academy', *Annals of Nutrition and Metabolism*, November 2012

^{vi} <http://www.milkcodephilippines.org/milkcodereport/files/10183584135027ffb6d6413.pdf>

^{vii} The Hong Kong Infant and Young Child Nutrition Association website last accessed 25 January 2013. <http://hkiycna.hk/en/>

^{viii} Palmer, G, *The Politics of Breastfeeding: When breasts are bad for business*, Pinter & Martin