28 February 2013

Dear Sir/Madam,

Public Consultation on “Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children”

I enclose herewith our submission on the “Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children.”

Yours sincerely,

Dr. TSE Hung Hing
President

THH/YL/cw

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The Hong Kong Medical Association responds to the consultation by the Government concerning the HONG KONG CODE OF MARKETING AND QUALITY OF FORMULA MILK AND RELATED PRODUCTS, AND FOOD PRODUCTS FOR INFANTS AND YOUNG CHILDREN with the following submission.

The Hong Kong Medical Association is committed to protect the public. All along the breast feeding rate in Hong Kong has been so low, especially the exclusive breast feeding rate at 6 months of age being extremely low, just like any other developed regions and metropolitan cities in the world, the Government should put more resources and measures to positively market breast feeding and to effectively remove the barriers of breast feeding. The barriers include lack of breast feeding privacy and facilities in public and in offices, restaurants and malls, short duration of maternity leave, inadequate infrastructure and human resources when the baby is born in the hospitals and after discharge, inadequate public education as well as overwhelming effects of aggressive marketing of breast milk substitutes.

The Government should make efforts in pulling down these barriers instead of just only proposing the Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants and Young Children. Up till 2011, just around 160 government buildings had provided breast feeding rooms and facilities, not to mention all the commercial buildings and private firms. There are also very limited breastfeeding facilities in shopping malls. More than half of nursing mothers are working full time. This is a major factor deterring them from breastfeeding with the demanding working atmosphere and workload and often unfriendly attitude of employers and co-workers. As a result, they are forced to give up breastfeeding and need to bottle feed. The Government must take the lead to make sure these work environments and public facilities be improved for breast feeding practice.

Another important factor contributing to low exclusive breast feeding rate and early change to bottle feeding is the short duration of maternity leave. In Hong Kong, a shamefully short maternity leave, up to merely 10 weeks, is grossly inadequate. The International Labour Ordinance (ILO) recommends a minimum of 18 weeks of paid maternity leave. In the European Union, at least 13 member countries meet this minimum 18 weeks with full pay. Canada provides 50 weeks of partially paid maternity and paternity leave. We advise the Government to seriously consider lengthening the maternity leave by legislation and consider legislation of paid paternity leave as well.

Now that we have no more mainland pregnant women (non-eligible mainland parents) to deliver in Hong Kong, we could begin to require all postnatal wards to have rooming in of newborns with the mothers to increase the success rate of
breast feeding initiation, with training of nurses, lactation consultants and home nursing assistants to help the mothers.

Concerning the excessive marketing and quality of formula milk and related products, we in principle agree to having a Code to regulate breast milk substitutes, especially in banning the false claims, misleading information and unethical advertisements of milk products. However, devils lie in the details of the Code as usual.

While breast feeding is the recommended way to feed a baby, a safe and nutritious substitute for breast milk is needed for babies that are not breastfed.

Just earlier this month, when the mothers in Hong Kong could not buy the formula milk products they desperately needed, the Secretary for Food and Health, Dr. KO Wing-man, BBS, JP, drastically decided to help these needy mothers to get hold of the formula milk for their infants even though this action appeared to have helped advertising for those brands – in contradiction to the spirit of the proposed code. This demonstrates that many mothers, especially working mothers, do need formula milk and do have the rights to choose formula milk in a free society, though we know breastfeeding is best for their children.

In drafting such a new code, the Government needs to protect the public, to provide adequate information relating to the breast milk substitute and complementary foods for young children to enable parents to make informed choices, to prevent misleading or deceptive conduct of the manufacturers or distributors – according to standards based on risk analysis using the best available scientific evidence.

To prohibit gift packs or sample distribution of ordinary formula milk products in health professionals’ workplace or hospitals, or even gimmicks, though controversial, is acceptable from the perspective of breastfeeding promotion.¹ Samples or professional packs of formula milk for special needs should be allowed.

However, to pick excessive marketing of formula milk as the major barrier to successful breast feeding needs more scientific evidence. Even though the formula milk companies did have spent 2.42 billion HKD on advertising formula milk for children in Hong Kong, and milk powder being the second highest spending category (3.14 billion HKD) in 2012, these figures could be explained by the demands from the mainland consumers, and not necessarily causing

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more Hong Kong mothers to stop breast feeding. The breast feeding rate in the recent years has not substantially decreased despite the 47% increase in advertising expenditure of formula milk last year.

While The Hong Kong Medical Association supports breast feeding promotion and efforts to facilitate initiation of breast feeding and sustaining exclusive breast feeding without reservations, we oppose to banning dissemination of educational materials by formula milk companies to the public. Pamphlets and articles with factual and scientific information of breastfeeding, breast milk substitutes and nutrition, though produced or sponsored by formula milk companies, should be allowed to be distributed to doctors.

We support regulation of marketing of breast milk substitutes, and in particular, banning of misleading information and false claims of milk products for children. The Government should be more proactive and swift in response to regulate such malpractice.

Penalties should be prompt and appropriate, with public announcement of the manufacturers or distributors violating the rules. If they are inaccurate or misleading, these advertising materials could be banned from dissemination to the public. Such regulation is feasible and practicable, even in regions without legislation or Code, such as in U.S.A. The U.S. Federal Court upheld a $13.5 million USD jury verdict against manufacturer Mead-Johnson in 2009 for false and misleading advertisement; the court permanently barred Mead-Johnson from claiming its Enfamil LIPIL infant formula would give better visual and brain development than ingredients in store-brand formula.

The proposed Code is supported in regulating marketing and quality of formula milk and related products up to 6 months of age. It would be simpler and easier to be supported if the Code is only regulating marketing of breast milk substitutes and complementary foods up to even one year of age when weaning has already taken place. Banning of all advertisements or educational materials of milk products or complementary foods across the board for children up to 36 months of age could jeopardise freedom of dissemination of information, not only affecting the right of the mothers who cannot breast feed to have information and education about breast milk substitutes, but also restricting the rights of the mothers who need to have informed choice of such foods for giving balanced diets and nutritious foods to young children.

Formula milk companies need not be considered as our enemies. We do not agree that cow’s milk products, as a nutritious food item, should be treated like

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alcohol, tobacco, drugs or even poisons, that they should be restricted in the same way. Even prescription drugs, alcohol, ultra-processed drinks with no significant nutritional value could be advertised. Formula milk companies should be able to promote to the health profession and also the public that their companies have a range of formula milk products for sale, so that consumers can have an informed choice. Mothers who cannot breast feed and who are taking care of weaning babies should have the right to know.

We opine that legislation to promote and encourage breast feeding is more effective than a voluntary Code to restrict marketing of breast milk substitutes.

Voluntary codes have been found to be ineffective, with most manufacturers or distributors non-compliant to the code, and usually the governments would be unable to control the unethical behaviours of the formula milk companies. The government needs to have policies and implementation of integrated measures, and to take the lead without further procrastination, to remove the barriers listed at the beginning of this submission instead of just pushing forward this Code alone, which gives the public an impression that the Government is not committed to promote breast feeding sincerely.

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