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Voluntary Code of Practice on Infant Formula Launched

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Report Highlights:

The Hong Kong government is inviting the public to submit comments on its draft Code intended to provide marketing and labeling guidelines for infant formula and food products for infants and young children between 0-36 months. The Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants and Young Children is voluntary in nature. However, some key industry representatives have expressed significant concern over its adoption and believe that the government should amend the current draft. All comments should be submitted by email to hkcode@dh.gov.hk before December 31, 2012. Meanwhile, the HKG has submitted notification to WTO (G/SPS/N/HKG/38 and G/TBT/N/HKG/43).

Summary

The Hong Kong government (HKG) has recently issued a draft Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants and Young Children. The Code aims to safeguard breastfeeding and ensure adequate nutrition for infants and young children.

It was based in reference to the International Code of Marketing of Breastmilk Substitutes (WHO, 1981) and the relevant subsequent World Health Assembly (WHA) resolutions. However, the Code expands its scope by not only covering the marketing of breastmilk substitutes but also the labeling and quality standards of formula milk and food products for infants and young children.

The HKG has launched a public consultation process on the draft Code. U.S. exporters who want to submit comments to the HKG should have them sent to hkcode@dh.gov.hk before December 31, 2012 and copy ATO office at hongkongato@usda.gov.

The Code is voluntary in nature but some key industry members have expressed significant concern over its adoption. These industry members claim that despite having expressed their views to the HKG during the Code drafting process their views were not incorporated into the current draft. The members have expressed three main concerns. First, it agrees that there should be legislative regulation but opposes that the regulation be voluntary. Second, it believes that the regulation of marketing and labeling should be covered by different guidelines, as is international practice, rather than by one combined code as the HKG is currently proposing. Third, the members believe that regulating the marketing of infant formula for infants between 0-6 months is appropriate, but that the marketing regulation should not extend to products for all children under 36 months. (However, the members have not voiced objection that products for infants and children under 36 months be subject to a separate regulation covering labeling and nutrition requirements).

The Hong Kong Code

The draft Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children includes 10 articles covering marketing, labeling and quality of formula and food products for infants and young children between 0-36 months as well as feeding bottles, teats and pacifiers.

In the areas of marketing and promotion:

- The Code advises manufacturers and distributors (M&Ds) not to launch any education and information dissemination activities for breastfeeding and formula milk feeding and nutrition. Information can be provided on websites or sent to enquirers upon request. (This article also restricts education on breastfeeding because studies indicated that breastfeeding will last longer when mothers have not received any breastfeeding education provided by traders of baby formula.)

- The Code advises M&Ds not to launch any promotional activities for formula milk, feeding bottles, teats and pacifiers.
- Public promotion such as advertising and sample distribution of food products for infants and young children is allowed but not in health care facilities.

In the area of labeling:

- The Code does not allow health and nutrition claims for infant formula.
- The Code allows health claims but not nutrition claims for follow-up formula.
- The Code allows health claims and nutrition claims on four nutrient groups, namely sugars, sodium, vitamins and minerals, for infant and young children foods. Health claims have to follow Codex requirements or adhere to those which have been approved by national/international authorities.

The [Hong Kong Code](#) and a [summary](#) are available at the Hong Kong government website.

Time line

The public is invited to provide comments on the Hong Kong Code before the deadline of December 31. The Hong Kong plans to finalize the draft in the second quarter of 2013 and have it implemented by the end of next year.

Industry Concern

The Hong Kong government set up a taskforce on Hong Kong Code of Marketing of Breastmilk Substitutes in June 2010 with an objective to promote breastmilk feeding by restricting marketing practices of infant and follow-up formula. The taskforce was comprised of a variety of parties including government representatives, consumer and professional groups and academia. The industry was disappointed that they were not represented at the taskforce.

In response, some key industry players set up a coalition facilitating their communication with the government.

While the industry is still in the process of communicating with the government to seek detailed clarifications of various articles in the Hong Kong Code, there are three broad areas for which some key market players would like the HKG to accommodate their suggestions.

First, the industry coalition viewed that infant formula should be regulated by mandatory regulations rather than by voluntary guidelines. Given the voluntary nature of guidelines, different industry players will follow the guidelines with varying degree of compliance. Thus, the existence of voluntary guidelines could provide an unlevel playing field for the industry and lead to unfair competition.

Second, the industry called for the government not to combine the regulation of both the marketing

and labeling of infant formula under one Hong Kong Code. They viewed that these two issues should be dealt with separately as is international practice. They argued that internationally, WHO Code 1981 regulates the marketing of infant formula and Codex provides guidelines on labeling and quality of infant formula.

Third, the industry agrees to the regulation of marketing activities for infant formula up to 6 months as recommended by WHO Code 1981, but not to formulas and food intended for infants and children between 6 and 36 months as proposed by the Hong Kong Code. However, they agree that the labeling and quality regulation of baby formula and food should cover products intended for infants and children from 0 to 36 months. (Currently, Hong Kong's labeling regulation does not apply to formula and food consumed by children under the age of 36 months. However, the HKG aims to introduce and complete legislative regulation governing the labeling and nutrition requirements of infant formula and foods for babies and children under 36 months old in 2013. The legislative proposal will have more focused quality requirements than those governed by the voluntary Hong Kong Code.)

While the government has indicated that the Code is voluntary and will not disclose the name of any brands that violate the Code, industry members are concerned that the media and consumer groups will do market surveillance and announce their results. Furthermore, they worry that their compliance may have an impact on the consideration of the Hospital Authority Milk Tender.

The industry coalition stressed that they support breastfeeding. Therefore, they have set up a Code of Practice for the Marketing of Infant Formula (Code of Practice). All coalition members do not advertise in Hong Kong infant formula for babies less than 6 months.

Nonetheless, the coalition argues that prohibiting promotion for formula for babies and young children between 6 months and 36 months is not suitable, citing that the government still has a long way to go promoting breastfeeding and that public breastfeeding infrastructure has yet to be improved. Thus, the industry members believe that prohibiting product promotion under the current Hong Kong situation will only stop mothers from collecting information on various formulas and impact their ability to make informed choices.