

Hong Kong Code of Marketing of Formula Milk and Related Products, and Food Products for Infants & Young Children

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食物及衛生局
Food and Health Bureau



衛生署
Department of Health



**Hong Kong Code of Marketing of Formula Milk and
Related Products, and Food Products
for Infants & Young Children**

**Food and Health Bureau &
Department of Health,
Government of the Hong Kong Special Administrative Region**

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Background

The superiority of breastfeeding in ensuring physical and psychosocial health and well-being of mother and child as well as the important impacts of early nutrition on long-term health are widely recognised. In addition to clear short-term health benefits such as protection from gastrointestinal and middle-ear infections in children, breastfeeding has also been shown to be protective against obesity and development of non-communicable diseases in adulthood.^{1, 2, 3, 4} A systematic review conducted by the World Health Organization (“WHO”) reaffirmed the long-term benefits of breastfeeding, including the significant improvement in performance of intelligence test.⁵ On top of that, studies have also shown that breastfeeding could protect against premenopausal breast cancer in mothers. The benefits of breastfeeding are shown to be proportional to its duration and exclusiveness.

Suboptimal breastfeeding practices incur considerable economic loss and preventable infant deaths even in developed countries with good sanitation and standard of care. An economic study of the United States (“US”) revealed that if 90% of US families comply with exclusive breastfeeding for 6 months as recommended by Healthy People 2010, it would save \$13 billion/year and prevent an excess of 911 deaths.⁶ Another study of the United Kingdom also showed that even moderate increase in breastfeeding rate (i.e. 100% of babies breastfed at hospital discharge and 65% of women exclusively breastfeeding at 4 months) would be translated into cost savings for the health service of £27 million and tens of thousands of fewer hospital admissions and consultations by the general practitioners.⁷

WHO has made a global public health recommendation that infants should be exclusively breastfed for the first 6 months of life to achieve optimal growth, development and health and thereafter, to meet their evolving nutritional requirements, infants should receive nutritionally adequate and safe complementary foods while breastfeeding continues for up to 2 years of age or beyond.⁸

The creation of an environment that protects, promotes and supports breastfeeding requires a systemic approach, which includes enabling parents to make informed decisions

¹ Gluckman PD, Hanson MA, Mitchell MD. Developmental origins of health and disease: reducing the burden of chronic disease in the next generation. *Genome Medicine*. 2010 Feb 24; 2(2):14.

² Koletzko B, von Kries R, Closa R, et al. Can infant feeding choices modulate later obesity risk? *American Journal of Clinical Nutrition*. 2009 May;89(5):1502S–8S.

³ Ip S, Chung M, Raman G, Chew P, et al. Breastfeeding and maternal and infant health outcomes in developed countries. Evidence Report / Technology Assessment (Full Rep). 2007 Apr;(153):1-186.

⁴ ESPGHAN Committee on Nutrition, Agostoni C, Braegger C, Decsi T, et al. Breast-feeding: A commentary by the ESPGHAN Committee on Nutrition. *Journal of Pediatric Gastroenterol and Nutrition*. 2009 Jul;49(1):112-25.

⁵ Horta BL & Victoria CG. Long-term benefits of breastfeeding: a systematic review. WHO. 2013.

⁶ Bartick M & Reinhold A. The Burden of Suboptimal Breastfeeding in the United States: A Pediatric Cost Analysis. *Pediatrics*. 2010 May; 125(5):e1048-56.

⁷ Renfrew MJ, Pokhrel S, et al. Preventing disease and saving resources: the potential contribution of increasing breastfeeding rates in the UK. Unicef. October 2012.

⁸ WHO. Global strategy for infant and young child feeding, 2003. Available at <http://www.who.int/nutrition/publications/infantfeeding/9241562218/en/>. Accessed on 6 September 2016.

on infant feeding free from commercial influence, ensuring policies and practices of maternal-and-child-health facilities are supportive of breastfeeding, and building family-friendly social policies and community services. To protect breastfeeding from being undermined by inappropriate commercial practices, the WHO developed and adopted the International Code of Marketing of Breastmilk Substitutes (“International Code”) in 1981 to empower mothers to make fully informed decisions on infant feeding free from commercial influences and to recommend restrictions on marketing practices of breastmilk substitutes so that breastfeeding can thrive and risks arising from feeding by formula milk can be minimised. Subsequent World Health Assembly (“WHA”) resolutions have been passed to clarify and update certain provisions of the International Code to align it with scientific advances and evolving marketing strategies.

In July 2013, a WHO statement entitled “Information concerning the use and marketing of follow-up formula” (“2013 WHO Statement”) was published to specifically address the issue of marketing of follow-up formula.⁹ The 2013 WHO Statement remarked that “*a number of studies strongly suggest a direct correlation between marketing strategies for follow-up formula and perception and subsequent use of these products as breastmilk substitutes*”. The 2013 WHO Statement maintained that “*follow-up formula is unnecessary and unsuitable when used as a breastmilk replacement from six months of age onwards*”. It concluded that “*if follow-up formula is marketed or otherwise represented to be suitable, with or without modification, for use as a partial or total replacement for breastmilk, it is covered by the Code. In addition, where follow-up formula is otherwise represented in a manner which results in such product being perceived or used as a partial or total replacement for breastmilk, such product also falls within the scope of the Code*”.

In May 2016, WHO issued the “Guidance on ending the inappropriate promotion of foods for infants and young children” (“2016 WHO Guidance”).¹⁰ The 2016 WHO Guidance recommended that “*products that function as breast-milk substitutes should not be promoted. A breast-milk substitute should be understood to include any milk, in either liquid or powdered form, that are specifically marketed for feeding infants and young children up to age of 3 years (including follow-up formula and growing-up milks). It should be clear that the implementation of the International Code and subsequent relevant WHA resolutions covers all these products*” . On 28 May 2016, the sixty-ninth WHA urged all member states to implement the International Code and WHO recommendations on marketing of foods to children.

⁹ Information concerning the use and marketing of follow-up formula. WHO. 2013. Available at http://www.who.int/nutrition/topics/WHO_brief_fufandcode_post_17July.pdf. Accessed on 6 September 2016.

¹⁰ Guidance on ending the inappropriate promotion of foods for infants and young children. WHO. 2016. Available at <http://www.who.int/nutrition/topics/guidance-inappropriate-food-promotion-iy-c-process/en/> Accessed on 6 September 2016.

The Government of the Hong Kong Special Administrative Region (“the Government”) has all along endeavoured to protect, promote and support optimal feeding of infants and young children. In February 2010, the Steering Committee on Prevention & Control of Non-Communicable Diseases (“Steering Committee”), chaired by the Secretary for Food and Health, endorsed the proposal of the Working Group on Diet and Physical Activities (“the Working Group”) to develop and implement a code of marketing of breastmilk substitutes. The Working Group was set up under the Steering Committee to promote healthy diet and physical activity in Hong Kong. The proposal to develop a code of marketing of breastmilk substitutes is part of the action plan recommended by the Working Group and was made in response to the aggressive marketing of formula milk in Hong Kong, which is considered one of the contributing factors to the low breastfeeding rates in the local community.

In June 2010, the Department of Health set up the Taskforce on Hong Kong Code of Marketing of Breastmilk Substitutes (“the Taskforce”) to develop a code of marketing of breastmilk substitutes for Hong Kong. Membership of the Taskforce comprises representatives from community organisations, professional bodies, academia, and Government bureau and departments.

In drafting the code for Hong Kong, the Taskforce has referred to the International Code and the relevant subsequent WHA resolutions. In addition, the Taskforce also considered the potential impacts of local marketing practices on parental attitudes and practices of feeding infants and young children. The Taskforce also held three meetings with representatives of six multinational formula milk companies to listen to their views. The Taskforce subsequently submitted a draft of the Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children (“the 2012 draft HK Code”) to the Government for public consultation, which was conducted from 26 October 2012 to 28 February 2013. The results of the public consultation on the 2012 draft HK Code and the way forward were reported to the Legislative Council Panel on Health Services on 21 July 2014.

Taking into account the findings from the public consultation, comments expressed thereafter, the legislation enacted in 2014 regarding requirements on nutritional composition of infant formulae and nutrition labelling of infant formulae, follow-up formula products and prepackaged foods for infants and young children under the age of 36 months, and the issuance of the 2016 WHO Guidance, the code for Hong Kong has now been finalised and is entitled as “the Hong Kong Code of Marketing of Formula Milk and Related Products, and Food Products for Infants & Young Children” (“the HK Code”).

The HK Code is **voluntary** in nature and aims to contribute to the provision of safe and adequate nutrition for infants and young children without interfering with the sale of products for infant-and-young-child feeding. The Government, in collaboration with non-governmental organisations, professional groups and consumer organisations concerned, will evaluate the overall effectiveness of the HK Code. Individual members of the trade are encouraged to make reference to the principles and aim of the HK Code in formulating its own marketing practices independently.

The practices of feeding infants and young children are affected by a multitude of socio-economic, cultural and environmental factors. The implementation of the HK Code is just part of the effort to attain optimal infant-and-young-child feeding practices. Ongoing and concerted actions by the Government and various sectors of the community are necessary for the purpose of protecting and promoting breastfeeding and hence optimal infant-and-young-child feeding. In April 2014, the Committee on Promotion of Breastfeeding was set up by the Food and Health Bureau to provide advice on strategies and action plans to further protect, promote and support breastfeeding in Hong Kong and to oversee their effective implementation, as well as to evaluate the overall effectiveness of the HK Code after it has been promulgated. In addition, various measures have been implemented in phases to strengthen professional support for breastfeeding in healthcare facilities (e.g. through implementing the Baby-Friendly Hospital Initiative); to strengthen the publicity and education on breastfeeding, including the promotion of HK Code; to support working mothers to sustain breastfeeding by encouraging the community to adopt breastfeeding friendly workplace policy; to promote and support breastfeeding in public places through promotion of breastfeeding friendly premises and provision of baby care facilities; and to strengthen the surveillance on local breastfeeding.

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Article 1 – Title of the Code

1 Title of the Code

This Code is named as the Hong Kong Code of Marketing of Formula Milk and Related Products, and Food Products for Infants & Young Children.

Article 2 – Aim and Scope

2.1 The Aim

The aim of this Code is to contribute to the provision of safe and adequate nutrition for infants and young children, by —

- (a) protecting breastfeeding; and
- (b) ensuring the proper use of formula milk, formula milk related products, and prepackaged food for infants and young children under the age of 36 months,

on the basis of adequate and unbiased information and through appropriate marketing.

2.2 The Scope

This Code covers the marketing practices of designated products as defined in Article 3. It also applies to the information on the use of designated products.

Article 3 – Definitions

“advertisement”, “advertising”

- means any form of advertising intended for the general public which is published by any means including, but not limited to, the following –
 - (a) newspaper or other publication;
 - (b) television or radio broadcast;
 - (c) unsolicited electronic messages;
 - (d) distribution of samples or product flyers; or
 - (e) exhibition of pictures, models or films,and “advertise” will be construed accordingly.

“bottle feeding”

- means feeding liquid or semi-solid food from a bottle with a nipple.

“brand name”

- means a name given by the manufacturer to a product or range of products.

“breastfeeding”

- means breastfeeding of infants and young children, including nutrition of breast-milk.

“complementary food”

- means any food suitable or represented as suitable as an addition to breastmilk or formula milk for infants of or above the age of 6 months and young children of or below the age of 24 months.

“complementary feeding”

- means the transition from exclusive breastfeeding to eating family foods, which typically covers the period from 6 to 24 months of age, even though breastfeeding may continue to 2 years of age and beyond.

“container”

- includes every kind of box, bottle, tin, carton, package or wrapping enclosing an article or substance, but does not include an outer cover or wrapping superimposed for the purpose of consignment or delivery.

Article 3 – Definitions

“Department of Health”

- means the Department of Health of the Government of the Hong Kong Special Administrative Region.

“designated product”

- means –
 - (a) any formula milk;
 - (b) any formula milk related products;
 - (c) any prepackaged food for infants and young children; and
 - (d) any other product declared as a designated product by the Department of Health for the purposes of this Code.

“distributor”

- means a person, corporation or other entity engaged in the sale, whether wholesale or retail, of any designated product.

“follow-up formula”¹¹

- means –
 - (a) a product that, according to its descriptions or instructions for use, is –
 - (i) represented as a replacement for human breastmilk or infant formula, and
 - (ii) intended for consumption as a liquid element in a progressively diversified diet by persons of any age from 6 months to under 36 months (even if it is also claimed in the descriptions or instructions, if applicable, to be suitable for consumption by persons of any other age); or
 - (b) a product marked or labelled as “follow-up formula” or “較大嬰兒配方產品” or “較大嬰兒配方奶”, or with any other words of similar meaning.

“formula milk”

- means infant formula, follow-up formula and formula for special medical purposes for infants and young children.

“formula milk feeding”

- means feeding by formula milk of infants and young children, including nutrition of formula milk.

¹¹ Food and Drugs (Composition and Labelling) Regulations (Cap. 132W).

Article 3 – Definitions

“formula for special medical purposes for infants and young children”¹²

- means a product that –
 - (a) according to its descriptions or instructions for use, is specially processed or formulated for the dietary management for, and intended for the exclusive or partial feeding of, persons of any age under 36 months (even if it is also claimed in the descriptions or instructions, if applicable, to be suitable for consumption by persons of any age from 36 months onwards) –
 - (i) who have limited or impaired capacity to take, digest, absorb or metabolise ordinary food or certain nutrients in it;
 - (ii) who have special nutrient requirements that are determined medically;
or
 - (iii) whose dietary management cannot be achieved only by consumption of other food for special dietary uses or modification of normal diet; and
 - (b) may be used only under medical supervision.

“formula milk related product”

- means any feeding bottles and teats for infants and young children.

“health care facility”

- means any public or private institution or organisation or practice engaged directly or indirectly in the provision of health care or child care, including day-care centre, nursery, or other infants-and-young-children care facility.

“health professional”

- means a health worker with a professional degree, diploma or licence, such as a medical practitioner, nurse, midwife, dietitian, nutritionist, clinical psychologist or such other person as may be specified by the Department of Health for the purposes of this Code.

“health worker”

- means a person providing or who are in training to provide health care services in a health care facility, whether professional or non-professional, including voluntary unpaid worker.

¹² Food and Drugs (Composition and Labelling) Regulations (Cap. 132W).

Article 3 – Definitions

“infant”¹³

- means a person not more than 12 months of age.

“infant formula”¹⁴

- means –
 - (a) a product that, according to its descriptions or instructions for use, is intended for consumption as a substitute for human breastmilk that is specially manufactured to satisfy, by itself, the nutritional requirements of persons of any age up to and including 12 months until the introduction of appropriate complementary feeding (even if it is also claimed in the descriptions or instructions, if applicable, to be suitable for consumption by persons of any age over 12 months); or
 - (b) a product marked or labelled as “infant formula” or “嬰兒配方產品” or “嬰兒配方奶”, or with any other words of similar meaning.

“label”

- means any tag, mark, pictorial or other descriptive matter, written, printed, stenciled, marked, embossed, attached or otherwise appearing on a container of a designated product.

“labelling”

- in relation to a designated product, includes any word, particulars, trade mark, brand name, pictorial matter or symbol relating to the designated product and appearing on the packaging of the designated product or on any document, notice, label, ring or collar accompanying the designated product.

“logo”

- means an emblem, picture or symbol by means of which a company or a product is identified.

¹³ Standard for Infant Formula and Formulas for Special Medical Purposes intended for Infants (Codex Stan 72-1981). Last modified 2016.

¹⁴ Food and Drugs (Composition and Labelling) Regulations (Cap. 132W).

Article 3 – Definitions

“manufacturer”

- means a person, corporation or other entity engaged in the business of manufacturing a designated product whether directly, through an agent, or through a person controlled by or under an agreement with it.

“marketing”

- means product promotion, distribution, selling and advertising, product public relations and information services and “market” will be construed accordingly.

“packshot”

- means any representation of a designated product either by photograph or graphic illustration.

“prepackaged food for infants and young children”¹⁵

- means any prepackaged food that, according to its descriptions or instructions for use, is intended for consumption by persons of any age under 36 months (even if it is also claimed in the descriptions or instructions, if applicable, to be suitable for consumption by persons of any age from 36 months onwards), but does not include any infant formula or follow-up formula.

“promote”

- means to employ any method of directly or indirectly encouraging a person to purchase or use a designated product.

“retailer”

- means any sale outlet or premises including, but not limited to, pharmacies, shops and supermarkets.

¹⁵ Food and Drugs (Composition and Labelling) Regulations (Cap. 132W).

Article 3 – Definitions

“sample”

- means a single or small quantities of a designated product provided without cost.

“trade mark”¹⁶

- means any sign which is capable of distinguishing the goods or services of one trader from those of others and may consist of words (including personal names), indications, designs, letters, characters, numerals, figurative elements, colours, sounds, smells, the shape of the goods or their packaging or any combination of such signs.

“young children”

- means persons of any age from more than 12 months to under 36 months.

¹⁶ Trade Marks Ordinance (Cap. 559).

Article 4 – Information and Education

4.1 No information and education on breastfeeding and formula milk feeding by manufacturers and distributors

- 4.1.1 Except as allowed under Article 4.1.2, a manufacturer or distributor should not himself or herself, or by any other person on his or her behalf –
- (a) perform, carry out or sponsor educational functions or activities relating to breastfeeding and formula milk feeding which are intended to reach the general public, expectant parents or parents of children under the age of 36 months; or
 - (b) produce informational or educational materials referring to breastfeeding and formula milk feeding and distribute such materials to the general public, expectant parents or parents of children under the age of 36 months or sponsor such production and distribution.
- 4.1.2 Provided that the materials to be distributed do not contain the name, brand name, packshot, logo and / or trade mark of a formula milk and formula milk related product (except the name and logo of the manufacturer or distributor), or refer to such product in any other manner, a manufacturer or distributor may (a) distribute to the public informational or educational materials on breastfeeding and formula milk feeding prepared by the Department of Health, and (b) reproduce all or parts of the materials mentioned in (a) for distribution to the public if there is no alteration of the content of the materials, and the Department of Health is acknowledged in the reproduced materials as the source of the information.

4.2 Product information provided by manufacturers and distributors

- 4.2.1 A manufacturer or distributor of formula milk and formula milk related product may provide information on specific brands of formula milk and formula milk related product via electronic (e.g. websites, emails) or physical means (e.g. hotlines, at the premises of retailers or at health care facilities) **upon request** provided that such information –
- (a) is restricted to correct and factual information;
 - (b) does not include any image, text or other representation that is likely to undermine or discourage breastfeeding, that makes a comparison to breastmilk, or that suggests that the product is nearly equivalent or superior to breastmilk;
 - (c) does not promote bottle feeding;

Article 4 – Information and Education

- (d) does not convey an endorsement or anything that may be construed as an endorsement by a professional or other body, unless this has been specifically approved by the Government;
- (e) be written in language appropriate to the target readership, e.g. Chinese and / or English; and
- (f) satisfies the requirements in Article 4.4.1(e).

4.2.2 The information referred to in Article 4.2.1 may include the name, address and telephone hotline of the manufacturer or distributor.

4.3 Information and education on other matters provided by manufacturers and distributors

4.3.1 A manufacturer or distributor may produce, donate or distribute informational or educational materials, or sponsor or perform educational activities on matters related to infants and young children other than breastfeeding and formula milk feeding, provided that –

- (a) such materials or activities do not display the name, brand name, packshot, logo and / or trade mark of any formula milk or formula milk related product (except the name and logo of the company) or refer to such product in any other manner;
- (b) such materials or activities are not associated with promotional practices not permitted under Article 5; and
- (c) such materials or activities, if related to complementary feeding, satisfied the requirements in Article 4.4.1 (e) (ii).

4.4 Information and education on infants-and-young-children feeding and nutrition provided by parties other than manufacturers and distributors

4.4.1 Informational and educational materials produced or distributed by parties other than manufacturers and distributors, whether written, audio or visual, which refer to infants-and-young-children feeding and nutrition and are intended to reach the general public, expectant parents or parents of children under the age of 36 months should –

- (a) contain only correct and factual information;
- (b) not include any image, text or other representation that is likely to undermine or discourage breastfeeding, that makes a comparison to breastmilk, or that suggests that the product is nearly equivalent or superior to breastmilk;

Article 4 – Information and Education

- (c) not promote bottle feeding;
- (d) not contain the brand name, logo or trade mark of formula milk and formula milk related product nor the names of any manufacturer or distributor of formula milk and formula milk related product, except for matters concerning public health / risks (e.g. government departments may recall products where product safety is a concern, Consumer Council may publish information comparing formula milk products) or for patient care (e.g. instruction by health professionals to purchase a special formula);
- (e) clearly and conspicuously explain the following matters, with reference to the age of the infants and young children and the stage of feeding in discussion and with regard to the nature of informational and educational materials made –
 - (i) where the materials are about breastfeeding –
 - (A) the benefits and superiority of breastfeeding;
 - (B) the value of exclusive breastfeeding for the first 6 months followed by sustained breastfeeding up to 2 years or beyond;
 - (C) how to initiate and maintain exclusive and sustained breastfeeding;
 - (D) why it is difficult to reverse a decision not to breastfeed;
 - (E) the importance of introducing complementary food from the age of 6 months onwards; and
 - (F) how and why any introduction of bottle feeding or early introduction of complementary food negatively affects breastfeeding;
 - (ii) where the materials are on complementary feeding –
 - (A) the benefits and superiority of breastfeeding;
 - (B) the importance of introducing complementary food from the age of 6 months onwards, and the benefits of continuing breastfeeding while on complementary feeding;
 - (C) how and why any introduction of bottle feeding or early introduction of complementary food negatively affects breastfeeding; and
 - (D) that complementary food can easily be prepared at home using ordinary ingredients;
 - (iii) where the materials are on feeding by formula milk or the use of a feeding bottle –

Article 4 – Information and Education

- (A) the benefits and superiority of breastfeeding;
- (B) the value of exclusive breastfeeding for the first 6 months followed by sustained breastfeeding up to 2 years or beyond;
- (C) why it is difficult to reverse a decision not to breastfeed;
- (D) instructions for the proper preparation and use of feeding bottle and teat, including cleaning and sterilisation of feeding utensils;
- (E) the health risks of feeding by formula milk, feeding by using a feeding bottle and teat and improper preparation of feeding bottle and teat;
- (F) explanations that powdered formula milk is not a sterile product and that to minimise the risks of serious illness, formula milk which is intended for consumption by infants under 6 months of age should be prepared using boiled water cooled down to no less than 70 °C ¹⁷;
- (G) formula milk should be prepared one feed at a time and that the reconstituted formula milk should be consumed within 2 hours after preparation and any unused milk must be discarded; and
- (H) the financial implication of feeding an infant with formula milk.

4.5 Notification arrangement provided specifically for pre-order service for formula milk

4.5.1 Notification of pre-order service for formula milk provided by any parties should –

- (a) only contain essential information pertaining to the operation of order and delivery, i.e. company logo and the following information in text format:
 - company name;
 - contact channel;
 - methods of order / delivery;
 - formula milk product's brand name; andshould not include any other pictures, graphics, product logos or product packshots; and
- (b) not promote formula milk or the brand(s) of these products in any manner.

¹⁷ “Safe preparation, storage and handling of powdered infant formula: Guidelines” by World Health Organization in collaboration with the Food and Agriculture Organization of the United Nations (World Health Organization, 2007).

Article 5 – Promotion to the Public

5.1 A manufacturer or distributor should not himself or herself, or by any other person initiated by or on his or her behalf, carry out any promotional activities involving formula milk and formula milk related products. Such promotional activities include but are not limited to –

- (a) advertising;
- (b) using special displays; and
- (c) offering prizes or gifts such as samples of formula milk or formula milk related products to any person;

but do not include –

- (d) any pricing policies and practices;
- (e) provision of designated products or information or materials about designated products to health worker under Article 7.2;
- (f) provision of funding or sponsorship to health worker or associations of health workers under Articles 7.3.2 and 7.3.3;
- (g) collection of personal details of infants, young children, expectant parents, parents or carers of children under the age of 36 months for the purpose of merely providing customer services relating to order and delivery of product, and product enquiry;
- (h) provision of company's contact (e.g. hotline, URL of website / email address / name of mobile application) for the purpose of merely providing customer services relating to order and delivery of formula milk, product enquiry and obtaining product information; and
- (i) notification arrangement provided specifically for pre-order service of formula milk under Article 4.5.

5.2 A manufacturer or distributor may promote prepackaged food for infants and young children, provided that the promotional practice –

- (a) does not take place in a health care facility;
- (b) does not cover infants less than 6 months of age;
- (c) satisfies the requirements under Articles 4.2.1 (a) to (d) and 4.4.1 (e) (ii); and
- (d) does not promote formula milk or formula milk related products.

Article 5 – Promotion to the Public

- 5.3 A manufacturer or distributor should not himself or herself, or by any other person on his or her behalf –
- (a) seek directly or indirectly personal details of infants, young children, expectant parents or parents of children under the age of 36 months;
or
 - (b) invite participation of infants, young children, expectant parents or parents of children under the age of 36 months in activities including baby shows, mother craft activities

for the purpose of promoting designated products.

Article 6 – Promotion in Health Care Facility

- 6.1 A manufacturer or distributor should not himself or herself, or by any other person on his or her behalf –
- (a) donate any quantity of a designated product to a health worker or a health care facility;
 - (b) donate to or distribute within a health care facility any equipment, service or article such as pen, calendar, poster, note pad, growth chart, toy which refers to or may promote the use of a designated product; or
 - (c) promote designated product through health workers or health care facilities or distribute designated product through health workers or health care facilities to any person.

Article 7 – Information and Promotion to Health Workers

7.1 Responsibilities of health workers

- 7.1.1 Health workers should encourage and protect breastfeeding and those health workers who are engaged in particular with maternal and infant nutrition should make themselves familiar with their responsibilities under this Code, including the matters specified in Article 4.4.1 (e).
- 7.1.2 Health workers engaged in maternal and child health may demonstrate the use of infant formula or formula for special medical purposes for infants and young children to parents when it is considered necessary and, where demonstration of the use of infant formula is considered necessary, should give a clear explanation of the risks of the use of infant formula as well as the information specified in Article 4.4.1 (e) (iii) (A) to (H) during the demonstration.

7.2 Product and product information for health workers

- 7.2.1 Manufacturers or distributors may provide designated products to health workers or health care facilities only for the purpose of professional evaluation or research at the institutional level.
- 7.2.2 Notwithstanding Article 4, manufacturers or distributors may give any materials about a designated product to health workers if such materials –
- (a) are restricted to scientific and factual matters regarding the technical aspects and methods of use of the product; or
 - (b) made references to published peer-reviewed studies to support any representation that states or suggests that a relationship exists between the product or constituent thereof and health, growth or development of infants and young children.

7.3 Sponsorship and benefit to health workers

- 7.3.1 A manufacturer or distributor should not himself or herself, or by any other person on his or her behalf offer or give any gift or benefit to health workers or to associations of health workers engaged in maternal and child health, except as allowed under Articles 7.3.2 and 7.3.3.

Article 7 – Information and Promotion to Health Workers

7.3.2 Subject to review, if any, to be carried out after this Code takes effect, a manufacturer or distributor should not himself or herself, or by any other person on his or her behalf offer health worker or associations of health workers funding for organising or participating in continuing education activities related to maternal and child health, unless the following requirements are satisfied –

- (a) the manufacturer and distributor exert no influence on the choice of speakers and topics to be discussed in such activities and the organisers sponsored have full autonomy to decide these matters;
- (b) the manufacturer and distributor exert no influence on the choice of sponsorship recipients and the associations to which sponsorship is provided have full autonomy to decide the recipients and the amount of sponsorship provided to each recipient;
- (c) the manufacturer and distributor require the following groups of persons participating in the continuing education activities to disclose any interest in or relationship with them by means of, except where otherwise specified, declaration in writing to the organisers and declaration in the printed materials for distribution to the participants in the continuing education activities –
 - (i) chairs of meetings;
 - (ii) speakers;
 - (iii) discussants (the disclosure may be made verbally, where appropriate); or
 - (iv) responsible persons or authors of programmes or articles published in the printed materials for distribution to the participants;

[Examples of interest or relationship which should be declared include –

- employment of the person himself or his close family members (including first degree relatives and spouse) by the manufacturer or distributor whose business is related to any topics to be discussed in the conference;
- receipt of any funding for research from the manufacturer or distributor;
- receipt of any form of sponsorship from the manufacturer or distributor, e.g. contribution to registration / travel / accommodation expenses]

- (d) any acknowledgement of corporate sponsorship appearing in printed materials and in backdrops for the continuing education activities using company names or logos should not contain the name, brand name, packshot, logo and / or trade mark of any designated products or refer to such products in any other manner;

Article 7 – Information and Promotion to Health Workers

- (e) no commercial exhibits of designated product in the continuing education activities;
- (f) any exhibition stand of the manufacturer and distributor (of maximum size of 3m X 3m) should be separated from the plenary and break-out rooms;
- (g) the manufacturer and distributor do not distribute through the continuing education activities any gift, equipment, pen, calendar, poster, note pad, growth chart, toy or any other article or materials which may or may not promote or refer to the use of a designated product or donate such article or materials; and
- (h) refreshments, if any, provided by the manufacturer and distributor during delegate networking opportunities are not lavish.

7.3.3 Health workers and associations of health workers should only accept or receive research grants from manufacturers and distributors if, where the manufacturers and distributors have an interest in the subject matter of the research, the grants and any relationships, financial or not, with the manufacturers or distributors are disclosed in the printed materials publishing the result of the research.

Article 8 – Labelling

8.1 Label of designated products

8.1.1 The label affixed to a designated product should not –

- (a) include any image, text or other representation that is likely to undermine or discourage breastfeeding, that makes a comparison to breastmilk, or that suggests that the product is nearly equivalent or superior to breastmilk;
- (b) promote bottle feeding;
- (c) convey an endorsement or anything that may be construed as an endorsement by a professional or other body, unless this has been specifically approved by the Government.

8.1.2 The particulars required under Articles 8.2.1, 8.3.1 and 8.4.1 should appear in both English and Chinese if both languages are used in the labelling or marking of the designated product.

8.1.3 The label must be legible.

8.2 Labelling requirements for formula milk

8.2.1 The container of formula milk or the label affixed thereto should satisfy the following requirements –

- (a) indicate in a clear, conspicuous and legible manner the following particulars –
 - (i) instructions for appropriate preparation and use in words and / or in easily understood graphics;
 - (ii) the age for which the product is recommended in Arabic numerals;
 - (iii) a warning about the health risks of improper preparation and of introducing the product prior to the recommended age;
 - (iv) the required storage conditions both before and after opening of the product, taking into account climatic conditions;
 - (v) the batch number, date of manufacture and date before which the product is to be consumed, taking into account climatic and storage conditions;
 - (vi) the name and address of the manufacturer or distributor; and
 - (vii) the weight of milk powder in one level scoop;

Article 8 – Labelling

- (b) contain the word “IMPORTANT NOTICE” in capital letters and indicates thereunder the statement “Breastfeeding is the normal means of feeding infants and young children. Breastmilk is the natural food for their healthy growth and development. Use of breastmilk substitutes may put infants at risk of diarrhoea and other illnesses, when compared with breastfed infants”;
- (c) contain the word “Warning” and indicates thereunder the following statement –
 - (i) in the case of infant formula: “Before deciding to supplement or replace breastfeeding with this product, seek the advice of a health professional as to the necessity of its use. It is important for your baby’s health that you follow all preparation instructions carefully. If you use a feeding bottle before the establishment of breastfeeding, your baby may refuse to feed from the breast.”;
 - (ii) in the case of follow-up formula: “Before deciding to supplement or replace breastfeeding with this product, seek the advice of a health professional as to the necessity of its use. It is important for your baby’s health that you follow all preparation instructions carefully.”; and
- (d) contain the following statements under the instructions for preparation of formula milk in powdered form –
 - (i) “Powdered formula milk is not a sterile product and may be come contaminated during preparation”;
 - (ii) “It is necessary for formula milk to be prepared one feed at a time using boiled water allowed to cool down to no less than 70 °C¹⁸, which is intended for consumption by infants under 6 months of age”; and
 - (iii) “Discard any feed that has not been consumed more than two hours after reconstitution”;
- (e) include a feeding chart in the preparation instructions;
- (f) specify the source of protein contained in the formula milk; and
- (g) contain the information that infants should receive complementary food in addition to the formula milk from an age, as advised by a health worker, that is appropriate for their specific growth and development needs, and from 6 months of age onwards.

¹⁸ “Safe preparation, storage and handling of powdered infant formula: Guidelines” by World Health Organization in collaboration with the Food and Agriculture Organization of the United Nations (World Health Organization, 2007).

Article 8 – Labelling

8.3 Labelling requirements for prepackaged food for infants and young children

- 8.3.1 The container of prepackaged food for infants and young children or the label affixed to these products should indicate in a clear, conspicuous and legible manner the following particulars –
- (a) the age for which the product is recommended in Arabic numerals and such age should not be less than 6 months; and
 - (b) the particulars in Article 8.2.1 (a) (i), (iii), (iv), (v) and (vi).

8.4 Labelling requirements for formula milk related products

- 8.4.1 In addition to the relevant legal requirements stipulated in Toys and Children’s Products Safety Ordinance (Cap. 424) and the Consumer Goods Safety Ordinance (Cap. 456), the container or package of a formula milk related products or the label affixed thereto should indicate in a clear, conspicuous and legible manner the following particulars –
- (a) the word “IMPORTANT NOTICE” in capital letters and indicated thereunder the statement “Breastfeeding is the normal means of feeding infants and young children. Breastmilk is the natural food for their healthy growth and development. Use of breastmilk substitutes may put infants at risk of diarrhoea and other illnesses, when compared with breastfed infants”;
 - (b) the statement “Warning: It is important for your baby’s health that you follow cleaning and sterilisation instructions very carefully. If you use a feeding bottle before the establishment of breastfeeding, your baby may no longer want to feed from the breast”;
 - (c) instructions for cleaning and sterilisation in words and graphics;
 - (d) a warning that infants should not be left alone to feed on bottle because of the risk of choking and children should not be fed for long period of time because extended contact with sweetened liquids, including formula milk, may cause severe tooth decay; and
 - (e) the name and address of the manufacturer or distributor.
- 8.4.2 Formula milk related product should display the information required to be shown under the labeling requirements in Article 8.4.1 on the container or in a product insert.

Article 8 – Labelling

8.5 Exemptions

8.5.1 Article 8.2.1 does not apply to formula for special medical purposes for infants and young children provided that the product is marked or labelled with –

- (a) the words “formula for special medical purposes” or “特殊醫用配方奶” or “特殊醫用配方產品” , or any other words of similar meaning, in the name of the formula or in a conspicuous place of the package that is not in close proximity to other information on the package;
- (b) the words “USE UNDER MEDICAL SUPERVISION” or “在醫生指示下使用” , or any other words of similar meaning, in bold and in a conspicuous place of the package that is not in close proximity to other information on the package;
- (c) a statement stating “For the dietary management of (*fill in the disease, disorder or medical condition for which the formula is intended to be used or known to be effective*)”, or showing any other words of similar meaning; and
- (d) (if the formula poses a health hazard when consumed by a person who does not have the disease, disorder or medical condition stated in the statement) a warning statement and explanation on the hazard in bold and in a conspicuous place of the package that is not in close proximity to other information on the package.

8.5.2 Article 8.2.1 does not apply to infant formula or follow-up formula packed in a container that has a total surface area of less than 250 cm².

8.5.3 Article 8.3.1 (b) does not apply to prepackaged food for infants and young children packed in a container that has a total surface area of less than 100 cm².

Article 9 – Implementation and Evaluation

- 9.1 Manufacturers and distributors are encouraged to regard themselves as responsible for monitoring their marketing practices according to the principles and aim of this Code, and for taking steps to ensure that their conduct at every level conforms to them.
- 9.2 Non-governmental organisations, professional groups, institutions and individuals concerned are invited to draw the attention of manufacturers and distributors to activities which do not follow the principles and aim of this Code.
- 9.3 Manufacturers and distributors, non-governmental organisations, professional groups, and consumer organisations are invited to collaborate with the Government to evaluate the overall effectiveness of this Code.
- 9.4 The evaluation plan is illustrated at Annex I.

**Evaluation Plan of the
Hong Kong Code of Marketing of Formula Milk
and Related Products, and Food Products
for Infants & Young Children (“the HK Code”)**

The Evaluation System

1. To evaluate the overall effectiveness of the HK Code, the Department of Health will conduct surveys from time to time to assess the overall trends in marketing practices of designated products, including advertisements in the media, promotional activities at retail level, etc.. Feedback and suggestions from members of the public will also be collated and analysed. Assessment findings on the overall effectiveness of the HK Code will be reported to the Committee on Promotion of Breastfeeding, which will further advise the Government on the future strategies and actions to promote and protect breastfeeding and infants-and-young-children nutrition.

2. To facilitate collection of feedback from the public, a template for opinion collection is developed and can be accessed in the Family Health Service’s website of the Department of Health.

**Hong Kong Code of Marketing of Formula Milk and Related
Products, and Food Products for Infants & Young Children
("HK Code")**

A Summary of the HK Code

<u>Article</u>	<u>Major Provisions</u>
1. Title of the Code	This Code is named as the Hong Kong Code of Marketing of Formula Milk and Related Products, and Food Products for Infants & Young Children ("the HK Code").
2. Aim and Scope	<p>The HK Code aims to contribute to the provision of safe and adequate nutrition for infants and young children by protecting breastfeeding and ensuring the proper use of designated products, on the basis of adequate and unbiased information and through appropriate marketing.</p> <p>The HK Code applies to the following <u>designated products</u> for infants and young children under 36 months old:</p> <ul style="list-style-type: none"> ● Infant formula ● Follow-up formula ● Formula milk related products: Feeding bottles and teats ● Prepackaged food products for infants and young children
3. Definitions	Terms used in the HK Code are defined.
4. Information and Education (to the general public, expectant parents and parents)	<p><u>Information and education provided by manufacturers or distributors (M&Ds)</u></p> <p>M&Ds of designated products should not perform / sponsor educational activities nor produce and distribute informational / educational materials on <i>breastfeeding and formula milk feeding</i>.</p> <p>Nevertheless, M&Ds may:</p> <ul style="list-style-type: none"> ● distribute and reproduce the informational / educational materials on <i>breastfeeding and formula milk feeding</i> prepared by the Department of Health, with the source of information acknowledged, and

<u>Article</u>	<u>Major Provisions</u>
	<ul style="list-style-type: none"> ● produce, donate or distribute informational / educational materials <i>on matters related to infants and young children other than breastfeeding and formula milk feeding</i>, <p>provided that such materials do not contain the name, brand name, packshot, logo and / or trade mark of any formula milk and formula milk related product.</p> <p><u>Provision of product information by M&Ds</u></p> <p>M&Ds should only provide product information about formula milk, feeding bottles and teats <u>upon request</u>, via electronic (e.g. websites, emails) or physical means (e.g. hot-lines, at the premises of retailers or at health care facilities). The information provided should be factual and correct and does not undermine or discourage breastfeeding.</p> <p>Notification of pre-order service for formula milk provided by any parties should only contain essential information pertaining to the operation of order and delivery.</p> <p><u>Information and education provided by other parties</u></p> <p>Parties other than M&Ds may produce or distribute informational / educational materials on <i>infant-and-young-child feeding and nutrition</i>, provided that such materials:</p> <ul style="list-style-type: none"> ● do not contain the brand name, logo or trade mark of formula milk and formula milk related product nor the name of M&Ds except for matters concerning public health / risks, and for patient care; and ● explain the relevant points about breastfeeding, complementary feeding, formula or bottle feeding as specified.
5. Promotion to the Public	<p>M&Ds should not carry out promotional activities involving formula milk, and formula milk related products. Such activities include but are not limited to advertising, using special displays, and offering prizes or gifts such as free samples.</p> <p>M&Ds may promote prepackaged food for infants and young children, provided that the promotional activity does not:</p> <ul style="list-style-type: none"> ● cover infants less than 6 months of age, ● take place in health care facilities, and ● promote formula milk or formula milk related products.

<u>Article</u>	<u>Major Provisions</u>
	M&Ds should not seek directly or indirectly personal details of infants, young children, expectant parents or parents of children under the age of 36 months; or inviting their participation in activities including baby shows and mother craft activities, for the purpose of promoting designated products.
6. Promotion in Health Care Facility	<p>M&Ds of designated products should not:</p> <ul style="list-style-type: none"> ● offer free designated products; ● provide equipment, gifts or samples; and ● promote or distribute designated products to any person via health workers / health care facilities.
7. Information and Promotion to Health Workers	<p>Informational materials about products provided by M&Ds should be limited to scientific and factual matters.</p> <p>M&Ds may provide designated products to health workers only for the purpose of professional evaluation or research at the institutional level.</p> <p><u>Sponsorship of Continuing Medical Education Activities:</u></p> <ul style="list-style-type: none"> ● M&Ds should exert no influence on the choice of speakers, topics to be discussed and sponsorship recipients. ● Any interest in or relationship with M&Ds should be disclosed. ● M&Ds should not distribute gifts / materials or promote designated products through the continuing education activity.
8. Labelling	<p>The container or label of a designated product should not:</p> <ul style="list-style-type: none"> ● include any image, text or other representation that is likely to undermine or discourage breastfeeding, that makes a comparison to breastmilk, or that suggests that the product is nearly equivalent or superior to breastmilk; ● promote bottle feeding; and ● convey an endorsement by a professional or other body.

<u>Article</u>	<u>Major Provisions</u>
	<p>Product labels of formula milk, feeding bottles and teats should clearly state breastfeeding as the norm of infant feeding. Product labels of formula milk should also clearly state the need for the advice of a health professional before the use of formula milk and the health hazards of its use.</p>
<p>9. Implementation and Evaluation</p>	<p>M&Ds themselves are responsible for monitoring their marketing practices according to the principles and aim of the HK Code.</p> <p>Non-governmental organisations, professional groups, institutions and individuals concerned are invited to draw the attention of M&Ds to activities which do not follow the principles and aim of the HK Code.</p> <p>All parties are invited to collaborate with the Government to evaluate the overall effectiveness of the HK Code.</p> <p>Surveys will be conducted from time to time to evaluate the overall trends in marketing practices of designated products. Feedback and suggestions from members of the public will also be collated and analysed. The overall effectiveness of the HK Code will be reported to the Committee on Promotion of Breastfeeding, which will further advise the Government on the future strategies and actions to promote and protect breastfeeding and infant-and-young-child nutrition.</p>

Food and Health Bureau

Department of Health

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