



April 16, 2015

**Attn: Mr. C W Kwan
Chief Health Inspector
Risk Assessment Section
Center for Food Safety**

**The American Chamber
of Commerce in Hong Kong**
1904 Bank of America Tower
12 Harcourt Road, Hong Kong

Food and Environmental Hygiene Department
43/F, Queensway Government Offices,
66 Queensway, Hong Kong

Dear Mr. Kwan,

RE: Proposed Regulatory Framework for Nutrition and Health Claims on Infant Formula, Follow-up Formula, and Prepackaged Foods for Infants and Young Children Under the Age of 36 Months in Hong Kong

1. Focused consultation to regulate claims is appreciated.

The American Chamber of Commerce in Hong Kong (“AmCham”) appreciates the HKSAR Government's latest effort in considering regulating nutrition and health claims of formula products and food for infants and young children. The consultation provides a good opportunity for the community to discuss the best approach and direction to regulate the claims to foster informed choice of nutritious food to support the growth of infant and young children.

AmCham supports the approach to separate claims regulation from the previous multi-barreled draft Hong Kong Code for Marketing and Quality of Formula Milk and Related Products, and Food Products for Infant and Young children, so that discussion is more focused on the important topic of claims.

2. Regulation should be balanced with parents’ right to information and manufacturers’ freedom of communication to foster informed choice.

While it is crucial to regulate any misleading or false claims of formula products and food to protect infant and young children’s growth and development, it is equally important to regulate by taking an inclusive approach based on facts and scientific evidence.

Hong Kong, like many other developed countries with similar social and economic conditions, is where freedom to access information is much treasured, and the proportion of well-educated working mothers is high. Any over-regulation would be in contradiction to the long-standing value of Hong Kong as an open and free market economy.

Parents' right to access information should be upheld. The fundamental right of parents as consumers to receive product information is important, so that they can make informed choices to choose complementary food for their children. Meanwhile, to ensure fair participation in a free economy, Hong Kong needs to respect manufacturers’ freedom to communicate information to customers.

Undoubtedly, exaggerated or misleading information should be prevented. Nevertheless, for responsible industry players who comply with all relevant regulations in Hong Kong, their right to communicate evidence-based information is crucial and should be respected. AmCham supports the implementation of a claims regulation that can achieve a fair balance of interests between different stakeholders.

3. Regulation should be based on an open, objective and comprehensive review and evaluation of scientific evidence.

All claims should be based on evidence. We support that nutrition and health claims should meet specific content conditions, while health claims should be scientifically substantiated and have undergone credible evaluation process.

Correspondingly, the Administration should set up designated expert panel and establish an approval mechanism so that any review and evaluation can be conducted in an open, objective and comprehensive manner. Naturally, the latest nutrition and health claims and scientific information around the world should be relied upon to ensure that Hong Kong is kept abreast of the most updated scientific research findings.

4. Regulation standards should follow international practices, which favor an open and inclusive approach regime.

In terms of regulation standards, AmCham encourages the Administration to make reference to international practices to take an inclusive approach in the regulatory regime. Hong Kong should consider recognizing claims already reviewed by overseas reputable regulatory bodies and approved in other developed countries/jurisdictions.

For instance, United States adopts a relatively open and inclusive approach in regulating claims. It allows infant and young child formula products to make different nutrient contents and health claims under various forms of regulation; some need no approval while others are required to meet specific conditions or regulations.

5. The Government should provide a clear timetable of the legislative process and cater sufficient time for transition.

In establishing the new regulatory mechanism and procedures, the Administration should provide a clear timetable for the legislative process, so that manufacturers, distributors and other stakeholders can participate in providing practical recommendations to the Administration and make plans for the transition. Meanwhile, to ensure a smooth transition and avoid disruption of supply to parents, a grace period of at least 24 months should be provided.

In summary: AmCham appreciates the Administration's efforts to conduct a focused consultation on regulating nutrition and health claims for infant formula, follow-up formula and pre-packaged foods for infant and young children. Any such regulation to be implemented should be transparent, balanced and in line with international practice. Parents' right of access to information and manufacturers' right to freedom of communication to foster informed choice must be respected. Claims should be based on scientific evidence, the review and evaluation of which by the Administration should be open, objective and comprehensive. Approval standards for claims should also follow international practices and be inclusive.

We look forward to working with the Administration to craft the relevant legislative proposals, and would be happy to further discuss the points made in this submission.

Yours sincerely,



Peter J. Levesque
Chairman 2015



Richard R. Vuylsteke
President

The American Chamber of Commerce in Hong Kong is the largest international chamber in Hong Kong and represents a broad and diverse membership.