

24 November, 2014
Our Ref: CC165

Dr Ko Wing Man, BBS, JP
Secretary for Food & Health
Food and Health Bureau
18/F, East Wing, Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong

Dear Dr Ko

Additional Views on the draft Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants and Young Children

The Hong Kong General Chamber of Commerce provided our views previously on the consultation on the draft Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants and Young Children (“Hong Kong Code”) in December 2012. We understand that the consultation results have been considered by the Legislative Council Panel on Health Services and the Administration is currently refining the draft Hong Kong Code. The Chamber would like to offer some additional views on the draft Hong Kong Code for your consideration.

Ripple effect on other industries

2. The Hong Kong Code aims to regulate the marketing of designated products such as formula milk, baby food and feeding bottles, and we do not object to this intention. Nonetheless, we are concerned that the excessive restrictions entailed in the current draft may bring negative impacts to not only the formula milk and advertising industries, but also other industries like retail, exhibition, and baby magazines.

3. For instance, its ban on special display will render off-shelf display in stores non-compliant. Retailers may have to allocate more shelf / stock areas for the affected products, which may not be possible due to the normally limited store space in Hong Kong. Alternatively, retailers may have to arrange more frequent product delivery from warehouse to stores to avoid the possibility of out-of-stock. Such disturbance in the retail

operation caused by the ripple effect of introducing the Hong Kong Code is not preferred as formula milk and related businesses account for a significant portion of the retail trade, and formula milk is also a popular shopping item for Mainland tourists. Hong Kong's shopping paradise reputation would be tarnished if a steady supply of hotly sought-after products could not be maintained.

International practices for consumers' best interest

4. As Hong Kong is a global metropolis, when developing the Hong Kong Code, references should be made to standards and practices in jurisdictions where economic and social developments are similar. We understand that the International Code of Marketing of Breastmilk Substitutes contains guidelines on marketing of breastmilk substitute for infants up to six months. We believe that only when the Hong Kong Code aligns with global best practices would consumers' best interest be safeguarded.

Respecting parents' right to receive information and manufacturers' freedom to deliver evidence-based information

5. As stated in our last submission, the Chamber supports breastfeeding by virtue of its widely recognized benefits for both mother and child. We would like to add that parents' right to receive information to make informed choices when needed should not be deprived of as well.

6. As manufacturers are forbidden from providing consumers with product information and answering their enquiries via their service hotlines, the burden of information provision will be shifted to the frontline staff of retailers, who may not have sufficient detailed knowledge of all the products carried in their stores. Under such circumstances, not only will front-line staff of retailers be overstressed, the risk that parents might have chosen an inappropriate product for their children due to insufficient information might also increase.

Regulation instead of a total ban

7. The Chamber agrees that false advertising should be stopped. To achieve this goal, ordinances such as the Trade Descriptions Ordinance (Cap.362) and the Broadcasting Ordinance (Cap. 562) are implemented to protect consumers from inappropriate messages or statements. If needed, suitable regulation on advertising contents and claims could be further developed after consultation with relevant stakeholders. Implementing a uniform ban is definitely a passive approach and should be avoided.

Far-reaching implication on Hong Kong's free economy

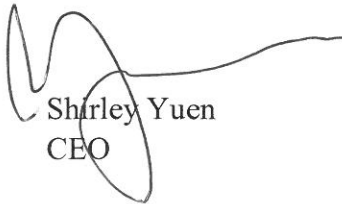
8. Chamber members are concerned about increasing legislations to unduly regulate the local business environment as they would affect our competitiveness. The Hong Kong Code will set a bad precedent in that the promotion of a legitimate product category could be banned due to its uncertain and scientifically unproven relationship with a social

problem. Such regulation limiting free flow of communication between the business sector and consumers will undermine the fundamental freedom of business operation in a free market economy, hence bringing detrimental damage to the free market image of Hong Kong.

9. As only about 20-30% of the sales of infant formula and related products are consumed by local mothers in Hong Kong, the introduction of the Hong Kong Code will inadvertently affect the other 70-80% of the market, mostly Mainland consumers. The Government should take into account this unique characteristic of the local market.

10. We sincerely hope that your Bureau could consider these views positively. The Chamber would be pleased to discuss the issue further with you or your representative at a time convenient to you.

Yours sincerely,



Shirley Yuen
CEO