

Results of Public Consultation Exercise and Proposed Regulatory Framework on Nutrition and Health Claims for Formula Products and Foods for Infants and Young Children

Technical Meeting with Trade
8 July 2015

Issues to Discuss

- Result of consultation exercise
- Proposed regulatory approach

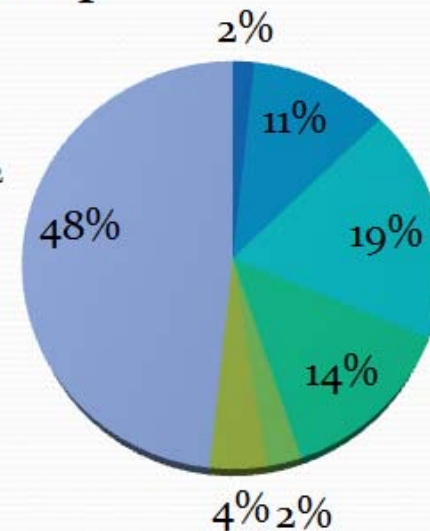
Consultation Exercise

- Consultation period: 6 Jan- 17 Apr 2015
- Written comments received: 131
 - 26 LegCo submission
 - 104 from consultation channel (Email/letter/fax)
 - Including 13 respondents who also submitted written comments to LegCo
 - 1 online petition with 717 supporters
- Vast majority (98%) supports establishment of regulatory framework

Written Comments-- Breakdown by subgroup *

- Overseas government: 2 (Australia; New Zealand MPI)
- Trade: 13
- Interest groups (Child health/ parents/ Consumer Council): 22
- Healthcare professional/Academia: 16
- Media (Newspaper/commentator): 3
- LegCo member/DC member/ Political Parties: 5
- General Public: 57

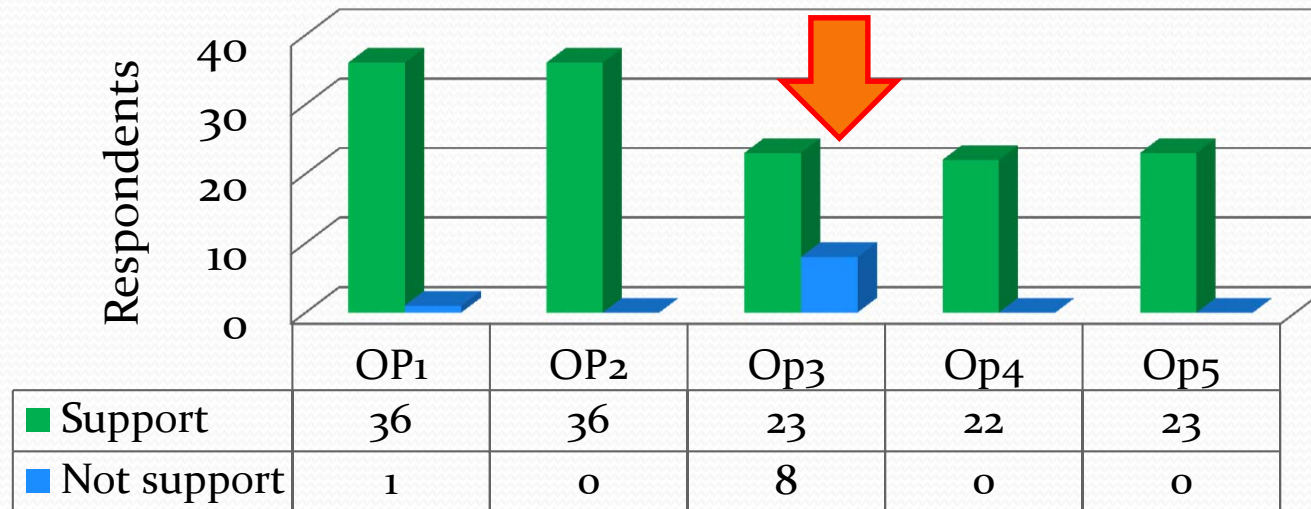
* Submissions from the same organization or individual counted as 1 comment



Overarching Principles (OP)

- 1) **Nutrition claims** (i.e. nutrient content claims and nutrient comparative claims) should be **prohibited** in **IF**
- 2) **Reduction of disease risk claims** should be **prohibited** in **formula products** (i.e. **IF, FF**) and **IYC foods**
- 3) **Nutrition claims** (i.e. nutrient content claims and nutrient comparative claims) and **nutrient function claims** should be **permitted** in **IYC foods**
- 4) Nutrients or constituents permitted to be subjects of claims should be of **high importance to the health of infants and young children**
- 5) **Nutrition and health claims** should **meet specific content conditions**, and **health claims** must be **scientifically substantiated** and have **undergone credible evaluation process**

Views on OP



- Not supporting OP3 (8 submissions) :
 - Healthcare professionals, academia, interest groups, general public
- Rationales included:
 - Claims on IYC foods are inappropriate/not necessary
 - Claims on IYC foods are inflated/ misleading
 - Allowing claims cannot facilitate consumers making suitable choices
 - Support WHO Guidelines / Codex recommendations
 - Consensus reached by more than 100 child healthcare professionals

Product-claim Combinations

- ∞ Overarching principles 1 to 3, if accepted, would allow certain claims on certain formula products/IYC foods while prohibiting others → Together these three principles would set the boundary for the regulatory framework
- ∞ Within this boundary, there are product-claim combinations which regulatory options are open for discussion :
 - * **Nutrient function claim** on IF;
 - * **Nutrition claim** (i.e. nutrient content claim and nutrient comparative claim) and **nutrient function claim** on FF; and
 - * **Other function claim** on formula products and IYC foods
- A larger portion of the respondents (including healthcare professionals, academia, interest groups, general public) urged for restrictive approach
- The trade and the media generally support an inclusive approach

Breakdown of Views **by Written Response** on Product-claim Combinations

		No. of Response	Inclusive	Restrictive
(a) Nutrient function claim on IF		42	12 *	30 ^#
(b) Nutrition claim and nutrient function claim on FF	Nutrient content claim	41	17 *	24 ^#
	Nutrient comparative claim	41	15 *	26 ^#
	Nutrient function claim	40	16 *	24 ^#
(c) Other function claim on IF, FF and IYC	IF	41	12 *	29 ^#
	FF	41	15 *	26 ^#
	IYC	37	15 *	22 ^#

* 23 respondents using the same template only counted as 1 response

^ 4 respondents using the same template only counted as 1 response

#717 supporters of online petition for the restrictive approach only counted as 1 response

Breakdown of Views **by Respondents** on Product-claim Combinations

		No. of Respondents	Inclusive	Restrictive
(a) Nutrient function claim on IF		783	34	749
(b) Nutrition claim and nutrient function claim on FF	Nutrient content claim	782	39	743
	Nutrient comparative claim	782	37	745
	Nutrient function claim	781	38	743
(c) Other function claim on IF, FF and IYC	IF	782	34	748
	FF	782	37	745
	IYC	778	37	741

* Supporters of online petition as well as respondents using the same template were counted as separated responses

Other comments

- Stakeholders generally supported the development of a **mechanism for approving claims**
- Some stakeholders concerned that the Government would likely encounter **problems in evaluation of health claims**
- There were **divergent views on grace period**
 - Interest groups and healthcare professional: short grace period
 - Trade: Longer grace period, e.g., at least 24 months after establishment of the list of approved claims

Proposed Regulatory Approaches

General Considerations

- Local situation
 - The current legislation
 - Public health concern
 - Current market situation and consumer behaviour
 - Implication on food choice
 - Impact on the food trade
 - Availability of resources and implementation issues
- Overseas practice
 - The Codex principles/ WHO recommendation
 - Practices of other jurisdictions
- Results of public consultation
- Breastfeeding policy

Overview of Proposed Regulatory Approaches

- The following proposed approaches :
 - adopted in light of overwhelming public support to breastfeeding promotion
 - was discussed in the meetings of Expert Committee on Food Safety and ACFEH in June 2015, and received their support

Category of claim	Type of claim	Infant Formula (IF)	Follow-up Formula (FF)	IYC Food
Nutrition claim	Nutrient content claim	Not allowed	Not allowed	Allowed
	Nutrient comparative claim	Not allowed	Not allowed	Allowed
Health claim	Nutrient function claim	Not allowed	Not allowed	Allowed
	Other function claim	Not allowed	Not allowed	Allowed
	Reduction of disease risk claim	Not allowed	Not allowed	Not allowed
Medicinal claim		Not allowed	Not allowed	Not allowed

Medicinal Claims

- During the consultation exercise, concerns were raised regarding the use of medicinal claims on formula products and IYC foods
- At present, some products bearing medicinal claims are not regulated as medicine/ proprietary Chinese medicines, or controlled by UMAO
- It is proposed to take the opportunity to specify the prohibition of medicinal claims on formula products and IYC foods in the proposed regulatory framework

Other issues

- Exemption:
 - Proposed to exempt FSMP for infants and young children from the regulation on nutrition and health claims, provided that specific labelling requirements have been fulfilled
- Transitional arrangement:
 - Infant and follow-up formula: grace period, say 18 months is proposed.
 - nutrition and health claims would not be allowed in these products
 - lead-time btw placement of order & delivery: 15-18 mths in HK taking into account production, shipping & marketing pattern
 - IYC foods: it is proposed to allow a minimum of two years
 - time is needed to process the claim applications
 - for traders to adequately prepare themselves for the new compliance requirements

- Transitional arrangement:
 - During consultation process, question was raised:
 - whether similar transitional arrangement is warranted for advertisements;
 - If so, how long the grace period should be
 - Note:
 - lead-time for production of advertisement is shorter than 18 months;
 - advertisement would often carry images of products in question
- Stakeholders would further be consulted before finalising position in law drafting process.

~ For Discussion ~