



Opportunities in the Food Market for Infants and Young Children

Regulation in China and the EU

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Infant formula, follow-on formula and baby foods are usually subject to more stringent regulatory controls than products aimed at other age groups. In this white paper, Meng Li outlines the new regulations put in place in China and the EU and highlights the significant opportunities for companies in this sector.

The revised Population and Family Planning Law of China¹ came into force on 1 January 2016, which marks the end of China's 35-year-old 'one-child policy'. Married couples are now allowed to have two children.

There is now extensive debate about what impact this change in policy will have on China's population. According to statistics², there were 16,550,000 births registered in China in 2015. Some demographers predict that in the next five years, approximately 2-3 million more babies will be born each year with the birth rate peaking in 2017.

The market for foods for infants and young children in China is growing rapidly and demonstrates strong potential and huge opportunities. The total sales of milk powder for infants and young children in 2015 was 80 billion RMB (approx. 8 billion GBP)³.

Food safety incidents in recent years, particularly the 2008 tainted milk scandal, have substantially undermined Chinese consumers'

confidence and trust in domestic food products for infants and young children. In 2008, 296,000 children sought medical treatment following the consumption of milk products tainted with melamine in China⁴. These incidents make non-Chinese brands of produce more attractive to Chinese consumers. According to the China Customs Statistics, in 2015, the volume of imported milk powder for infants and young children into China reached 175,972 tonnes, valued at 2.47 billion USD, representing year-on-year growth of 45% (amount) and 59.5% (value).

The Chinese government has increased the frequency of inspections on foods for infants and young children in an aim to improve compliance to laws and regulations in this sector. The General Administration of Quality Supervision, Inspection and Quarantine of China (AQSIQ) regularly performs testing nationwide and informs the public of the details of non-compliant products. During the period between October and December 2015,

¹ Population and Family Planning Law of China (Presidential Decree No. 41, 27 December 2015)

² Statistics Bulletin of National Economic and Social Development 2015 (National Bureau of Statistics of China, 29 February 2016)

³ China Market Research

⁴ Data issued by the State Council Information Office of China (December 2008)

AQSIQ conducted inspections on foods for infants and young children from 93 domestic manufacturers. The results showed that 6 out of 274 batches failed to meet regulatory requirements for such products⁵.

During the past few years, Chinese authorities have started to introduce pre-market registration requirements for certain imported foods for infants and young children. Since 2013, foreign establishments that import dairy products into China, including dairy based foods for infants and young children, have been required to register and must be approved by the Chinese authorities⁶. Details of approved overseas manufacturers and their registered products are published on the website of Certification and Accreditation Administration of China (CNCA).

In September 2015, the China Food and Drug Administration (CFDA) issued a consultation on a draft regulation establishing registration requirements for the formula and composition of milk powder products intended for infants and young children. The draft only applies to domestic products manufactured in the territory of China; however, the revised draft notified to the WHO earlier this year extended the scope to include imported products without public consultation. On 6 June 2016, CFDA finalised this regulation and issued it as Decree No. 26, which will enter into force on 1 October 2016. It also introduces certain restrictions on the number of product ranges

allowed to be marketed by a single manufacturer.

The Ministry of Finance of China has set a deadline of 1 January 2018 for the registration requirements, which will apply to domestic and imported products through both e-commerce and traditional channels⁷.

The changing EU regulatory landscape

From 20 July 2016, Directive 2009/39/EC on foodstuffs intended for particular nutritional uses (PARNUT) will be repealed and replaced by Regulation (EU) 609/2013, a new regulation on food for specific groups (FSG).

This new regulation includes general compositional and labelling rules and requires the Commission to adopt, through delegated acts, specific compositional and labelling rules for infant and follow-on formula, processed-cereal based food and other baby food. It also sets out to establish a single Union list of substances that can be added to FSG foods, including minerals and vitamins.

The new regulation also aims to simplify the applicable regulatory framework, by eliminating those rules that are unnecessary and contradictory and by replacing them with a new Framework which takes into account the developments on the market and in EU food law. In particular, the new regulation will repeal Directive 2009/39/EC and abolish the obsolete concept of "dietetic food".

The delegated act for **infant and follow-on formula** has been adopted as Commission

⁵ AQSIQ Notification No. 16 (2 February 2016)

⁶ Administrative Measures on Inspection, Quarantine and Supervision of Import and Export Dairy Products (Decree No. 152 of AQSIQ, 24 January 2013)

⁷ Explanatory Note for the Cross-border E-commerce Retail List of Imported Goods (Ministry of Finance of China, April 2016)

Delegated Regulation (EU) 2016/127 and applies from 22 February 2020. Formula manufactured from protein hydrolysates has a different timescale; the delegated act applies to this type of formula from 22 February 2021.

The delegated act for **processed-cereal based food and other baby food** is unlikely to enter into force until 2018 at the earliest. This follows the European Parliament vetoing a proposed delegated act due to the high sugar content that would have been permitted allowing the products to derive up to 30% of their energy from sugar. This is considerably higher than the World Health Organisation recommendation that intake of free sugars should be limited to less than 10% of total dietary energy intake.

As well as vetoing the delegated act on processed-cereal based food and other baby food, the European Parliament also said that the European Commission should look at existing evidence to ensure nutritional inconsistencies like this do not occur. The European Food Safety Authority is unlikely to produce a new opinion before the middle of 2017, which means a new delegated act on processed-cereal based food and other baby food is unlikely to be in force before early 2018 and the earliest the law will apply to these products is 2022.

The result of the UK referendum on 23rd June adds a further dimension to the EU regulation of products for infants and young children. Leatherhead can confirm that at present companies marketing and selling goods in the UK and Europe must continue to abide by current EU regulations. As always, our regulatory team are monitoring global, legislative developments and we will keep you

up-to-date if we see any changes on the regulatory horizon. The [Regulatory Membership Helpline](#) is only a phone call or email away, should you have any questions.

The regulatory environment in the EU and China highlights the understandably stringent stance which government and legislative bodies take where infant and baby products are concerned. However, changing consumer lifestyles and shifting demographics mean this sector continues to offer huge opportunities for food and beverage companies.

How Leatherhead can help

If you are unsure as to the legal compliance of the composition of your infant formula, follow-on formula or baby foods, we have a department of over 30 advisors, covering all major international markets, who are ready to help. We offer consultancy and can also provide training on food legislation and give advice on additives, flavourings and ingredients, as well as label and formulation checks.

About the author

Meng Li is a Regulatory Manager at Leatherhead Food Research and a native Chinese speaker. With a comprehensive knowledge of the legislative requirements in Far East countries, she covers food legislation in the majority of Asian countries, including China, Hong Kong and Taiwan. Meng has a BSc in Food Science from Jiangnan University, China, and three years of experience working in the Chinese food industry. After completing a Masters degree in Nutrition and Food Processing from Oxford Brookes University, UK, she joined Leatherhead Food Research in 2005.

About Leatherhead Food Research

Leatherhead Food Research provides expertise and support to the global food and drink sector with practical solutions that cover all stages of a product's life cycle from consumer insight, ingredient innovation and sensory testing to food safety consultancy and global regulatory advice. Leatherhead operates a membership programme which represents a who's who of the global food and drinks industry. Supporting all members and clients, large or small, Leatherhead provides consultancy and advice, as well as training, market news, published reports and bespoke projects. Alongside the Member support and project work, our world-renowned experts deliver cutting-edge research in areas that drive long term commercial benefit for the food and drink industry.

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