

Baby Milk Action response to the WHO consultation on the draft “Clarification and guidance on inappropriate promotion of foods for infants and young children”



The consultation asks specifically for comments on the Scope, the content of the 7 Recommendations, and any additional comments.

Background:

Para 2 – Claims:

1. Since the Guidance notes will be put forward for the 2016 WHA, on the basis of the evidence, it could go further than the 2010 WHA Resolution and recommend that products should not carry **any promotion claims** (including health or nutrition or other idealising claims - including as text, ticks or pictograms).
2. Promotional claims for processed foods for infants and young children are not just ‘inaccurate.’ By highlighting one or other ingredient, they mask the risks and disadvantages of the product as a whole and suggest that commercial products are superior to home prepared foods that are not marketed on shelves next to commercial products.¹ The promotion of commercial foods for infants and young children is highly likely to undermine breastfeeding - both before and after 6 months - and leads parents to believe that breastfeeding and family foods lack essential nutrients.
3. There is evidence that the high heat processing and storage of processed baby foods destroys essential micronutrients. Claims for added nutrients mask the fact that other micronutrients have been depleted or destroyed and divert attention from inherent risks of the whole product.^{2,3}
4. The Guidance should clearly and consistently warn that the marketing of micronutrients should not undermine exclusive breastfeeding (WHA 54.2 [2001], WHA 55.25 [2002]). It should also warn parents and caregivers that the addition of extra ingredients can be a burden to a young child’s metabolism. Current marketing conveys the exact opposite message. Instead the Guidance should more clearly stress the need for sound and culture specific nutrition counselling and the widest possible use of indigenous, minimally processed nutrient-rich foods.

Para 3

What evidence is given that nutrients are ‘*typically lacking in essential micronutrients*’? Surely it is better to say: “**...some provide essential micronutrients that may be required by young children who may not, for some temporary reason have access to a normal balanced diet. Others are of concern because they are highly processed and/or have high levels of added sugars, saturated and/or trans-fats, and/or salt.**”

Para 5: Clarify that if any one of the criteria is missing (a,b,c,d or e) then promotion is inappropriate.

Scope

¹ The claims will also contravene the intent of Resolution (WHA 55.25) May 2002 that endorsed the Global Strategy on Infant and

² Zand et al (2011) Essential and trace elements content of commercial infant foods in the UK. *Food Chemistry*, **128**, 123-128.

³ Zand et al (2012) Simultaneous determination of riboflavin and pyridoxine by UHPLC/LC-MS in UK commercial infant meal food products. *Food Chemistry*, **135**, 2743-2749.

Para 8. It is essential that the Guidance covers all foods marketed for children at the very least up to 36 months – if not five years. Whatever age is decided and to avoid undermining the policies of countries with older age cut-offs the guidance should clearly state that countries may choose to adopt a higher age cut-off.

The most important issue is to address the industry’s aggressive marketing that will only get worse as the pressure to expand the global market for dairy foods increases. Supermarkets are already stacked with formulas for children of all ages invariably sharing the same or similar branding as infant formulas. The current UN emphasis on micronutrient deficiencies exacerbates this marketing strategy and it all has an impact on parents perceptions, idealising unnecessary and risky products and undermining breastfeeding both before and after 6 months.

Recommendation 1:

The term ‘locally available’ is meaningless and opens the door to any imported processed product. Better to use: “*indigenous, nutrient rich foodstuff*” as per WHA 54.2; 2001. The Guidance should be more clearly stressing the widest possible use of indigenous, minimally processed nutrient-rich foods.

Refer here to nationally approved **Food Based Dietary Guidelines (FBDGs) for infants and younger children**, where these are available. WHO should make technical assistance available to governments, warning of conflicts of interest and supporting governments attempting to bring in national regulations that restrict inappropriate promotion.

The present document could also add a recommendation for a global code on marketing of complementary feeding products.

WHO as a standards-setting body must ensure that Codex is subject to rigorous procedures to ensure that its standards-setting process is protected from conflicts of interest.

Recommendation 2

We welcome the restating that the International Code already covers follow-on and other products, and indeed includes such products as bottles, teats and related equipment, free gifts and professional endorsements. It is important that the subsequent WHA resolutions are included here and throughout the document.

This recommendation should cover also optimal breastfeeding (the latest WHO guidance on it) and the WHO guidance on safe preparation of powdered infant formula; the latter could be also inserted as part of the Recommendation 2.

Recommendation 3

The Guidance must strongly emphasise the need for international instruments, including Codex Alimentarius standards and guidelines, to be robust and coherent with the International Code and WHA resolutions and recommendations. Some Codex standards are currently under review. WHO as the parent organisation of Codex must insist on policy coherence between standards and WHO resolutions and recommendations, especially in relation to the sugar content of foods and beverages.

For infants and young children in particular, the added sugar levels should be minimum so the document should consistently refer to ‘taking into account the recent WHO recommendations on added sugars’. The high levels of sugar (30%) permitted by current Codex standards contribute to the rising levels of childhood obesity and the development of dental caries and affect the developing

taste palates of children.⁴ Growth retardation in young children is exacerbated by dental caries and sugar induced caries is a contributor to the prevalence of malnutrition.⁵

Recommendation 4 Messaging and Labelling

We suggest a few changes:

Opening sentence: Foods marketed for infants and young children should support optimal feeding and **should not use promotional claims since these inevitably idealise the product and undermine more appropriate family foods and optimal infant and young child feeding.**

4th Bullet: **The labels should be in a language easily understood by parents and caregivers with all the required information legible and visible. .**

Under ‘Messaging and labeling should not’,

Third bullet: labelling should not idealise the products

Add after ‘commercial products are’ the wording “*convenient, nutritious or inherently superior*” followed by the rest of the sentence.

2nd Bullet: after ‘or suggest that the product is “*..nearly equivalent, second best, equivalent..*”

4th bullet Add after ‘bottles ‘ **and teats, dummies or any other product intended for sucking by infants or young children.’**

6th Bullet CLAIMS As mentioned above, since the Guidance notes will be put forward for the 2016 WHA, on the basis of the evidence, it could go further than the 2010 WHA Resolution and state that products must not: **carry any promotion claims, including health or nutrition claims or via text, tick, pictogram or other symbols or idealising messaging.**

Developments in the EU In addition to the four new laws that the EU is proposing to adopt⁶ - that fundamentally contradict WHA resolutions and Codex Code of Ethics,⁷ WHO should be aware that under pressure from the baby food industry the EU is also considering the approval of 17 new claims relating to neurological, brain development and immunity. These new laws together will certainly have a detrimental impact on trade rules and will compromise not only the health of children today, but also future generations.

These health claims are for ingredients that are present in most formula (most are mandatory) and that the European Food Safety Authority (EFSA) has stated "*can be easily consumed as part of a balanced diet.*"

In the absence of long promised nutrient profiles the baby food industry is making a mockery of the limited controls that exist, including Para 18 of the Health Claims Regulations: "*A nutrition or health*

⁴ *EU and US block Thailand's proposal to reduce sugar in baby foods* IBFAN 3 Nov 2006:

http://info.babymilkaction.org/sites/info.babymilkaction.org/files/ibfanpressrelease031106_0.pdf

⁵ Acs G, Lodolini G, Kaminsky S, Cisneros GJ. Effect of nursing caries on body weight in a pediatric population. *Pediatr Dent*. 1992 Sep-Oct;14(5):302-5.

⁶ COMMISSION DELEGATED REGULATION (EU) .../... of XXX supplementing Regulation (EU) No 609/2013 of the European Parliament and of the Council as regards the specific compositional and information requirements for infant formula and follow-on formula; food for special medical purposes, Processed cereal-based food and baby food <http://ec.europa.eu/growth/tools-databases/tbt/en/search/> <http://tbtims.wto.org/> <http://www.babymilkaction.org/archives/4021>

⁷ The Codex Code of Ethics for International Trade (CAC/RCP 20-1979) states clearly that

4.4 National authorities should be aware of their obligations under the International Health Regulations (2005) with regard to food safety events, including notification, reporting or verification of events to the World Health Organisation (WHO). They should also make sure that the international code of marketing of breast milk substitutes and relevant resolutions of the World Health Assembly (WHA) setting forth principles for the protection and promotion of breast-feeding be observed.

claim should not be made if it is inconsistent with generally accepted nutrition and health principles or if it encourages or condones excessive consumption of any food or disparages good dietary practice."

If all these claims are approved (along with any number of other claims for standard ingredients) there will be no room on the label for important notices or clear warnings about the risks of using the product. Certainly there will be no way that much safer and healthier breastmilk or home prepared foods can compete with such blatant commercial promotion.

If the Guidance allows claims – and we hope they do not - they should only be those specifically provided for in relevant Codex guidelines that meet the requirements of independent scientific substantiation as recommended by the Codex Guidelines for Nutrition and Health Claims and approved by national legislation. But as mentioned above, if the EU approves the new claims any such safeguards could be meaningless.⁸

Recommendation 5

We note and support the suggestion that this Recommendation applies up to age 36 months, with the option for countries to adopt an older limit, such as 60 months.

In the second bullet point, we believe that the restrictions should apply beyond those companies that market breastmilk substitutes. We suggest the opening phrase of this bullet point should be “Companies, including those that...”

The second bullet should also contain the following text: *Companies should be prohibited from promoting breastfeeding or participating in other health campaigns as it allows them use such programmes for public relations purposes and be seen as health partners, giving rise to conflicts of interest for public interest actors, resulting in undue influence , in particular in policy-making arena*

Recommendation 6

Companies involved in manufacturing and distribution of foods for infants and young should not sponsor or give other incentives for programmes and health professionals working in infant and young child health. Health facilities and health systems should adopt policies and safeguards that prevent such conflicts of interest. as per the WHA resolution 58.32[2005] which emphasize the need to avoid conflicts of interest”.

Companies involved in manufacturing and distribution of foods for infants and young children should not:

Provide free products, samples or reduced-price foods for infants or young children to families through health workers or health facilities. In national emergencies, **if donations of products are permitted by governments or national authorities, they should be distributed only by independent persons in unbranded packaging. The donation of products to any humanitarian programme should not be used by any manufacturer or distributor for promotional purposes**

5th bullet “*Employ anyone to provide education on complementary feeding in health facilities*” needs extending, to say something along the lines “**Provide education or information on complementary**

⁸ Para 16 of the **Health and Nutrition Claims Regulations** states: “Where a claim is specifically aimed at a particular group of consumers, such as children, it is desirable that the impact of the claim be assessed from the perspective of the average member of that group. The average consumer test is not a statistical test. National courts and authorities will have to exercise their own faculty of judgment, having regard to the case-law of the Court of Justice, to determine the typical reaction of the average consumer in a given case.”

feeding in health facilities, through published materials or company-contracted staff, or give the appearance of providing information approved by health services or health professionals through any promotional media” to cover other forms of promotion such as online company-paid or company-subsidised experts, blogs and websites that provide information for mothers, which accept payment to endorse products.

Recommendation 7

Amend the age **to 36 months or more**.

We support the suggestion that other *commercial* foods which ‘are commonly fed’ to young children but which do not comply with specified nutritional quality standards should carry a warning.

Clarity may be needed to define ‘commonly’

This recommendation needs to cover any promotional activities carried out via internet, social media and other electronic or virtual means.

Additional comments

1. There should be a recommendation to review Codex nutritional criteria for foods for children under 36 months especially in relation to sugar, salt, flavourings such as vanilla and chocolate that are added largely for marketing purposes and accustom very young children to these flavours. especially when used with fats and sugars, making the products very palatable. The flavours are unnecessary for infant and young child nutrition, and serve to accustom children onto a range of commercial processed foods for older children, rather than onto locally-produced bio-diverse and more sustainable family foods.

In order to better define the standards of nutrient composition suitable for infants and young children, WHO or Codex needs to undertake a rapid review. The review process should ensure that the influence of commercial operators is excluded from the setting of revised standards.

2. Clarify the target audience for the guidance. See ICDC GIFA comments that call for the Guidance to highlight and counter the pressure currently being exerted by manufacturers at national level to oppose adequate regulation that would end inappropriate promotion of the food discussed in this draft Guidance. The Guidance must include the clarification in the STAG report that “*Products should not be promoted using brands/labels/logos that are the same/similar to those used for breastmilk substitutes*” A statement must be added that a prohibition should apply notwithstanding the intellectual property rights of companies should be included. See comments by ICDC and IBFAN GIFA and the need for WHO to support governments who wish to act to protect their public interest.

3 Companies involved in manufacturing and distribution of foods for infants and young children should not be involved in the setting of national policy frameworks to protect public health. For that matter we question why WHO is inviting the Private Sector to comment on these guidelines, and request information about how WHO’s policy setting process will be safeguarded and transparent.