

Dr Sania Nishtar and Sir Peter Gluckman
Co-Chairs
WHO Commission on Ending Childhood Obesity
c/o WHO
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Wednesday, December 17, 2014

Dear Dr Nishtar and Sir Peter,

Concerns about procedures used by the Commission on Ending Childhood Obesity

I am writing to express some concerns IBFAN has about the procedures that are being followed by the Commission on Ending Childhood Obesity (ECHO). IBFAN is very appreciative of WHO's work on NCDs and happy to support ECHO as it seeks to establish *"what interventions, and which combinations are likely to be most effective in different contexts across the globe."*

We recognise that ECHO is not a norm-setting body, however as a WHO initiative and considering its important mandate, it must surely take care to protect itself from conflicts of interest that could compromise its independence of judgment and negatively affect the credibility its work. In this regard, we are concerned about the manner in which the Commission is interacting with the Private Sector, in particular the Corporate Sector. WHO Member States are in the process of deliberating on WHO's rules of Engagement with Non State Actors. Until this process is concluded, we maintain that ECHO should be following existing rules, not set precedents that could compromise WHO.

During the Executive Board Meeting in January 2014 Dr Chan elaborated on the need for transparency and the role NGOs can play in safeguarding of WHO from undue commercial influence. She stated that: *"There are 2 red lines. No commercial influence in those two spaces – policy setting and technical standard setting. But in other spaces we need to look at the purpose and develop procedures. We don't yet have clarity on BINGOs and PINGOs but we'll move towards that – we will disaggregate them – Civil Society organisations – when we do that – we may not be very accurate – once that's put on the web – you must act as whistle blowers. It's easy to distinguish Private Sector – but NGOs can move. So I need support to whistle-blow if they are not giving us the facts."*

As you know I raised some concerns on behalf of IBFAN at the ECHO Hearing for NGOs in October and was heartened by your receptiveness to them. For ease of reference I summarise them below and would be very happy for you to share this letter with Commission members.

1 The NGO Hearing: There was no clarity about how participants were selected. Not all the NGOs were in official relations with WHO and several key organisations that would have been interested to attend (or perhaps send in written submissions) knew nothing about it. The Global Alliance for Improved Nutrition (GAIN) has gained official NGO status, however its presentation at the Hearing was essentially about difficulties in getting products to market and the lack of evidence for its market-led approach. It is worth noting that WHO's *Criteria for the admission of NGOs into official relations* states that groups should be *"free from concerns that are primarily of a commercial or profit-making nature."* (Basic Documents, 47th Edition, 2009) SUN, another hybrid public private partnership was also listed (though not present) as an NGO.

2 The Private Sector Hearing: Participants came in their own names and were not limited to NGOs in Official Relations. The majority represented major transnational corporations manufacturers of baby foods and highly processed foods high in sugar, salt and or fat such as Coca Cola, Pepsi, Nestlé, Unilever, Ferrero, Danone, Mars, McDonalds. Monitoring evidence shows that many of these corporations systematically violate WHA Resolutions and recommendations. Also present were bodies set up to further their aims, such as Epode (an initiative that promotes corporate involvement in and funding of nutrition education), the International Food and Beverage Alliance, the World Economic Forum, the Global Social Observatory and the International Association of Infant Food Manufacturers. There were no representatives of fisher-folk, small farmers, pastoralists etc. who should surely be WHO's natural allies in bringing about a return to healthier, more sustainable eating patterns.

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Baby Milk Action, the UK member of the International Baby Food Action Network (IBFAN), stops misleading marketing by the baby feeding industry. We protect breastfeeding and babies fed on formula to prevent unnecessary death and suffering.

3 NGOs and Private Sector treated the same. We expressed concern that the NGOs were consulted in the same way as the Private Sector. We recommended that any interaction with corporations should focus on gathering hard data about markets rather than on soliciting CSR voluntary commitments, especially those involving corporate involvement in education. Hard data that can be scrutinized and used to inform the decision-making process is surely what is needed. We were pleased that you indicated that in future, a distinction might be made between the 'types' of consultation/ interaction with different sectors.

4 Intellectual bias. In answer to our query about the 'equal treatment' and selection of participants, we were informed by the WHO Secretariat that all entities have some sort of Conflict of Interest (COI) including financial and of ideas. We were later informed that the basis for this was "work in progress" and WHO's *Guidelines for Declaration of Interest for Experts*. IBFAN is concerned that increasing focus on *Intellectual Bias* diverts attention away from financial conflicts of interest. At a meeting on Conflict of Interest at the European Food Safety Authority (EFSA) in 2011 Jorgen Schlundt - formerly Head of Food Safety at WHO - asked whether his 30+ years working on food safety would disqualify him from membership of an EFSA working group. He included these concerns in presentation, stating: "It has reached the level of ridicule, that scientists in the EU system that have previously participated in scientific assessments about a certain subject are now considered tainted (potential CoI) and cannot participate in a new assessment"

5 Lack of transparency in the Summary Notes. Despite claims that everything would be transparent we were given no access to the Private Sector presentations. We are not aware of any NGOs who would have refused permission to share their presentations if asked. The summary notes on the WHO website are therefore the only record and these, in relation to the overall NGO message, in our opinion, represent a distorted and incomplete view. Leaving aside the one welcome reference to the need to safeguard policy formulation, the notes ignore our call for tough marketing regulations, instead emphasising:

- the need to 'engage' to prevent bad practice: "There is a need to engage companies so that they do not violate regulatory frameworks."
- the need for 'guidelines' and for other parties (school directors parents etc) to act: "it should not be left to companies to self-regulate. For example guidelines on the marketing of foods to children are still very vague"
- terms such as 'individual choice'; 'Gradual reformulation' and 'realistic targets.'
- an unspecified industry voluntary commitment due in 2016 and the *Access to Nutrition Index* - with no critical analysis.

6 Ad-hoc Working Group on Implementation, Monitoring and Accountability on Ending Childhood Obesity. We recognise that the appointment of candidates for the Ad-Hoc Working Group is not within your remit, however the fact that we were refused information about the candidates' Conflicts of Interest and were simply assured that WHO has a "rigorous conflict of interest policy and all external participants are screened before being confirmed for participation" is relevant. As mentioned earlier, the public position of WHO's DG is that transparency is a crucial and non-negotiable approach.

7 NCD Global Coordinating Mechanism. Also relevant, though not your responsibility, is WHO's *NCD Global Coordinating Mechanism* and the Information Note 1 (25th September 2014) outlining the *Screening of non-State actors which may express an interest in participating in the WHO GCM/NCD*. The Note is open to misinterpretation and any business (except arms and tobacco industries) can apply provided they have taken part in previous dialogues. "Willingness to work in a multi-stakeholder environment" is cited in the criteria. The Note refers to the "...screening of interested non-State actors to ensure that potential participants: Are not in any way involved in production or marketing of products **that directly harm human health**, including specifically tobacco and arms...[emphasis added] This approach (and the frequent use of the business term 'stakeholder') runs counter to efforts to build an organisational culture where conflict of interest matters can be freely raised, discussed and tackled, as requested by the *OECD guidelines on Managing Conflict of Interest in Public Service* and which, we believe should be a key reference point also for WHO.

I apologise for what seems to be a long list of worries and want to assure you that IBFAN appreciates the extensive work being done to make the Commission a success. But I hope you understand that we feel strongly that if NGOs are to make a useful contribution their views must be properly recorded and interpreted. Most importantly, we would welcome assurance that the corporations who are responsible for exacerbating the problem that we are all trying to solve will not be allowed to unduly influence the Commission's work.

With many thanks and looking forward to any comments you may have about our concerns and how they can be addressed.

Yours sincerely



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Policy Director, Baby Milk Action IBFAN-UK.

cc: Dr Francesco Branca, Dr Tim Armstrong, WHO