



Věra Jourová
European Commissioner for Justice, Consumers and Gender Equality
European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels
Belgium

4th May 2015

Urgent request to strengthen the Commission Proposals pursuant to Regulation (EU) No 609/2013 on baby foods.

Dear Commissioner Jourova

I am writing on behalf of the *International Baby Food Action Network (IBFAN)*, the global network that monitors the baby food industry and works for EU Policy coherence with World Health Assembly Resolutions on infant and young child feeding.

We believe that the above proposals currently being put forward by the Commission will make it almost impossible for Member States to carry out their obligations under the *International Code of Marketing of Breastmilk Substitutes*, subsequent relevant WHA Resolutions and the *Convention on the Rights of the Child*. These obligations are embedded in many EU policy commitments, for example the *EU Action Plan of Childhood Obesity*, the *Second International Nutrition Conference Political Declaration and Framework for Action*, and the *EU Charter of Fundamental Rights*.

We are urgently asking that you ensure that Member States are given the legal certainty to carry out their human rights obligations, and so ensure that all parents - those breastfeeding and those bottle feeding - have access to truly objective and unbiased information and support, free from commercial influence.

We believe that the proposals present a serious health and food safety risk that will waste public resources and mislead parents. (1) There risks of artificial feeding for all babies rich and poor are well known, But often forgotten are the problems faced by the 120 million Europeans who are at risk of poverty or social exclusion, the 100 million Europeans who lack access to piped water in their homes and the 66 million who lack access to adequate sanitation. Artificial feeding also adds to environmental burden: 800 litres of water are needed to make a 1 litre of milk and 4700 litres for 1 kilo of milk powder. (2)

Even more important if the fact that the proposals will set an appalling bad model for policy setting globally. In the light of the above we are urgently asking that you reflect on these concerns and adjust the text accordingly.

Yours sincerely

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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.

Questions put to the European Commission for Trade in 2001.

IBFAN Question: *Trade agreements should not undermine implementation of the International Code of Marketing of Breast-milk Substitutes and subsequent relevant World Health Assembly Resolutions at national level*

COMMISSION ANSWER: *In principle yes: the Commission subscribes to the view that international agreements, particularly, but not exclusively those related to protection of the environment or human health, and international trade rules should be mutually supportive.*

IBFAN Question: *In matters of health WTO will defer to the decisions of the World Health Assembly, the world's highest health policy setting body (its Conventions, Resolutions etc)*

COMMISSION ANSWER: *International agreements/organisations should be mutually supportive, and their relationship clarified where necessary and useful*

IBFAN Question: *For the optimum health in infants in both Europe and Third Countries EU legislation should be brought in line with the International Code and subsequent relevant Resolutions.*

COMMISSION ANSWER: *To the extent that the EU and its Member States subscribe to them - to a large extent, these are issues of Member State competence.*

Summary of the MINIMUM changes that must be made if the proposals are to meet the EU's Internationally agreed commitments and current health policies:

- 1. The Regulations must meet the minimum requirement of the International Code and subsequent relevant WHA Resolutions, taking full consideration of their global impact.** Policy coherence with the EU's International obligations and commitments is essential.
- 2. The Regulation must provide Member States with legal certainty that they can regulate marketing according to national health priorities, policies and international Human Rights commitments and obligations.** As mentioned above, all EU MS have ratified the *Convention on the Rights of the Child* so are bound to it by international law with clear obligations. Surely the Commission does not have the right to undermine a human right international law or misinterpret duty/obligation under it? And does the Commission have the right to determine whether a national measure is justified? I understood that such things are up to the courts, and if so surely the Commission should be pressuring Member States to consider the '*smooth functioning of the internal market*' above health considerations. For example, we understand that Malta was sent a letter from the Commission in 2014 when it adopted its law. This resulted in Malta's safeguards being lowered and a new law being issued.
- 3. The labelling and composition (specifically sugar level and age of use) of baby foods must be in line with WHO recommendations** The Commission has been asked to deal with high sugar levels in baby foods since 2006, when it joined forces with the US in opposition to Thailand's proposal at Codex Alimentarius. (3) Surely a request to EFSA to examine this issue and excess sugar in Young Child Formula should be submitted without any delay.
- 4. There must be prior authorization by an independent expert body such as EFSA of the safety and beneficial effect of ALL ingredients – including those voluntarily added – and of foods claiming to be *Foods for Special Medical Purposes***
- 5. The regulations must forbid cross-promotion of formulas for older babies and baby foods to infant formula.**
- 6. The marketing of Formulas for Young Children must be strictly controlled in line with WHA recommendations and the EU position at Code must be in support of WHO recommendations.**
- 7 Exports must be in languages easily understood by consumers.**

Notes:

1 Potential economic impacts from improving breastfeeding rates in the UK. Pokhrel S, et al. Arch Dis Child 2014;0:1–7. Doi:10.1136/archdischild-2014-306701 *Advertisements of follow-on formula and their perception by pregnant women and mothers in Italy*, Cattaneo A, et al. Arch Dis Child 2014;0:1–6. doi:10.1136/archdischild-2014-306996

<http://www.euro.who.int/en/health-topics/environment-and-health/water-and-sanitation>

2 Economic Commission for Europe & World Health Organization Regional Office for Europe Meeting of the Parties to the Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes Working Group on Water and Health Seventh meeting Geneva, 26 and 27 November 2014 www.unece.org/fileadmin/DAM/env/documents/2014/WAT/11Nov_26-27_WGWH/item_5_informaldoc_WRD_meeting.pdf *Formula for Disaster*, Weighing the impact of Formula Feeding Vs Breastfeeding on Environment. <http://bpni.org/ibfan-newswire-2014/9>

2 3 Press Release: *EU and US block Thailand's proposal to reduce sugar in baby foods*, IBFAN 2006