

Commissioner Vytenis Andriukaitis  
DG Health and Food Safety  
Rue de la Loi /Wetsstraat 200  
1049 Brussels  
Belgium

Wednesday, May 6, 2015

Dear Commissioner Andriukaitis,

### **Proposals pursuant to Regulation (EU) No 609/2013 on baby foods**

Our organisation focuses on the implementation of the International Code of Marketing of Breastmilk Substitutes (Code) which aims to provide safe and adequate nutrition for infants and young children by protecting breastfeeding. We also conduct surveys on marketing practices of all baby food companies and monitor the status of the International Code in all countries. ICDC is the global programme office on Code matters for the International Baby Food Action Network (IBFAN).

It has come to our attention that the European Commission is currently looking at proposals for the adoption of a delegated regulation on infant formula and follow-on formula pursuant to Article 11(1) of Regulation (EU) No 609/2013. Looking at the working papers from February 2015, we see that there are several positive features in the proposals but they do not come anywhere near to giving effect to the Code in its entirety as should be the case. This is disappointing.

Many commercial food products for infants and young children from the EU are exported to third world countries. The proposals contain limited controls on advertising and this pretty much allows all forms of promotion of formula products after the first six months. This sets a disastrous model for developing countries which look to the EU for legal precedents when giving effect to the Code.

Additionally, the proposed labelling provisions in relation to age indication on cereal based foods and baby foods will be misleading as they ignore the global public health recommendation on the duration of exclusive breastfeeding, an intervention which is crucial for the well-being and survival of infants.

There also appears to be no provision proposed for the use of appropriate languages on labels of products meant for export to countries outside the EU. In the absence of strong laws and effective enforcement mechanisms in many developing countries, the lack of information in appropriate languages on labels often results in errors in preparation which has harmful consequences for child health.

In the course of our work over the past 20 years, we have helped some 70 developing countries to draft national legislation to give effect to the Code and subsequent WHA resolutions. Very often, we are asked what the Code situation is like in the EU. We are obliged to reply that the EU has not met the minimum standard set by the Code and WHA resolutions.

Why this is the case, we are not able to explain but the perception commonly held among the government officials we train, is that the EU is more concerned about protecting its baby food industry than protecting child health.

This cannot and should not be the case and we urge the European Commission to do better for the protection of child health in line with your commitments under the Convention of the Rights of the Child and General Comment 15. We see the intent to protect breastfeeding and child health in the recitals of the working papers submitted for the adoption of a delegated regulation pursuant to Article 11 (1) of Regulation No. 609/2013 but this is nowhere reflected in the proposals.

There are 11 articles to the Code and about the same number of subsequent World Health Assembly Resolutions that clarify and extends certain provisions of the Code. Surely it is not too cumbersome for the European Commission to bring them all on board? In the developing world, millions of babies suffer from malnutrition, ill health and sometimes die from being fed commercial baby food products imported from Europe and marketed inappropriately. There is a responsibility on the part of your Directorate to protect child health in the countries where EU products are marketed and we urge you to do so. The EU should be an example rather than ignore important elements of the Code all its Member States committed to in Geneva.

Yours faithfully,

A handwritten signature in cursive script that reads "Annelies Allain". The signature is written in black ink and is positioned above a horizontal line.

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Annelies Allain  
Director