



IBFAN and Baby Feeding Law Group comments on the Commission Staff Working Document on Young Child Formulae (8th September) on different options for future action on compositional requirements of young child formulae.

The **International Baby Food Action Network** is a global network of 273 groups in 168 countries working to end the suffering caused by inappropriate infant and young child feeding, strengthen and defend regulations that make products safer, stop irresponsible marketing and ensure that parents are not misled.

The **Baby Feeding Law Group (BFLG)** is a coalition of 22 leading UK health professional and lay organisations working to bring UK and EU legislation into line with the *International Code of Marketing of Breastmilk Substitutes* and subsequent World Health Assembly resolutions. The comments below are endorsed by BFLG members First Step Nutrition Trust, the National Childbirth Trust, the Royal College of Paediatrics and Child Health, the Association of Breastfeeding Mothers, the Association for Improvements in the Maternity Services, the Breastfeeding Network, the Lactation Consultants of Great Britain, the Midwives Information Service, Baby Milk Action and Birthlight.

Specific Comments

In its Working Document of 8 September 2014, the Commission gave a summary of responses to the questionnaire sent to Member States in July 2014. This paper was discussed at a meeting of the *Working Group of the Advisory Group on the Food Chain and Animal and Plant Health* of 19th September. The following comments are sent on behalf of IBFAN, Baby Milk Action and the Baby Feeding Law Group, in response to the Commission's request for opinions on the options it has proposed for future action.

First we would like to suggest corrections and changes to the Working Document:

As you will see we propose that the term Follow-up formulae – is abandoned. If this is agreed then it would make sense to change the generic term to **INFANT AND YOUNG CHILD FORMULAE (including FORMULAS FOR SPECIAL MEDICAL PURPOSES)** (to cover all formulas 0-36 months)

P.2 The term 'stakeholder' is an industry term. We would kindly request that it is not used when consulting civil society organisations (especially public interest NGOs) that have no financial stake in the matter in hand.

P.2 First Steps Nutrition Trust is a registered public health charity and not an association as stated. First Steps Nutrition Trust has no connection to the baby feeding industry.

p.3 It is stated in paragraph A.1.1 that '*as in the case of the infant formula and follow on formula, products in powdered form tend to be more expensive than those in liquid form*'.

This should be the other way round. Liquid formula is generally more expensive than powdered formula. Only liquid cows' milk is cheaper.

P.6 We believe that if this piece of legislation is led by DG SANCO – the focus should be on bullets 1,2,7,8 and 9 relating to consumer protection and legal clarity and effectiveness – not to the bullets 3, 4, 5 and 6 that relate to trade, competitiveness, innovation and other marketing concerns. Respondents should be asked to consider not just the administrative burden for operators but the environmental burden of trade in a whole new range of highly processed and expensively packaged, unnecessary products.

At the 19th Sept meeting the Commission asked if YCF marketing is likely to undermine breastfeeding after a year. Although we believe this to be true, it is not our main concern. YCF marketing in the 6-36 month period impacts on parents' perceptions and understanding throughout the whole feeding period – from 0-36 months. EU legislation in this area should use the precautionary principle, respect the World Health Assembly recommendations and prevent baby feeding companies from gaining inappropriate access to parents during this whole period.¹

Comments on proposed options

Currently there are compositional standards for infant formula and follow on formula, but YCF have no specific compositional regulations. YCF are not recommended by health professionals in most areas. There is concern that a sweet, sometimes flavoured drink, that only provides some enhanced nutrients compared to a whole animal milk alternative, but is nutritionally depleted in others, does not contribute to better young child health. With rising rates of overweight and obesity across populations in MS, forethought is needed to ensure that wherever possible children are protected from product marketing that may damage short and long term health.

YCF contain more sugars (as lactose, others sugars or maltodextrins) than cows' milk. Maltodextrin is absorbed in the same way as glucose. Extra sugars encourage children to prefer sweetened milks and can contribute to poor oral health (SACN, 2008). This is particularly relevant at a time when Public Health England have expressed shock at the proportion of young children who have tooth decay. (PHE, 2014).

We are very concerned about the use of sweeteners in general - and especially in any foods and formulas for young children. Whatever option is chosen, we call on the Commission to ensure that research on the safety and long-term nutritional impact of any sweeteners used is carried out before these products are legalised in any way.

¹ **Resolution WHA58.32 2005** Urges Member States: "to ensure that financial support and other incentives for programmes and health professionals working in infant and young child health do not create conflicts of interest". **Global Strategy on Infant and Young Child Feeding 2003** 14. Appropriate complementary feeding depends on accurate information and skilled support from the family, community and health care system. Inadequate knowledge about appropriate foods and feeding practices is often a greater determinant of malnutrition than the lack of food.... 15. Providing sound and culture-specific nutrition counselling to mothers of young children and recommending the widest possible use of indigenous foodstuffs will help ensure that local foods are prepared and fed safely in the home.

We do not believe that YCF are the best means to increase the iron, vitamin D and n-3 PUFA intakes of infants and young children. Marketing that suggests that the nutrients in these products are '*hard to get*' is totally misleading. Using an artificial and relatively expensive product does not educate the child's taste and eating habits towards a wide variety of healthy foods which are the basis of a life-long healthy eating plan. Rather they encourage over-reliance on a sweet, milky drink, which may supply more of some nutrients than are needed. There is evidence that children eat better when they have good role models and eat the same food as their parents (Skafida, 2007, Scaglioni, 2008, BfR)

Several studies have reported on the disadvantages of supplemental iron for young, iron-replete children. Several RCTs have found lower weight gain or long-term developmental progress in young (6-24 months) children given iron-fortified formula or supplements (Majumdar et al, 2003, Lozoff et al, 2012). The Advertising Standards Authority (ASA) found that UK TV adverts for Cow & Gate toddler milks were misleading consumers about the amount of iron toddlers need and the use of milk to supply this (ASA, 2012).

The World Health Organization has made a clear statement that, as well as being unnecessary, FoF is unsuitable when used as a breastmilk replacement from six months of age onwards (WHO, 2013). FoF have few differences in composition compared to young child formula, both contain more iron than infant formula, and more sugars. Young child formulae provide a platform for continued branding across a range of products that include infant formula. The Advertising Standards Authority (ASA) recently banned an advertisement and criticised Danone for implying that a young child's intake of vitamin D could be affected if they did not consume a young child formulae branded similarly to infant and follow on formula (ASA, 2014)

Response to the various options as outlined by the Commission.

Option 1: No specific legislation for young-child formulae

IBFAN/BMA/BFLG opinion: This option is not without credit and our final decision would depend on how the other options are implemented and whether steps are taken to control promotion of YCF and FUF. It has many risks from a compositional and safety perspective.

Option 2: Adoption of specific rules for young-child formulae

IBFAN/BMA/BFLG opinion: We agree with the Commission that this is the worst of all options, not simply because there would be no legal basis, but the piece of legislation would not link to the regulations relating to Breastmilk Substitutes. It would therefore be unlikely to include the necessary controls on marketing. It creates a legal category for an entirely unnecessary group of products and would send a dangerous signal to Codex Alimentarius.

Option 3: Extension of existing requirements to cover young-child formulae

Option 3a) To include young-child formulae in the definition of "baby foods" by deleting the exclusion of milk-based drinks from the definition of baby foods.

IBFAN/BMA/BFLG opinion: We believe this could be confusing for legislators and the public. YCF are liquid after all. However the Commission should be aware of FUFs on the EU market that have added cereals, such as *Goodnight milks*, claiming to help babies settle.² These are strongly discouraged by health professionals for many reasons. ^(SACN)

Option 3b: To modify the definition of "follow-on formula"⁷ so that it is considered "*food intended for use by infants and young children when appropriate complementary feeding is introduced and which constitutes the principal liquid element in a progressively diversified diet of such infants and young children, with the exclusion of water*"

IBFAN/BMA/BFLG opinion: Considering all of the health concerns around young child formulae, we suggest that the option 3b is the least worst option, but we strongly urge the Commission to revise the option and strengthen the proposed safeguards.

Although follow on formula is acknowledged to be unnecessary in the second 6 months of life, and infant formula can be used as a breastmilk substitute across the first year, existing follow on formula regulations require products to be more nutritionally modified than the young child formulae currently on the EU Market. If the new EFSA 2014 opinion on the essential composition of IF and FOF are adopted by MS then this would further restrict the use of some promotional ingredients/claims currently being made. This would go some way - but not all - towards reducing the misleading promotional messages that persuade parents that these expensive products are necessary.

The other requirements applicable to FOF such as restrictions on contaminants, additives (such as flavourings and colours), pesticides etc. could also provide an essential safeguard, bearing in mind that the target for these products are vulnerable infants and young children.

If **Option 3b** is to be considered we suggest the following essential caveats which would serve in the interests of better regulation and child health – especially in the long term when concerns about the impact of young child feeding on food related NCDs is likely to increase:

1. While we suggest further discussion around option 3b, we do not want this to indicate that we believe FOF have a place in the diet of infants in the first year of life. Any legislation covering these products should include clear recommendations that if a manufactured breastmilk substitute is to be used in the first year of life, this should be IF. (WHO recommends other options before IF³).

2. Since it is proposed that the definition for FUF could be changed, we strongly urge that the term FUF is in fact phased out and for consistency the TITLE of this piece of legislation should be **INFANT AND YOUNG CHILD FORMULAE (including Formulas for Special Medical Purposes)**. We are pleased that this option does not include terms such as "Growing Up" or "Toddler" formula.

² <http://archive.babymilkaction.org/update/update41.html#06b>
<http://www.dailymail.co.uk/health/article-1165972/Concerns-raised-milk-helps-babies-sleep-longer.html>

³ Global Strategy on Infant and Young Child Feeding 2003

3. We recommend that the marketing restrictions that apply to IF are applied to all products marketed to children from 12m to 3y in the EC and that any legislation should follow EFSA advice and clearly state that these products are not necessary.

4. Recalling the European Parliament's reference to the Precautionary Principle, MS inside the EU should be specifically permitted to *further restrict or prohibit* promotion of all formulas marketed for infants and young children (up to 36 months). Article 14.1 of EC Directive (2006/141/EC) permits MS to do this in relation to IF.⁴ Extending this safeguard to YCF would help ensure that EU legislation is harmonized with the global safeguards outlined in the WHO International Code of Marketing of Breast milk Substitutes and subsequent relevant WHA resolutions. These aim to ensure that all parents, health professionals, carers and the public receive objective and accurate information about all matters relating to infant and young child feeding, that breastfeeding is protected, and that the health of young children is not undermined. In terms of child health, global harmonization is much more important than EU harmonization.

5. The Regulations must clearly state that YCF are not necessary, and that countries can ban their import, and restrict marketing and labelling as they deem necessary.

6. Increasingly, many developing country markets are flooded with online advertising for these products, often in violation with the national legislation of the importing country. We believe the regulations should specify that companies should abide by such laws, and at the very minimum the WHO International Code of Marketing of Breast milk Substitutes and subsequent relevant WHA resolutions, whenever these products are exported.

7. There should be strict controls on sugar and sweetener levels for all products marketed for I & YC.

8. EU Consumer health must be protected through clear labelling and a ban on cross-branding between IF, FOF/young child formula /FSMPs and other foods marketed in the first year of life.

9. Formulas – other than infant formulas – should not be marketed for babies under six months.

10. We do not believe that companies should be allowed to add **optional ingredients** to any formulas. All ingredients should be pre-authorised and mandatory. To do otherwise is to subject European babies and young children, and those where EU products are marketed, to a mass uncontrolled trial. This has to stop.

11. **Pesticides.** We agree with PAN that all formulas should be brought into the one piece of legislation and that babies should not be subjected to any pesticide residues. We would like to stress that nothing should imply that it is safer/better for parents to use processed baby

⁴ COMMISSION DIRECTIVE 2006/141/EC Article 14 1. *Advertising of infant formulae shall be restricted to publications specialising in baby care and scientific publications. Member States may further restrict or prohibit such advertising.*

formulas and baby foods, than breastfeeding followed by and alongside ordinary unprocessed family foods.

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