

**UPDATED FOLLOWING
EU REFERENDUM RESULT!!**



Follow On Milk is not a breastmilk substitute. Use in a mixed diet over 6 months. Omega 3 fatty acid DHA intake contributes to normal visual development. Talk to your healthcare professional. Babies shown over 6 months.

“The Committee is concerned about the... Extremely low rate of breastfeeding, and only one percent of women maintaining exclusive breast feeding for six months in 2010, and inadequate regulation of marketing of breastmilk substitutes.

“The Committee recommends that the State party...Promote, protect and support breastfeeding in all policy areas where breastfeeding has an impact on child health, including obesity, certain non- communicable diseases, and mental health, and fully implement the International Code of Marketing of Breastmilk Substitutes.”

UN Committee on the Rights of the Child (CRC) report on the UK, 2016

Informed by Baby Milk Action's submission of monitoring evidence and preliminary World Breastfeeding Trends initiative (WBTi) recommendations

Top: “Their future starts today” peak-time television advertising in the UK in 2016 suggests formula turns babies into mathematical geniuses.



**BABY MILK
ACTION**
IBFAN UK

Violations of Code and Resolutions common in UK

UN tells Government to protect children's rights better

Failure to prosecute breaches of national law

What Parliament can do - and the impact of Brexit

babymilkaction.org



A child rights issue

The UK has endorsed the *International Code of Marketing of Breastmilk Substitutes* and subsequent, relevant Resolutions of the World Health Assembly consistently since 1981.

The UK is a signatory to the *Convention on the Rights of the Child*, giving it a legal, as well as a moral, obligation to protect breastfeeding and implement the *International Code* and Resolutions.

Implications of leaving the EU

In the referendum on 23rd June, the UK voted by 52% to 48% to leave the EU. This should stop the EU being used as an excuse for not implementing the Code and Resolutions.

However, important employment, social and consumer protection measures in place (or soon to be in place) throughout the EU must not be lost. For example: the Precautionary Principle (PP) is fundamental in the EU and distinguishes it from the USA. The PP aims to prevent harm before a hazard has been proven. For example, the EU does not allow risky technologies such as hormone-laced milk and GM ingredients as the USA does.

In January, in response to our campaign, the EU Parliament voted to reduce sugar levels in baby foods. Rules implementing this should follow soon and are urgently needed.

The UK could support the *International Code* in its international relations, for example at the Codex Alimentarius Commission (the UN body that sets global food standards) and the World Health Assembly. See our briefings on Brexit and on health claims and EU regulations.

The UK's progress in meeting its obligations is assessed by the *UN Committee on the Rights of the Child (UN CRC)*. In its 2016 recommendations, the Committee called on the UK to implement the Code (see cover). It made similar recommendations in 2008 and 2002.

The *Lancet Breastfeeding Series* published in January 2016 highlighted that the UK has the worst breastfeeding rates in the world at 12 months of age (<0.5%).

This is particularly troubling because most UK mothers say they wanted to breastfeed for longer. The *National Infant Feeding Survey in 2005* found:

"Around nine in ten mothers who breastfed for less than six weeks said that they would have liked to continue longer."

The 2010 survey says:

"Of the mothers who had stopped breastfeeding by Stage 3 [8 to 10 months old], over three in five (63%) said that they would have liked to have breastfed for longer."

The 2015 survey was cancelled, even though the government cited surveys going back to the 1950s in its submission to the UN CRC.

ACTION BY MPs: Reinstate the National Infant Feeding Survey.

In a presentation to Members of Parliament on 17 May we highlighted action they can take to better protect mothers, babies and their families, remembering that mothers need support, not pressure. Some of these actions are highlighted in this report. Watch our full presentation at: <http://bit.ly/2beWlu4>

Let's take action so mothers are able to breastfeed as long as they want.

We know what is needed

The UK has endorsed the *Global Strategy for Infant and Young Child Feeding*. This “identifies interventions with a proven positive impact.”

IBFAN, our international network, has developed the *World Breastfeeding Trends Initiative (WBTi)* to assess countries on their progress in implementing the *Global Strategy*. We brought WBTi to the UK and gained the support of the members of the Baby Feeding Law Group (BFLG), a coalition of leading health professional and mother support groups. Lactation consultants Helen Gray and Clare Meynell are coordinating the assessment. The Lactation Consultants of Great Britain (LCGB) hosts information on its website.

Organisations across the infant and young child feeding sector, including government, are working together to identify gaps and make recommendations for action. The preliminary results informed the UN CRC recommendations.

Cross-party action on policy

Baby Milk Action and other groups supported Alison Thewliss MP in setting up an All Party Parliamentary Group (APPG) on Infant Feeding and Inequalities, which was formed on 19 January 2016. The APPG listens to experts at regular meetings to formulate concerted action on implementing the *Global Strategy* in the UK.

The four countries of the UK (England, Northern Ireland, Scotland and Wales) have identical laws: the *Infant Formula and Follow-on Formula Regulations (2007)*. These are much narrower than the *International Code* and Resolutions.

Enforcement needs strengthening.....

Prior to the EU referendum, the Department of Health (DH) consulted on a new *Statutory Instrument*. We submitted comments on behalf of BFLG raising concerns over proposals to:

- Decriminalise many of the provisions in the regulations, such as labelling requirements and the need to notify DH prior to launching new products;
- Move to a system of “Improvement Notices” with the stated purpose of “removing unnecessary rules and burdens on business”.

Improvement Notices

We argued that *Improvement Notices* only make sense if their purpose is to protect the child’s right to health and they are intended to be a more flexible way to prompt faster action. To achieve this, they need to be public, have deadlines and be backed by criminal prosecutions if the deadline passes without the required action being taken.

Companies have been breaking labelling requirements since they were first introduced in 1995, without ever being prosecuted. Current labels break the requirement to ensure that infant formula and follow-on formula labels are clearly different. Infant formula cannot be promoted, but a loophole in UK regulations allows advertising of follow-on milks (as with the Aptamil advertisement on the front cover). Companies label the products identically as shown below to make them cross promotional.



Our campaign was supported in Parliament by an Early Day Motion, which is a petition for MPs. The Chair of the Infant Feeding and Inequalities APPG, **Alison Thewliss MP**, submitted EDM 1189 calling for regulations to be enforced and not weakened.

This was successful. The *Statutory Instruments* came into force on 20 July 2016. In England, Northern Ireland and Wales they introduce the *Improvement Notices* regime for composition, labelling, advertising and presentation. Notices will have deadlines and it will be a criminal offense not to act on them. Whether they will be made public is an operational decision. Violations in Scotland are also criminal offenses, but *Improvement Notices* are not being introduced to warn companies.

- Send us examples of violations for our reports to the authorities. Also please think about making a donation or becoming a member to help us with this work.


Promotion in retail outlets



Retailers break the law to clear shelves of Nestlé formula with “excessive protein”

In January 2016, Nestlé sent an email to health workers in the UK promoting its “new improved” infant formula, branded as SMA Pro. It said that babies fed on existing formula have “protein intake in excess of requirements”. It suggested the new formula was “closer to breast milk”, making no apology for suggesting the current (and previous) formulations were almost identical to breastmilk.

With the launch imminent, Tesco put existing SMA formula on clearance sale across its chain with price cuts and special displays (above), despite these activities being clearly prohibited by the *Infant Formula and Follow-on Formula Regulations (2007)*. Many thanks to everyone who sent Baby Milk Action evidence from Tesco and other retailers. We contacted Trading Standards and the Department of Health, but the promotions continued unabated, prompting Members of Parliament to call for the law to be enforced (previous page).



THE RIGHT QUALITY PROTEIN IN THE RIGHT QUANTITY HELPS YOUR BABY TO GROW AT AN APPROPRIATE RATE, HELPING TO REDUCE THEIR CHANCE OF OBESITY IN LATER LIFE.

80% OF MUMS SURVEYED DID NOT KNOW THE IMPACT OF TOO MUCH PROTEIN ON THEIR BABY'S GROWTH

to generate news stories on the back of a survey Nestlé had commissioned. It highlighted, “80% of mums surveyed did not know the impact of too much protein on their baby's growth”. It said, SMA “experts are passionate about educating mums on protein during the first 1,000 days of a baby's life, imparting this knowledge now can make a positive difference on babies health that will last into their adult years.” It also recruited parenting bloggers to write articles on the topic and direct readers to the SMA website where the new SMA PRO is promoted. The ‘media doctor’, Dr Ellie Cannon, was offered up for interviews on the “changing protein composition of breast milk”. Dr Cannon, according to her website, is “best known for her weekly health column in the *Mail on Sunday* and her regular appearance on *Sky News Sunrise*”. If you wonder why experts linked to formula companies speak on breastfeeding rather than, say, independent academics or experts from mother-support groups, here is part of the answer.

The protein content of the new formula is 1.87g/100kcal (1.25 g/100ml), according to Nestlé. First Steps Nutrition Trust says, “the difference is not sufficiently significant to differentiate it from all other brands; the difference in protein content between it and the brand with the next lowest protein content is 0.02g/100kcal (0.01g/100ml).” For analysis and guides to formula on the market see firststepsnutrition.org

Our new, improved, product range



The European Food Safety Authority (EFSA) recognised that protein intake in infants is in excess of requirements, and recommends a reduction of protein quantity in infant formula and follow-on formula.⁶

SMA® Nutrition launches its new SMA® PRO core range in January 2016.

SMA® PRO First Infant Milk has a high quality, low quantity protein profile and is the only formula clinically proven to achieve a growth rate comparable with a breastfed baby.⁶

- Protein profile closer to breast milk*
- Contains GOS/FOS*
- Contains Omega 3 and 6 LCPIs

No apology for implying the old product was also comparable to breast-milk – just repeats the same strategy

Boots breaks law to push Danone's new Aptamil formula

Danone is countering Nestlé's SMA PRO launch with its new Aptamil PRO formula, with prominent displays across Boots stores. Baby Milk Action has received pictures showing the infant formula being promoted on the special displays, which is illegal.



Sometimes when challenged, managers have claimed it was a mistake to include the infant formula alongside the follow-on formula, which can be promoted under weak UK Regulations.

Abbott launched its new Similac range in the UK in May 2016, also with special displays in Boots.

Does formula give babies skills?

Even before Danone launched its new Aptamil product, it advertised the brand as giving babies skills. For example, a peak-time television advertisement suggests it turns babies into mathematical geniuses (front cover) and gives them the strength, balance and stamina to be ballerinas (below). The Advertising Standards Authority (ASA) rejected Baby Milk Action's complaints, arguing that these are common skills.



The advertising promotes the Aptamil brand. Danone argues it is for follow-on formula, but labels all products in the range almost identically (in breach of UK Regulations).

Danone falsely claims in small print that follow-on formula is not a breastmilk substitute. At the same time, the larger message states it is based on "40 years breastmilk research" implying it is the same as breastmilk (above).

ASDA refuses to tell customers Nestlé toddler milk claims misled them

Baby Milk Action won a case against a joint Nestlé and ASDA email promotion for SMA toddler milks in October 2014. The companies implied children might not get enough of nutrients such as iron and Vitamin D unless they consumed the fortified milks.

The ASA warned the companies not to repeat the advert and 'told them not to state or imply that health could be affected by not consuming a product, or to give rise to doubt the nutritional adequacy of a reference product.'



We asked ASDA to email members of its Baby and Toddler Club with a correction, but ASDA said, 'the ruling doesn't require us to send an update.' We had to bring a second complaint to force Nestlé to remove the claims from its product website.

Targeting parents

Various articles in the UK Regulations aim to ensure that pregnant women and parents are not targeted with gifts or misleading information, but these do not work in practice.



Danone gives an Aptamil-branded bear as a gift to pregnant women and new mothers to encourage

them to join its branded parenting club.



Emails are sent to members of clubs, timed to key dates during pregnancy and the child's development after being born.

These are often highly promotional. For example, promoting a formula starter kit to pregnant women close to their due date.

Targeting healthworkers

Formula marketing in the UK has become noticeably more aggressive since Nestlé entered in 2012 by taking over the SMA brand. It has recruited a national network of sales staff it calls Clinical Representatives, offering £40k/year + bonus. A job description in April 2015 states,

'Working with the National Health Service at a territory level, you'll be developing long-term, mutually beneficial relationships with key stakeholders and opinion leaders to support brand endorsement and strategically aligned education for Healthcare Professionals.'

So while health workers may think they are immune to pressure, the marketers think otherwise. The aim is to sell more products:

'your role is to work on the designated territory, visiting hospitals, doctors, health visitors and community midwives to develop key clinical

relationships within your local health Economies, leading to opportunities for the SMA brand and Nestlé Nutrition.'

Many health facilities prohibit company representatives from meeting staff. Information can be provided to a designated expert who assesses it for accuracy and only communicates what is necessary. Nestlé, Danone, and more recently Hipp, try to bypass this restriction by organising their own study days.

Health workers have even been invited on a three-day trip to Nestlé's HQ in Switzerland for promotions on its formula - with a free afternoon and evening trip to a vineyard for dinner.

Registrations for study days have to be made via branded websites where products are promoted. Guest speakers are used to entice health workers along, but the aim is to promote SMA formulas, with stalls and goodie bags promoting *SMA infant formula*. The example pictured shows how Nestlé uses the slogan "You're doing great", also used in Nestlé's online and television advertising for the brand.

An article by the marketing company *Futureproof*, employed by the previous owner's of the SMA brand, explained the strategy:



"From our research, we discovered that the main thing that mums wanted was reassurance. Reassurance that at this incredibly tricky, emotional, and daunting time, they were making the right decisions and doing ok.... [the strategy] shifted the perceptions of SMA to a more 'caring' and 'supportive' space. But perhaps the most encouraging result has been that commercially the brand moved from number three in market to number two within six months, and is now pushing to regain the number one spot."

See the *Local Infant Feeding Information Board* newsletter for assessment of this event.

lifib.org.uk

Danone pushing so-called growing up milk with Vitamin D Mission

Follow-on formula and so-called growing-up milks are promoted by companies with the false claim they are needed to provide important nutrients. WHO and the NHS say they are unnecessary.

The Advertising Standards Authority (ASA) told Danone's subsidiary Nutricia in a ruling on 18 June 2014 (A13-238372) that its advertising for Cow & Gate "Growing Up" milk: *"must not imply or state that a young child's intake of vitamin D, and as a result their health, could be affected if they did not consume Growing Up Milk."*

Fortified Milk



An organisation called **Vitamin D Mission** is promoting an online calculator that presents "growing-up" milks as a source of 100% of recommended daily intake of vitamin D (left). There is no

need for children over 1 year to have a toddler or growing up milk to provide vitamin D since the public health recommendation is that all 1-4 year olds should take *Healthy Start* vitamins. Fortified milks are higher in sugar and may have the wrong balance of other nutrients. Vitamin D Mission can be seen as a concerted attempt to change public health policy to recommend these milks.

The Vitamin D Mission site does not provide any information on the organisations involved in it. Instead it says it is produced by Vitamin D Mission, giving the registered number as 00275552. The Companies House register shows this is the number for Nutricia.

The registered address given for Vitamin D Mission is not that appearing in the Companies House entry. Instead it is for Munro and Forster Communications, a public relations company.

● For NHS guidance: www.nhs.uk/Conditions/vitamins-minerals/Pages/Vitamin-D.aspx

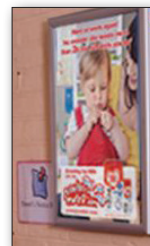
Targeting nurseries

Danone funds the Early Years Nutrition Partnership, launched in 2016. This is a partnership with the British Nutrition Foundation,

which receives much of its funding from 'donations and project grants from food producers and manufacturers, retailers and food service companies' (Danone and Nestlé subsidiaries are named as corporate members) and the Pre-School Learning Alliance, representing '14,000 member settings'.

The stated aims is 'setting a standard for nutrition practice in UK nurseries'.

We will be watching carefully to see how this operates. In the past Danone has offered nurseries cash payments for displaying posters and distributing booklets and vouchers for its Cow & Gate brand. Example right, from Jazzy Media consultancy.



Department of Health partners

The Department of Health (DH) is responsible for nutrition policy in England and the *Statutory Instrument* implementing new formula Regulations and *Guidance Notes* on interpreting the existing law. However, DH has a conflict of interest as it counts ASDA, Tesco, Nestlé, Danone and other formula marketers as 'partners' in its 'Change4Life' programme, asking these junk food sellers to voluntarily change practices that contribute to the rise in obesity. Over 2,000 people signed our petition presented to DH in August 2014 calling on it to end this conflict of interest.

Independent information

First Steps Nutrition Trust has excellent independent information on formulas and feeding. firststepsnutrition.org

The *Local Infant Feeding Information Board* (LIFIB) invites formula companies to provide information on products to a multi-disciplinary panel and produces its own critical appraisal of information and newsletters for health workers. This model could be followed at national level. lifib.org.uk

For guidance on the Code for health workers see: www.unicef.org.uk/BabyFriendly/

Order Baby Milk Action's poster on *Health workers, conflicts of interest and the baby feeding industry*.

Label constraints not working

The UK Regulations prohibit idealising text and images on labels, but these are commonplace. The new *Improvement Notice* regime needs to be applied without delay.

Danone's Aptamil has a shield to symbolise protection and a polar bear image.



Its Cow & Gate logo is in the shape of a heart and the infant formula has a teddy bear.



Nestlé's SMA logo incorporates a heart and breastfeeding mother.



The UK *Guidance Notes* from the Department of Health on how to interpret the current UK law explains that idealising images include 'baby or child related subjects and anthropomorphic characters, pictures and logos...'

They state that the following are prohibited: 'Pictures or text which implies health, happiness or well being is associated with infant formula' and 'graphics that represent nursing mothers and pregnant women'.

Not only do the labels break these requirements, but companies have had ample opportunity to correct them as they regularly relaunch products.

The enforcement authorities have said previously that they cannot act as they are limited to the text of the law and are unwilling to take a case to court to test the interpretation in the *Guidance Notes*.

The new EU *Delegated Acts* have the same requirements and, following representations by Baby Milk Action to the European Commission, have tougher language to prohibit infant formula branding being used on other products.

- **We will continue to press the authorities to enforce the law. Please think about making a donation or becoming a member to help us**

Implement the Code and Resolutions ..

The Government once again failed to fulfill its human rights obligations when it had the chance to fully implement the Code and Resolutions through the new *Statutory Instrument*.

ACTION BY MPs: Call on the Government to act on the recommendations of the UN Committee on the Rights of the Child. EU membership does not prevent full implementation as governments can protect health, but Brexit will remove that excuse.

Scope of the regulations.....

A new WHO/UNICEF/IBFAN report on *National Implementation of the International Code* calls on governments, "to broaden the range of designated products under the scope of their legislation to include all milk products intended and marketed as suitable for feeding young children up to the age of 36 months".



The EU *Delegated Acts* do not cover this range.

ACTION BY MPs: Include in the scope:

- Follow-on formula (EU regulations allow follow-on formula advertising and promotions, but health grounds and now Brexit remove this obstacle).
- Milks for older babies, such as so-called growing-up milks (the European Commission has no proposals for regulations in this area so there is no conflict anyway).
- Feeding bottles and teats (again there is no conflict as there are no EU regulations).
- Prohibit all advertising and promotion of infant formula as specifically permitted in the *Delegated Acts*.

Marketing is just one area for action, of course.

ACTION BY MPs: Use the recommendations in the forthcoming WBTi assessment to address the gaps in implementing the *Global Strategy for Infant and Young Child Feeding*.