



Dr Francesco Branca, Director of Nutrition and Food Safety
World Health Organization
Av. Appia 20, 1211
Genève, Switzerland
By email to: NFS@who.int

October 17, 2022

Re: Consultation on “INFORMATION NOTE: Sponsorship of Health Professional and Scientific Meetings by Companies that Market Foods for Infants and Young Children”

Dear Director Branca:

I am writing on behalf of the Centre for Health Science and Law¹ to contribute comments to WHO’s consultation on its draft guideline on advertising to children. I have also uploaded comments to the online survey response tool, but have posted them on our website (www.healthscienceandlaw.ca) for the purposes of transparency. I encourage WHO to proactively disclose comments that it receives as it sometimes does for consultations.

Please consider the perspective that, the WHO’s own sponsorship policies on accepting funding from corporations, including breastmilk substitutes, remains ambiguous despite its long-standing leadership of the World Health Organization as a key standard-bearer for *the International Code of Marketing of Breast-milk Substitutes*, and subsequent relevant resolutions of the World Health Assembly, WHA 49.15 in 1996, WHA 58.32 in 2005, and 69.9 in 2016, which includes in agreed guidance:

Recommendation

6. Companies that market foods for infants and young children should not create conflicts of interest in health facilities or throughout health systems. Health workers, health systems, health professional associations and nongovernmental organizations should likewise avoid such conflicts of interest.

Such companies, or their representatives, should not: ...

- sponsor meetings of health professionals and scientific meetings.*

A WHO review of sponsorship policies of United Nations agencies, finalized in January 2015, indicates that only UNICEF and the UN Development Program expressly prohibit partnerships with companies that manufacture breastmilk substitutes.² This analysis, though undated, was prepared around the time that the World Health Assembly was considering *Framework of Engagement with Non-State Actors*, which was adopted by the World Health Assembly in May 2016.³ According to the review, the World Health Organization only categorically refrains from engaging with tobacco and the arms industries, leaving considerable ambiguity about whether sponsorship funds and other partnerships with such commercial entities can be managed by WHO, national governments, and health and child protection organizations. WHO’s *Guide for Staff on engagement with non-State actors*, published in 2018⁴ states, ambiguously, that:

WHO takes particular caution when engaging with non-State actors whose policies or activities are negatively affecting human health and are not in line with WHO’s policies, norms and standards, in particular those related to noncommunicable diseases and their determinants, as well as to protect WHO’s normative work from any undue influence. In these situations, as for other engagement proposals, a case-by-case assessment is conducted in accordance to FENSA. Examples of such non-State actors may include entities from the

alcohol industry, the food and beverage industry (including producers of breast milk substitutes), and the chemical industry, among others. [emphasis added]

WHO's *Handbook for non-State actors on engagement with the World Health Organization*, also published in 2018, was even more ambiguous in not expressly flagging the food, alcohol, or breast-milk manufacturing companies for caution. The Handbook relegates nearly all engagement decisions to case-by-case analysis and restates only that:

*The Framework reinforces that WHO does not engage with the tobacco industry or with non-State actors that represent the interests of the tobacco industry, or with the arms industry.*⁵

It seems that it is WHO's ambivalence that gives rise to the queries it has received and described in the Information Note that invites this consultation and in the *British Medical Journal* news story.⁶ Furthermore, if it is true that the WHO Foundation was "established to...to give it more flexibility to receive funding from the private sector" then violation of WHO conflict-of-interest safeguards was not only foreseeable, but expected and intended. The failure to reveal a \$2 million grant from Nestlé (or Nestle) via a search of the keyword "Nestlé" or "Nestlé" on the <https://who.foundation/> website and the failure of the 2021 donation to come to the attention of the public until October 2022 appears to indicate efforts to conceal the receipt of the funds. An advanced search from https://www.google.ca/advanced_search revealed a partial disclosure of the sources of US\$28,225,400 of funds received from multiple pharmaceutical and medical technology companies with a commercial interest in WHO guidance at: <https://who.foundation/wp-content/uploads/2022/03/Contribution-Table-Web-Transparency-Up-to-Dec-31-2021-FOR-PUBLIC-2.pdf> The WHO Foundation website's "transparency" tab discloses only partial information about 2020 fiscal year contributions totalling US\$2,019,000.

The Information Note appears to broadly define the scope of impermissible sponsorship and the rationale for avoiding such financial influence (at pages 1-3), then inexplicably undermines this analysis by listed methods for accepting such funding for payment of conference exhibition space with ambiguous, unquantified constraints on the size and pricing of payments for such space (on page 4). The lame restrictions it proposes could permit a breastmilk manufacturer to provide up to two-thirds of the external funding for a conference.⁷

WHO's continued ambivalence about discouraging funding from commercial entities that profit from rise in the ill-health from increasing disease risk (such as or most food and chemical companies, and all alcoholic beverage companies) or by treating or preventing (such as some food, medical technology, and pharmaceutical companies) puts WHO's mandate in doubt and helps foster conflicts of interest by proposing instructions for itself and others to accept funds that compromise public health missions. If, six years after adopting FENSA and 41 years after adopting the International Code of Marketing of Breast-milk Substitutes, WHO is unable to unequivocally discourage financial conflicts of interest or, itself, refrain from courting such funds, it seems that it wants the respectability of being free of conflicts of interest without modelling the funding practices that ensure independence.

Consider deleting the permissive recommendations about conference exhibition funding from the proposal and

Respectfully submitted,



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Endnotes

¹ Bill Jeffery was one of the experts consulted in the technical meeting and resultant report: *Addressing and Managing Conflicts of Interest in the Planning and Delivery of Nutrition Programmes at Country Level: Report of a technical consultation convened in Geneva, Switzerland, on 8–9 October 2015* and published by WHO in 2016 at: https://apps.who.int/iris/bitstream/handle/10665/206554/9789241510530_eng.pdf?sequence=1 The Centre for Health Science and Law is a founding member of the Geneva Global Health Hub (G2H2) and a member of the International Association of Consumer Food Organizations and is accredited by the UN Economic and Social Council (ECOSOC). CHSL's executive director, Bill Jeffery, has been personally active in international standard-setting advocacy and expert deliberations at the Codex Alimentarius Commissions (since 1998), World Health Organization (since 2005), UN General Assembly (since 2011), several UN Human Rights Council committees (since 2018), and UNICEF regulatory reform in Sub-Saharan Africa (since 2018). He has advocated mandatory back-of-pack nutrition labelling at the Codex Committee on Food Labelling 1998-2012 and proposed front-of-pack nutrition labelling and advocated its adoptions 2016-2021 and participated in the WHO's first implementation consultation event on the Global Strategy on Diet Physical Activity and Health in 2005. In Canada, he has advocated nutrition labelling reforms, advertising restrictions, sodium reduction measures, a ban on trans fat, and a national, publicly funded school food program. CHSL, like UNICEF, is a member of the global School Meals Coalition and I, on behalf of CHSL, provided technical assistance to 10 national governments and intergovernmental organization in Africa to implement the WHO *International Code on the Marketing of Breast-milk Substitutes* and other nutrition-related regulations 2018-2022. He currently serves as one of five voting members of the International Development Law Organization's "Healthy Diets and Human Rights Research Initiative Advisory Board" (focusing on Kenya, Tanzania, and Uganda) along with a former Special Rapporteur on the Right to Food, current Executive Secretary of the UN Nutrition Committee, and ex officio reps of UNICEF, WHO, and FAO.

² WHO. Study on practices of organizations of the United Nations system relating to conflict of interest in their engagement with the private sector. Geneva. 2015. Available at: https://www.who.int/docs/default-source/documents/fensa/uns-practice.pdf?sfvrsn=a991a2a7_2

³ WHA. Framework of engagement with non-State actors. WHA Resolution WHA69.10. Adopted May 10, 2016. Available at: https://apps.who.int/gb/ebwha/pdf_files/wha69/a69_r10-en.pdf

⁴ WHO. *Guide for staff on engagement with non-State actors*. Geneva 2018. Available at: https://cdn.who.int/media/docs/default-source/documents/fensa/fensa-guide-for-staff.pdf?sfvrsn=46b61881_2

⁵ WHO. *Handbook for non-State actors on engagement with the World Health Organization*. Geneva, 2018. Available at: <https://apps.who.int/iris/bitstream/handle/10665/329431/9789241565608-eng.pdf>

⁶ Coombes R. Formula milk: why WHO has taken a hard stance on sponsorship. *BMJ*. 2022 Oct 14;379:o2470. doi: 10.1136/bmj.o2470. PMID: 36241202. Available at: <https://www.bmj.com/content/379/bmj.o2470.full>

⁷ If a conference had only two paid exhibitors and received all of its external funding from renting exhibition space, a breast-milk manufacturer would be limited to as much as double the funds of the sole other exhibitor, two-thirds of total funding under the proposal.