



Baby Milk Action feedback on: DRAFT PROPOSALS: Voluntary industry guidelines for commercial baby foods and drink aimed at children up to 36 months

Overview

Baby Milk Action/IBFAN UK welcomes the opportunity to comment on the proposed Voluntary industry guidelines for commercial baby foods and drink aimed at children up to 36 months. We support the submission made by the First Steps Nutrition Trust so will not answer all the questions, but add additional aspects that we believe are important.

We agree that the UK needs to create an environment in which parents/carers are supported in following public health recommendations on feeding their babies and young children. However we are concerned to note several weakness in the proposals that need to be addressed..

First and foremost and based on our 44-year experience of monitoring marketing practices and assisting the UK and other governments in implementing health protective legislation, we believe that the guidelines, once strengthened along the lines we and FSNT propose should be mandatory. While it may useful to first pilot them for a specific period of time, it's clear that voluntary agreements and self-regulatory systems are unworkable in the long term. Indeed, for the UK to promote and depend on voluntary agreements at this at time when so much is needed to improve the environment in which children are fed, sets a bad example internationally. Voluntary agreements are, all too often, *'here today and gone tomorrow'* and have many risks:

- they promote undeserved 'trust' among consumers and governments that corporations have the public interest at heart and are willing to make the required changes permanently – long after the attention in their efficacy dies down.
- they can undermine the resolve of governments to bring in the legislation that is needed to protect health in the long term
- the volume of harmful promotion can increase
- their monitoring is highly problematic.
- Since the baby feeding industry operates in a particularly sensitive market, a voluntary agreement, rather than a Law, is totally in their interest, and perpetuates the caring image that their marketing seeks to convey.

It is worth noting that in order to achieve its overall purpose (minimal regulation and freedom to market without constraint) the baby feeding industry has, for decades, used the same six interference tactics used by the tobacco industry:(1) manoeuvring to hijack the political and legislative process; (2) exaggerating economic importance of the industry; (3) manipulating public opinion to gain appearance of respectability; (4) fabricating support through front groups; (5) discrediting proven science; and (6) intimidating governments with litigation.¹

We urge the UK government to strengthen its legislation on foods for infants and children in line WHO recommendations in order to protect child health and development.

¹ *Interference in public health policy: examples of how the baby food industry uses tobacco industry tactics*, 2017
<https://worldnutritionjournal.org/index.php/wn/article/view/155>



Background

Baby Milk Action/IBFAN UK is the UK member of the International Baby Food Action Network (IBFAN) a network of over 250 citizens groups in more than 100 countries that was founded in 1979. Since then, IBFAN has worked in collaboration with WHO and UNICEF and civil society partners to improve maternal and infant and young child health through the protection, support and promotion of breastfeeding and optimal complementary feeding, helping many governments, including all EU member States, to bring in and implement legislation to control harmful marketing. IBFAN has worked to ensure that legislation is based as closely as possible on the global recommendations adopted at the World Health Assembly: the [International Code of Marketing of Breastmilk Substitutes](#), and the 20 WHA Resolutions and decisions that clarify, strengthen and keep pace with science and marketing developments.²

We partner WHO and UNICEF in the production of the biennial report, [Marketing of breast-milk substitutes: national implementation of the international code, status report 2022](#). As of March 2022, the report found a total of 144 (74%) of the 194 WHO Members States (countries) had adopted legal measures to implement at least some of the provisions in the Code. Of these, 32 countries have measures in place that are substantially aligned with the Code. The UK currently scores 40/100 on the Global Code Status Report.³

Baby Milk Action/IBFAN has attended [Codex Alimentarius meetings](#) since 1997, with the aim of bringing global trading standards into line with UN health recommendations. The poor Codex Standard for Follow-up milks, adopted in 1987,⁴ has been used by the industry to get round the marketing restrictions of the International Code supporting their claim that the products – invented precisely for this purpose – were not breastmilk substitutes. The Standard legitimised these totally unnecessary and risky ultra-processed products and led to the rapid growth in their global market. The weak FUF standard has also been used by exporting countries in [attempts to stop governments bringing in more health protective marketing controls](#).^{5 6} The standard has now been revised and is called the [Standard for Follow-up formula for older infants and product for Young children](#). While some of the problems have been fixed and a clear reference to the International Code and resolutions appear in the Preamble, the products for young children will still be problematic. They are all ultra-processed and unless controlled by law, will be flavoured and sweet and will contain GM and other untested ingredients.⁷ We are urging the all governments to lose no time in strengthening legislation to stop the promotion of these products in order to protect child health and development.

² Breastfeeding constitutes one of the single most effective ways to reduce inequalities, to fulfil the child's right to life and to the enjoyment of the highest attainable standard of health. The International Code and Resolutions are designed to ensure that all parents receive objective and truly independent information, to remove obstacles to breastfeeding and ensure that breastmilk substitutes are used appropriately.

³ [Marketing of breast-milk substitutes: national implementation of the international code, status report 2022](#) WHO, UNICEF and IBFAN, 2022.

⁴ CODEX STANDARD FOR FOLLOW-UP FORMULA CODEX STAN 156-1987 (amended 1989)

<https://www.babymilkaction.org/wp-content/uploads/2022/12/Codex-FOF-89.pdf>

⁵ Compilation of IBFAN Press Releases, consultations responses to Codex since 2006. <https://www.babymilkaction.org/archives/34620>

⁶ Russ K, Baker P, Byrd M, et al. What you don't know about the Codex can hurt you: how trade policy trumps global health governance in infant and young child nutrition. *International Journal of Health Policy and Management* 2021; **10**(12): 983-97. Baker et al. *Globalization and Health* (2021) 17:58. *Advocacy at Work During the Codex Committee on Food Labelling Meeting* INTERVENTIONS AT WTO AND CODEX RELATED TO NATIONAL IMPLEMENTATION OF THE WHO INTERNATIONAL CODE OF MARKETING OF BREASTMILK SUBSTITUTES. Kathryn Russ*

⁷ [Standard for Follow-up formula for older infants and product for Young children](#). <https://www.babymilkaction.org/wp-content/uploads/2024/03/FUF-standard-2023-.pdf>



Responses to specific questions

We agree with FSNT that the guidelines should :

1. Better align with the stricter recommendations of WHO Europe in their Nutrient Profile and Promotion Model;
2. Be strengthened to address the wider range of issues highlighted in the PHE 2019 evidence review, and align with UK public health recommendations;
3. Cover formula milks and supplements that are not currently subject to any specific legislation on composition, marketing or labelling.

1. **Do you agree with the draft proposed sugar and salt guidelines? Do you consider the guidelines to be broadly achievable? Do you have any alternative proposals?**

We would prefer the guidelines to recommend **no added sugars** or **sweetening agents** in ANY foods marketed for use **under 36 months**. In view of the widespread use of cross-promotion with breastmilk substitutes and the aggressive promotion that causes confusion amongst parents and carers, the prohibition should be extended to children up to **5 years of age**. **Certainly, the cut-off age must not be 12 months.**

We agree with FSNT that there is no justification to only limit added sugars/sweetening agents in snacks/finger foods marketed to infants <12 months. We share WHO's view is that no added sugars or sweetening agents or maltodextrin should be included in any foods marketed for use under 36 months.

2. **Do you agree with the revised timeframe for delivery of the guidelines? Do you have alternative proposals?**

The proposal is: *reducing the timeframe for delivery of the guidelines from 2 years to 18 months from the month the final guidelines are published e.g. if the final guidelines were published in March 2024, these would need to be delivered by September 2025*

We agree with FSNT that the timeframe for delivery should be shortened – but **only** if the necessary changes are made and that compliance is carefully monitored by a publicly funded body. As mentioned on page 1, there is no point relying on self-monitoring. Once tested in a pilot, the guidelines should be made mandatory with appropriate fines for non-compliance.

Other considerations to protect optimal complementary feeding practices

WHO, UNICEF and all health bodies recognise the importance of young children gradually moving from breastfeeding on to whole, bio-diverse unprocessed family foods with varied textures. This article from Australia explains the risks that reliance on highly processed drinks encourages fussiness in children:

"One of the drivers of the toddler milk market, according to those who have researched it, is anxiety among parents about fussy eating — which usually emerges after a child turns 12 months old... "And they [the toddler milk companies] say, 'Are you worried your child's not eating enough of the right things? Why don't you just give



them toddler milk and then you won't have to worry?' And that's what they do. The child enjoys the flavour of the toddler milk. It's very easy to drink, they don't have to chew anything, they don't have to sit up at the table "They don't have to try anything new, which is a hard thing to do, but a really important thing to do. "And so they continue to refuse new foods and the fussy eating actually gets worse." ⁸ Toddler milks are marketed as beneficial, but they're unnecessary and could be harmful ⁹

FSNT has excellent evidence about the risks of reliance on these drinks and pureed products on children's development and we agree with their proposal that there should be a recommendation for an upper age for use of 12 months on pureed foods.

Ensure honest labelling so that product names are not misleading and are aligned with the primary ingredients

This is a big subject that needs to be addressed very carefully and we support FSNT recommendations. Most of the globally traded products targeting infants and young children on the UK market are labelled dishonestly. Most are cross promoted in some way with infant formula, a strategy that leads to products being used inappropriately.

It is of great concern that the new Codex Standard for Follow-up formula for older infants and product for Young children will permit drinks for young children to be artificially flavoured with vanilla and fruit extracts containing unknown compounds. These products may also carry images of fresh fruit. It is worth noting here that this weakness in the Codex standard was the result of pressure from the US, Canada, Australia and New Zealand, along with industry front groups and the [European Society for Paediatric Gastroenterology Hepatology and Nutrition](#) (ESPGHAN). ESPGHAN is 43% funded by the baby feeding industry and regularly supports industry positions at Codex. In this particular debate about the essential ingredients of 'products for young children' ESPGHAN argued that a prohibition of flavours would put the baby drinks at a disadvantage to 'less good' products that don't meet Codex standards. This undermined the consensus and concerns expressed by those advocating stricter controls, WHO, UNICEF, IBFAN and many countries including the EU (representing 27 countries) who questioned the safety and saw no technological need for flavoured products. The compromise sentence was added: *National or regional authorities may restrict or prohibit the use of the listed flavourings*, but if the UK is serious about its desire to protect and improve child health it should forbid artificial flavourings and sweeteners in these products.

Products should make Quantitative Ingredient Declarations (QUID) and ensure that contents are listed clearly and understandably in descending order (not deceptively).

'Sustainability labelling and marketing.

As mentioned before, it is important for the baby feeding industry to gain the trust of parents and be seen as a credible government 'partner' that is ready to help solve any current concern. Climate change reduction strategies are just one current concern – there are many others. Marketing that promotes the idea that buying these globally traded packaged products will somehow protect the environment is clearly deceptive.

⁸ *Toddler milks are marketed as beneficial, but they're unnecessary and could be harmful*

<https://www.abc.net.au/news/2024-03-12/toddler-milk-nutrition-benefits-marketing-parents/103517864>

⁹ *Will bogus sustainability claims on processed foods save the planet?* <https://www.babymilkaction.org/archives/38380>



Research carried out for the Codex discussions on a proposal for ‘*sustainability labelling*’ showed that most sustainability labelling is industry led and not independently monitored. IBFAN is proposing that sustainability labelling should *only* be permitted if strict safeguards are in place, especially when labelling baby foods.

The Guidelines should warn about the misleading nature of sustainability claims. Indeed IBFAN is calling on all governments to ensure that any labelling schemes are government-led, that they have legally binding appropriate safeguards, that any statement is substantiated with independent and verifiable evidence, and is independently monitored and government enforced.¹⁰ We are also advocating that if such safeguards are not in place, and in view of the costs and resources needed to legislate, enforce, monitor these practices, sustainability labelling should not be permitted – and certainly never for products targeting infants and children.

Much deceptive marketing is now channelled through social media and influencers and deliberately targets mothers. Commercial greenwashing strategies undermine confidence in sustainable local agriculture, biodiverse food systems breastfeeding and parent’s confidence in minimally processed family foods.

We do not believe that sustainability claims on these products will help bring about the “*transformation of the world’s food systems [that] is needed urgently, based on a One Health approach that protects and promotes the health of humans, animals and the planet*” called for by WHO’s Director-General, Dr Tedros Adhanom Ghebreyesus.¹¹

Sugar labelling: We strongly agree with the FSNT call to prohibit statements related to “*no added sugar*” and “*only natural sugar*” convenience or other idealising claims are highly deceptive. The hidden short and long-term health risks to the frequent consumption of these products is never declared. We also believe that snacks (‘finger foods’) should not be marketed for use under 12 months of age.

Front-of-pack labelling of any ultra-processed product should never promote the product. Any nutrition labelling scheme must be government-led and must focus on warnings. Formulas should ideally have generic plain labelling

First and foremost, the most important requirement is that the marketing of all products for infants and young children is strictly controlled by legislation. Ideally unhealthy processed products (high in sweeteners, salt etc) should be removed from the market! A secondary intervention is to promote clear strong and simple messaging to parents that plain milk and water should be the only drinks given to infants and young children.

Safety of ingredients

The infant and young child feeding market is fast growing and evolving. In addition to concerns about the marketing of the whole range of products targeting infants and young children, care must be taken to ensure that the new artificial cell-based products and probiotic supplements coming onto the market are properly controlled.¹²

¹⁰ EU agrees directive banning misleading use of environmental claims on many products

<https://www.irishtimes.com/business/economy/2024/01/17/eu-agrees-directive-banning-misleading-use-of-environmental-claims-on-many-products/>

¹¹ Dr Tedros Adhanom Ghebreyesus, WHO Director-General welcome address to the Codex Commission (CAC45, 2022)

¹² FDA adverse event report online, of the death of the baby girl from Evolve probiotic. <https://www.fda.gov/media/173048/download>
<https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/infant-health-inc-formerly-evolve-biosystems-inc-667715-09282023>



We strongly support the calls to promote the fact that UK legislation (derived from delegated EU regulations) requires that the essential composition of formulas must be similar. However, UK legislation also permits *optional ingredients*. Parents must be warned that optional ingredients, that are invariably promoted as being advantageous, are not backed by credible evidence.

If an ingredient is shown to be safe, important for child health or reduces the inadequacies of breastmilk substitutes, it should be mandatory, in line with the 2007 [opinion of the UK Government's Scientific Advisory Committee on Nutrition](#) (SACN) : "*We find the case for labelling infant formula or follow on formula with health or nutrition claims entirely unsupportable. If an ingredient is unequivocally beneficial as demonstrated by independent review of scientific data it would be unethical to withhold it for commercial reasons. Rather it should be made a required ingredient of infant formula in order to reduce existing risks associated with artificial feeding. To do otherwise is not in the best interests of children, and fails to recognise the crucial distinction between these products and other foods.*"

Article 5 of EU Regulation 609/2013 called for the Precautionary Principle (PP) but not across all relevant provisions. The UK should use the PP to safeguard against the addition of '*other ingredients, as the case may be*' in products fed to children and prevent what are essentially mass uncontrolled trials.

The UK law should specify that:

- all ingredients are pre-authorised following rigorous independent scrutiny, (with particular care over new technologies, nanotechnologies and the presence of microplastics;
- systematic reviews of all available evidence are carried out *independently* of the manufacturers and distributors of the products in question;
- evidence is reviewed on a regular basis to ensure infants are not exposed to levels of nutrients that might put a burden on their metabolism, (a concern already raised by EFSA)
- there is regular post market surveillance indicating the frequency of such reviews;
- food ingredients not listed as essential are kept to the bare minimum;

We agree with all FSNT comments in the following sections, especially with regard to transparency and conflicts of interest in the development and implementation of these guidelines

For more information contact:
Patti Rundall, Policy Director, IBFAN Global Advocacy

Baby Milk Action/IBFAN UK,
Cambridge UK
Mobile: 07786 523493
prundall@babymilkaction.org
www.babymilkaction.org
www.ibfan.org