



## **The International Code of Marketing of Breast-**

### **Milk Substitutes: is it still relevant?**

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#### ***What is the International Code?***

Big corporations are the winners in today's world, with earnings far beyond many countries' gross national products, let alone government budgets. One of the most advanced tools so far developed in regulating the behavior of private enterprise is the International Code of Marketing of Breastmilk Substitutes. It was passed by the World Health Assembly (WHA) in 1981 with the USA, due to Ronald Reagan's personal intervention, casting the only dissenting vote. Some 20 countries have implemented it as law and dozens of others have implemented part of it as law or all of it as a voluntary measure. This can be taken as a sign of how seriously threats to breastfeeding have been taken in world policy-making bodies and by governments.

The Code covers breast milk substitutes, bottles and teats. For all these products, the Code stipulates the following:

- there should be no advertising direct to the public,
- no free samples to mothers,
- no promotion of these products in health care facilities,
- no company "mothercraft" nurses to advise mothers,
- no gifts or personal samples to health workers,
- no words or pictures idealizing artificial feeding, including pictures of infants, on product labels,
- information to health workers should be scientific and factual,
- all information on artificial feeding should explain its costs and hazards and the benefits of breastfeeding,
- unsuitable products like sweetened condensed milk should not be promoted for use with babies, and
- all products should be of high quality and take into account the climate and storage conditions of the country where used.

The consumer advertising that we are most aware of includes the use of mass media, billboards, and pamphlets but it is complemented by other types of promotion such as baby contests, temporary price reductions, and point of purchase promotion (an attractive display, lots of shelf space devoted to it, and labels idealizing the product). In the past, some companies used so-called mothercraft personnel, often some of the best-qualified nurses. They were hired to visit clinics and even homes, supposedly to teach mothers how to better care for their babies, though in fact they were promoting the companies baby foods and other products. Where implemented according to the text in the International Code, national codes will eliminate all these marketing techniques. The Code even disallows the use of bonuses to the salesmen based on volume of sales, though this would be difficult to monitor.



Yet the International Code has from the beginning been a somewhat weak and compromised “minimum measure” suggested to governments who must decide exactly what actions are needed within their particular situation to implement it. While nearly all countries have some relevant regulations or legislation, very few have developed the kind of broad and strong safety net that I believe is required to protect breastfeeding.

In Sweden the first voluntary agreement came in 1964 between the baby food industry and its paid consultants, a group of pediatric professors. (One can question the ethics of this kind of arrangement as well. These professors received monthly payments from the companies in return for loyalty—and occasional they are called upon for professional inputs.) This code forbade direct advertising to the public and the distribution of free samples, but allowed other marketing practices such as the distribution of simple printed materials regarding follow-up formula and other baby foods directly to mothers when their infants reached three months of age. This practice was continued even after the passage of a more formal, though still voluntary Code in 1982. Apparently, some pediatricians in Sweden considered it “unreasonable” not to allow consumer advertising of cereal-based follow on formula from six months of age. In fact, however, the industry respected only the original three-month limit. In theory a new voluntary Swedish code now covers the period up to one year after birth, and the possibility of making it a law is being discussed. (The problem is that it would require a change in the national constitution, as it would restrict free speech.)

#### ***The Code was complemented by additional WHA resolutions***

A WHO team published a paper in early February of this year on the relationship between artificial feeding and infant mortality. They found it impossible to estimate in the three African countries for which they had data because virtually every living child was breastfed well into the second year of life. The creation of demand for infant formula or baby feeding bottles in such cultures is deeply unethical behavior. Some may have difficulty accepting such a moralistic or judgmental way of looking at what one could call “business as usual.” But consider the similarity between company personnel who give insecure new mothers free samples of infant formula at delivery and narcotics salesmen who give free samples to children at a school. Both are knowingly creating dependency on something they want to sell once that dependency is created. The narcotics salesman is even likely to be more direct and honest about what is going on when he says, “First one’s free!” In both cases wealth is a likely outcome for one party and serious ill health or death for the other. The one who suffers in both cases is a child.

The Code banned free samples but allowed “free supplies” of infant formula. This was intended to allow companies to provide as much formula to a given baby “who needed it” for as long as that baby needed it, as a charitable gesture to orphanages, for example. But companies simply stamped the word “supplies” on all the free samples they gave to hospitals and the carnage continued. The UN decided to hold a meeting in December 1985 to define who needed breast-milk substitutes. Because the persons involved would no longer be directly affected by it, I can tell you that the late Jim Grant, former head of UNICEF and one of those who took the initiative to the Innocenti Meeting in 1990, received a personal threat from an employee of Ronald Reagan’s State Department that if the meeting even discussed marketing issues (rather than the physiological question of who needed breast milk substitutes), the United States would withdraw its support to UNICEF.

Reagan’s administration worked actively against the Code. A right wing think tank published a newsletter reporting for them on what activists were doing and whether WHO staff were working



actively on the code. This appears to have been the basis on which the US government decided to meet its semiannual budgetary obligations.

The Swedish International Development Cooperation Agency, Sida, had heard about the threat to UNICEF and came up with an idea for bypassing industry and Reagan government surveillance of the various actors at the WHA. They contracted a Swedish professor who was able to attend without being a formal member of a delegation. He contacted one delegate he knew, the minister of health of Nigeria, who had written an article years before showing the harm done by infant food advertising. Together they drafted the text for a new resolution calling for an end to the use of free or even subsidized supplies. It went through, thus closing the loophole in the Code.

Afterwards, industry newsletters reported to the Reagan Administration that they had no idea whose initiative this was. They knew it did not come from the baby food activists, and that WHO staff had been unable to stop it. The industry described this as a bigger blow to their marketing efforts than the Code's ban on advertising. Another WHA resolution in 1994 was required to close a loophole in this one, stating that free supplies were not to be offered or accepted anywhere within the health system, not just at maternity wards.

### ***The Code works because activists focus public attention on violations***

Given how much more deeply the mass media penetrate developing countries today than when the Code was passed nearly two decades ago, we might not have much breastfeeding left if it were not for the public relations damage companies feared if they continued with business as usual. This is always the reason for the companies not pursuing business as usual, not ethical concerns or concerns about whatever small fines or other measures might be taken against them if they break the code, even in the countries where it is law. Activist organizations, under the IBFAN network have effectively spread awareness of unethical company behavior. They and the donor agencies that have supported them over the years, mainly in Holland and Scandinavia, may have in this way saved more human lives, by preventing the decline of breastfeeding in poor countries, than even vaccination has saved.

### ***What the companies do to evade the Code***

Is the problem solved now? The answer to this is complex. On the one hand, in most of the developing world, at least the big international companies no longer heavily promote directly to mothers products strictly defined as covered by the Code. They now spend their promotional budgets in other ways, for example in convincing us all that there is no problem any more and we should put our attention into more important things. But behind the scenes these companies have just as much incentive to promote these products as they ever did, indeed a desperate need to find ways to expand their markets in the face of increasing breastfeeding rates and falling birth rates in many major markets.

To make themselves look like good corporate citizens in an increasingly well-informed world, many companies have indeed accepted that infant formula sales will remain low. Instead they focus their efforts on so-called "follow-up formulas," the marketing of which is not restricted in many places. They are also constantly developing new products and new marketing strategies designed to by-pass national and international marketing regulations. In some countries, the promotion of "special" or "medically indicated" formulas like soy formula is not regulated the same way, and sales of these products have soared.



Also, the consumer advertising we are all familiar with is only a small proportion of what is involved in product promotion. The major pillar is and always has been “cooperation” with the health professionals.

### ***Company marketing to the health professions***

Since its birth in the 19th century, the baby food industry has utilized medical testimonials to give its products “a veneer of `scientific` and medical respectability.” In its early years, artificial feeding was thought to demand complicated calculations of ingredients, and this made mothers dependent on physicians. By about 1910, “patented” products could instead be used by mothers directly by following directions on the label. This was considered “physically unhealthy for the infant and economically harmful to the physician.”

Some companies soon began realizing that they stood to gain by utilizing physicians` skills both in better product development and in more profitable marketing. By 1932 the American Medical Association Committee on foods demanded that, to obtain its “seal of approval,” companies stop advertising to the public since “every infant...should be under the supervision of a physician who is experienced and skilled in the care and feeding of infants.”

This was not only the first voluntary “Code of Marketing,” it was to be followed by the first case of effective sanctions against a company that did not comply. Horlicks Malted Milk, because it continued to advertise to the public, was denied access to promotion through medical media such as journals and eventually stopped selling its product in the USA. Soon thereafter, the baby food industry began to support scientific meetings and to provide “open support of infant nutritional research.” Since then, grants are given for research and fellowships, and pediatric associations and medical students are wined and dined on luxury cruises, with scientific lunch-time seminars added to be avoid tax liability. Do companies` boards of directors approve expenses like this for charitable reasons or are they aware, as the late Dr. Derrick Jelliffe warned, that such “manipulation by assistance” pays dividends in the long run?

Industry messages in their advertising to the health professions have been remarkably similar since 1910: “Our product keeps getting better and now contains component X, making it almost the same as to breast milk.” It is amazing that it never seems to occur to health professionals that the industry is thus indirectly admitting that their products must have been pretty inferior before component X was added. And that the process just keeps going on and on. So the industry itself, each time it says “NOW our product is similar to breast milk” is proving that it was lying last time it said that!

Every mother who starts artificial feeding is doing a little experiment on her baby. Neither she nor the doctor can know in advance how her baby will respond, especially during the early weeks of life. What is the best way to overcome her hesitation or fear? Number one, the doctor has to endorse the product. Health professionals are of course rarely willing to do this directly. But equally rarely are they aware that companies dupe them into doing so indirectly, “endorsement by association” as Dr. Jelliffe called it. The pen in the shirt, the notebook in the hand, the growth chart, all may bear the name of a company that conveys a clear message to the mother, whether or not the health professional intends it to.

### ***Companies lobby governments and the United Nations***

Another, less apparent component of a marketing strategy is direct lobbying to governments, mainly to keep down the cost of doing business. Governments are urged to reduce regulations, trade



barriers, customs and taxes. Since the officials involved know nothing about health, it often proves a simple matter to convince them that commercial baby foods are a sort of “welfare product” that should be treated differently from other commodities. The most extreme cases of such misguided policies are countries such as Sri Lanka which subsidizes infant formula across the board and the USA which provides it to poor mothers. Some countries in Latin America have long provided milk powder to mothers of young infants, but in recent years this is at least put off until the infant reaches six months of age.

Lobbying also takes place in international fora such as United Nations conferences and scientific meetings. It is naive to assume that companies passively await scientific findings and alter their marketing accordingly. Rather they do everything in their power to fund research and spread awareness of research that supports their positions, influencing the scientific community in directions that benefit them. Especially important for them is extending the age range during which health workers believe their products are useful—particularly the low end of the range. (If babies do not need solid foods until six months of age when they are physiologically more ready for it, maybe mothers will decide they don't need to buy commercial baby foods at all!) This may be why they fight so hard to maintain the outdated recommendation that exclusive breastfeeding should end at 4-6 months (probably well aware that many uninformed pediatricians assume that early supplementation has a positive effect and advise it from three months, “just to be sure”). This flies in the face of the only two randomized controlled studies that have been done and a WHO-published state of the art review last year, all of which point to “about six months” as the proper time to start adding foods. The WHO Department of Nutrition for Health and Development that has always been responsible for the Code (and thus subject to intense industry lobbying), still supports this recommendation as well.

### ***Is the Code relevant in Europe?***

The big companies have good contacts with governments in countries they define as “developed” and have lobbied relatively successfully to ensure weak, preferably voluntary, national codes and a weak EU code. A historical fluke is probably the main explanation for their getting away with this.

Until the 1990s, very little research in industrialized countries examined the relationship between infant feeding and health utilizing proper definitions for breastfeeding. Infants in one group received breast milk and in another did not, but even very young infants in the breast-fed groups received supplements other than breast milk, as is nearly universal all over the world. (Not until the 1980s was it discovered that breast-fed babies do not need additional water and not until 1990 was this incorporated into a widely publicized set of definitions for breastfeeding.)

But most researchers still do not know about or apply these. For example, not until August 7, 1999 was a paper by Coutoudis et al. on HIV transmission published utilizing proper definitions of breastfeeding and several have been published since then that did not use correct definitions. In contrast to other studies on babies whose mucous membranes may have been damaged by various unnecessary supplements, Coutoudis et al found no evidence that HIV was transmitted through the milk of HIV-infected mothers if they breast-fed exclusively the entire time from birth until three months of age. This has been followed up on and still holds true at 15 months of life.

We simply do not know the effect of all these supplements on the immature infant gut. But increasingly in recent years studies are finding associations between acute infections such as otitis media and urinary tract infections and exclusive breastfeeding, even in industrialized countries.



There are also a few pioneers such as Dr. Pisacane here in Italy that are even finding relationships between various chronic diseases and breastfeeding.

Anyone attempting to promote stronger codes (or even breastfeeding per se) in Europe or North America is likely to be met with scornful pronouncements that artificial feeding does not kill babies here like it does in developing countries. What ignorance and arrogance lies behind these words! In the UK alone, Lucas and coworkers estimated that 200 deaths a year of premature infants from only one rare disease, necrotizing enterocolitis, would be prevented with optimal breastfeeding.

It must be admitted that more research is needed before we are aware of the potential health costs of artificial feeding, even among educated populations in hygienic settings. But if the public and decision-makers were aware of even what we know already, there might be greater interest in protecting breastfeeding and in giving mothers the substantial support and reduced work burden they need to practice it exclusively through the first six months of life.

### ***Threats to the Code***

Equally behind the scenes, and more sinister, is the lobbying these companies and those who act on their behalf are quietly doing, through the World Trade Organization for example, to obliterate the code and return to the days when this kind of "interference in the flow of free trade" was non-existent.

Neither governments nor the international community of concerned scientists and health workers has been able to devote enough resources to the protection of breastfeeding to compete with the private industry. After all, no code or law can reduce how much resources they allocate to marketing, including promotion, public relations and advertising, only place certain limits on how those funds may be used.

Thus the challenges that lie ahead for the Code are:

- How to avoid being classified as an unfair trade restraint and, in the current climate of trade liberalization, done away with.
- How, when it is adopted at national level, its measures can be monitored and enforced on a routine basis rather than as a periodic donor-funded NGO activity.
- How, like the market it regulates, the Code (and national adaptations of it) can evolve over time.

How breastfeeding can be protected against the other marketing ploys described above, particularly corruption of the medical professions.