

21 October 2004

Mr David Byrne  
European Commissioner for Health and Consumer Protection  
c/o European Commission  
200 Rue de la loi  
Brussels B-1049  
Belgium

Dear Mr Byrne,

Re: Recast of Commission Directive on Infant formulae and follow-on formulae

Our organisation focuses on the implementation of the *International Code of Marketing of Breastmilk Substitutes* which aims to provide safe and adequate nutrition for infants by protecting breastfeeding. We also conduct surveys on marketing practices of all baby food companies and monitor the status of the International Code in all countries.

We have studied the proposals for amendments to the existing Commission Directive 91/321/EEC and wish to voice our concern over the ways in which the provisions of the International Code of Marketing of Breastmilk Substitutes and subsequent relevant World Health Assembly are being sidestepped and ignored.

It is indeed unfortunate that the European Commission is not taking the opportunity to extend the scope of the new Directive to all breastmilk substitutes in view especially of World Health Assembly Resolution 54.2 (2001) which recommends exclusive breastfeeding for 6 months. It is regrettable that current amendments are pussy-footing around the issue of "six months" by defining infant formulae under Article 2(c) as "*foodstuffs for nutritional use of infants for the first months of life ...up to the introduction of appropriate complementary feeding*" and "follow-up formulae" under Article 2(d) as "*foodstuffs for nutritional use of infants when appropriate complementary feeding is introduced*".

The sidestepping of "6 months" is even more obvious when one reads the amendment to Article 8(2)(b) on labeling for follow-up formulae which refers to "6 months" but is watered down immediately by allowing for exceptions for individual cases even though labels are meant for the population at large and not the individual.

Why does the European Union see its babies as different and exempted from the global recommendation of 6 months? It defies comprehension since children the world over are entitled to the same highest attainable standard of health even if the European health care system can assure survival of more infants than elsewhere. It still means unnecessary suffering of babies and concern for parents.

It must be remembered also that the European Union exports its breastmilk substitute products widely to Third World countries and by lowering the marketing and labeling standards of its products, the European Union - representing the so-called “developed” and thus “enlightened” countries - is directly responsible for exposing babies from the Third World to unacceptable health risks because their governments are ill equipped to set up protective measures to safeguard infant health.

By the same token, we must state our disappointment over the failure of the Commission to strengthen the Commission Directive where it is so obviously too weak. We therefore have the following questions to ask:

- 1) Why should the Directive be targeted only for formulae intended to satisfy the nutritional requirements of infants in good health? What exactly does that mean? We have documented the reasoning behind the so-called “special formulae” and found that these are developed to provide a loophole for industry.
- 2) Why isn't the Directive broader in scope, considering the recommendation on exclusive breastfeeding for 6 months? Why aren't products like feeding bottles and teats covered when these products are so obviously covered by the International Code of Marketing of Breastmilk Substitutes, a recommendation supported by all EU countries and infant food industries?
- 3) Why is advertising allowed in baby care and scientific publications when a cursory check in the market would reveal that such advertising invariably promotes products through idealising text and pictures, undermining the very foundation of the International Code?
- 4) Why are no attempts made to include other provisions of the International Code, hitherto absent into the recast, not to mention recommendations under subsequent World Health Assembly Resolutions?

Lastly, we would like to voice our unease over the proposed amendments on “nutritional and health claims” under Article 8 (7) and Annex IV. Recent monitoring by ICDC reveals that health and nutritional claims are intended to compare products favourably with breastmilk and are hence promotional and prohibited by the International Code. Additives to formulae should be scientifically proven as necessary and included in all formulae or not at all.

We trust our comments will be given due consideration and we look forward to some strong amendments to the recast.

Yours faithfully,

Annelies Allain  
Director