

## **Baby Milk Action comments on:**

### **PARTIAL REGULATORY IMPACT ASSESSMENT PROCESSED CEREAL-BASED FOODS AND BABY FOODS FOR INFANTS AND YOUNG CHILDREN (ENGLAND) REGULATIONS 2004 and DRAFT INFANT FORMULA AND FOLLOW-ON FORMULA (AMENDMENT) (ENGLAND) REGULATIONS 2004**

*Implementing Commission Directives 2003/13/EC and 2003/14/EC (amending Directive 91/321/EEC)  
September 2003*

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#### **Summary**

Baby Milk Action welcomes the proposals extending the controls on the level of pesticides residues in baby milks and foods, and recalls that the European Commission Directive (96/4/EC) amending the original 1991 Directive on infant formulae (91/321/EEC) specifically called for maximum levels of contaminants to be established “without delay.”<sup>1</sup>

The controls are a step forward in the protection of infant health and should contribute to an improvement in the quality of food that artificially fed infants receive. They could also have a beneficial effect on the environment and the levels of contamination that pregnant and nursing mothers might be exposed to.

It is of concern that the Directive deals only with pesticide residues, and we look forward to the setting of specific limits for baby foods for levels of other contaminants such as heavy metals, phthalates, phytoestrogens, fluoride, and new types of residues which may result from the use of Recombinant Bovine Growth Hormone (rbST) or genetic engineering.

Baby Milk Action has consistently expressed its concerns about the problems associated with the manufacture, distribution and marketing of artificial baby feeding products and the failure of the baby feeding industry to provide parents with full and frank information about the risks associated with artificial feeding.

Even if carried out with good quality products in good conditions, artificial feeding presents considerable risks to infant health and considerable costs to the health care systems and families. When products, and the water that is used to prepare them, contain pesticide residues, heavy metals or other contaminants, the risks to health are inevitably increased.

Despite this, and whether they deserve it or not, manufacturers enjoy the confidence of parents that their products are safe and pure. While acknowledging the need for better

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<sup>1</sup> Article 6 of the Commission Directive (91/321/EEC) states that: “*Infant formulae and follow-on formulae shall not contain any substance in such quantity as to endanger the health of infants and young children. Where necessary the maximum levels of any such substance shall be stipulated at a later date. Microbiological criteria shall also be established at a later date.*”

The 1996 Directive (96/4/EC) which amended the 1991 Directive called for Article 6 to be replaced by the following text: “*Article 6 Infant formulae and follow-on formulae shall not contain any substance in such quantity as to endanger the health of infants and young children. Necessary maximum levels shall be established without delay. Microbiological criteria shall also be established as necessary.*”

public education on appropriate complementary feeding, it is important that the passing of this legislation is not used by manufacturers as an opportunity to mislead parents into believing that commercial baby foods are ‘healthier’ for babies and more environmentally friendly than using family foods alongside breastfeeding.

### **Scientific data: General requirements on manufacturer and composition.**

The reference to “*generally accepted scientific data*” needs clarification. On several occasions Baby Milk Action has drawn attention to the need for stricter controls regarding the conflicts of interest that occur in scientific advisory bodies and for health policies and legislation to be based – wherever possible – on science which is independent of commerce.

The rules governing the British scientific advisory bodies do require members to make public declarations regarding conflicts of interest, but the regulations governing other advisory bodies are not always as strict. It is also not at all clear the extent to which members who are employed by/ have financial links to industries which have an interest in the topics under discussion, can chair committees and influence reports.

The regulations should state clearly that judgements regarding safety will be based, wherever possible on independent scientific data, and that members of scientific committees with financial links to the food, chemical and related industries cannot chair committees or be the main authors of reports.

### **Labelling**

Given the UK Government recommendation that complementary feeding should not start until 6 months of age, these proposals should not make reference to 4 months. If an age is mentioned it should be 6 months. The mentioning of 4 months in this context could be used by industry to undermine accepted health policies which are endorsed by the World Health Assembly and are now in place in over 70 countries.

### **Regulatory Impact Assessment**

Baby Milk Action understands the need to carry out this exercise, however we feel that the health impact of NOT complying with the regulations should also be assessed.

### **Exploiting the regulations to the detriment of infant health.**

The regulations apply to all products in this category, and only apply to pesticides. They should specify that manufacturers should not use the removal of pesticides as an opportunity to promote commercially manufactured infant foods, or in any way suggest, either on the label or in promotional material (in the case of baby foods), that the products are healthier for infants, perhaps even than breastfeeding. Such claims would add to the contamination of the environment and undermine infant and young child health.

The indirect beneficial effect of this Directive on the environment will only occur if encouragement is given to the consumption of locally grown, home-prepared, fresh foods and, of course, to breastfeeding, a naturally renewable resource that requires no packaging or transport and results in no wastage.

Parents should be confident that the commercial food that is placed on sale is as safe as possible but should not be misled into believing that such foods are ‘healthier’ for babies and more environmentally friendly than using family foods alongside breastfeeding.

The health and economic benefits of breastfeeding and home-prepared foods for families are such that the World Health Assembly - the highest health policy setting body in the world - has passed many Resolutions calling for the promotion of all breast-milk substitutes to be banned.

In addition to the controls outlined in the *International Code*, the Resolutions call on Governments “to ensure that complementary foods are not marketed in ways which undermine exclusive and sustained breastfeeding” (WHA.Res.49.15 1996) and to foster “appropriate complementary feeding practices from about six months, emphasising continued breastfeeding and frequent feeding with safe and adequate amounts of local foods.” (WHA Res. 47.5 1994)

WHA Resolution 54.2 passed in 2001, stressed the importance of indigenous foods, urging member States to: “improve complementary foods and feeding practices by ensuring sound and culture-specific nutrition counselling to mothers of young children, recommending the widest possible use of indigenous nutrient-rich foodstuffs;”

WHO, UNICEF and health and environmental bodies, all acknowledge that the considerable long-term and short term health and economic benefits of breastfeeding far outweigh the risks of exposure to contamination that it might confer.<sup>2</sup> With this in mind, it would be interesting to see if there is some way that the regulations could describe category of offence where the possibility of breastmilk contamination is used as strategy for boosting sales of artificial foods.

### **Enforcement:**

Baby Milk Action would welcome explanation of how the regulations will be enforced, and what steps will be taken to test the levels of contamination of products.

### **11 a Defence in relation to Exports:**

*“That the food in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these regulations and that the food complies with that legislation.”*

It would be preferable if the requirements of the legislation applied to all exports as a minimum – not just to exports to an EEA State. We can see no reason for double standards when infant health is at stake.

### **Recommendations:**

- The regulations should require manufacturers to alert parents to the presence of all known contaminants, both for products on sale within the UK and those intended for export.
- The regulations should apply as a minimum to all exports.

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<sup>2</sup> *Breastfeeding and Environmental Contamination*, UNICEF, Nutrition Section, May 1997  
Breastmilk a World Resource, Baby Milk Action Briefing  
WHO Studies on levels of PCBs in Human Milk, [www.who.int](http://www.who.int)  
*Update 33*, Baby Milk Action Newsletter, Page 8

The reference to 4 months in the labelling section should be removed.

- The regulations should state that the labels and information materials relating to the products covered should not carry health claims, idealising claims regarding purity or refer to the absence of particular contaminants. The safety of products should be assumed.
- The UK Government should urge the EU Commission to draw up proposals for maximum limits for other contaminants in baby foods as soon as possible.
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- The ‘generally accepted data’ upon which decisions regarding these regulations will be based, should be derived from a science base which is predominantly – and ideally exclusively – independently financed.
- The UK and European Union should bring its regulations on infant foods into line with the *WHO/UNICEF International Code of Marketing of Breast-milk Substitutes* and relevant World Health Assembly Resolutions, including banning health claims on all foods for infants and young children and the advertising and promotion of all breastmilk substitutes.

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