

NUMICO AND THE INTERNATIONAL CODE: WHERE DO THEY DIFFER?

The ways in which NUMICO misinterprets the International Code.
An analysis by the International Code Documentation Centre.

Introduction

The aim of the International Code is to contribute to the safe and adequate nutrition for infants by the protection of breastfeeding. If the International Code were to achieve this aim, commercial baby milks and foods would be sold only for those babies who really need them.

Companies therefore try to get around the provisions of the International Code by interpreting the International Code narrowly. This is usually done by confining its scope to only infant formula and by excluding parts of the world from its coverage. Also, hardly any regard is paid to subsequent World Health Assembly (WHA) resolutions which clarify the International Code and seek to keep pace with developments in marketing and scientific knowledge. These resolutions have the same legal status as the Code.

NUMICO's interpretation of the International Code is set out in NUMICO Guiding Principles for the Marketing of Infant Formula (Version 21 July 2006). The following is an analysis of the many ways in which NUMICO, the holding company of Nutricia, Cow & Gate, Milupa, Valio, Mellin, Sari Husada, Dumex and a number of smaller baby food producers misinterprets the International Code in order to justify continued promotion.

The present version of NUMICO's Guiding Principles is a rewording of an earlier version, issued in 2000, which was also analysed by ICDC. There is no improvement that is worth highlighting.

1. Scope

NUMICO's Guiding Principles (hereafter referred to as "GPs") only apply "*to all infant formula marketed by NUMICO as suitable for use from birth onwards by healthy infants*". (*Emphasis added*)

The wording of Article 2 of the International Code is wide. It covers all products which replace breastmilk totally or partially, feeding bottles and teats.

The term "breastmilk substitutes" is defined in Article 3 of the International Code as "any food being marketed and represented as a partial or total replacement for breastmilk, whether or not suitable for that purpose". This includes a) infant formula; special formulas; follow-up milks; infant teas and drinks whenever these are "represented as suitable for infants" and b) commercially processed baby foods; cereals and infant meals promoted as suitable for babies below 6 months¹. In

1 World Health Assembly resolution 54.2 (2001) recommends that infants should be exclusively breastfed for the first six months of life to achieve optimal growth, development and health. Thereafter, to meet their evolving nutritional requirements, infants should receive nutritionally adequate and safe complementary foods while

short, all products marketed for an age when breastmilk best fulfils the infant's diet.

There is no basis whatsoever for the GPs, to restrict application to "*infant formulas for use from birth onwards by healthy infants*". By confining the scope to infant formula for healthy babies, other infant food products are deliberately excluded. Also, the use of the term "healthy infants" is open to abuse. The term can be used to limit restrictions on promotion to foods for infants in good health. Others, such as premature or allergy-prone babies are misleadingly portrayed as needing breastmilk substitutes.

The GPs do not apply to "*products such as follow-on and weaning foods, which are not intended as a substitute for breast-milk for infants during the first months of life*". In an earlier version, the words underlined read "*6 months*". The change in wording is an obvious attempt to further dilute the coverage of the GPs. This is in contradiction of the provisions of Article 2 of the International Code which covers not only infant formula but food and beverages marketed or represented to be suitable as partial or total replacement of breastmilk. The very title of the Code is: Marketing of Breastmilk Substitutes, not: Marketing of Infant Formula.

2. Universality

The NUMICO GPs state that "*In countries where national legislation or codes exist, NUMICO is committed to follow them in full. In countries where such legislation or codes are absent, we will act in agreement with the present Guiding Principles, taking into account local social and cultural habits and norms to facilitate the implementation of the Guiding Principles.*"

Observing national legislation is an obvious must for all companies. However, the International Code was adopted at the World Health Assembly in 1981 by Member States as a "minimum measure" to promote breastfeeding and to stop inappropriate marketing of breastmilk substitutes. NUMICO through its subsidiaries was involved in the consultation process² of the drafting of the International Code. It is hence morally obliged to comply with the minimum standards prescribed by the International Code anywhere it has business activities and independent of national measures.

Article 11.3 of the International Code provides that companies should take steps to ensure that their conduct at every level conforms to the Code. WHA resolution 34.22 [1981] stresses that the adoption and adherence to the International Code is a minimum requirement. There is no qualification that companies should take into account local social and cultural habits and norms in either the International Code or subsequent resolutions. As a multinational company, NUMICO should apply only one standard across the board and that minimum standard is set by the International Code.

breastfeeding continues for up to two years age or beyond.

2 The International Code of Marketing of Breastmilk Substitutes as adopted by the World Health Assembly in 1981 was the result of a recommendation arrived at by consensus at the Joint WHO/Meeting on Infant and Young Child Feeding in Geneva in October 1979. Dr A.W.G. van Riemsdijk, the Managing Director of Nutricia was present and Mr I.S. Barter of Cow & Gate Limited was present as President of the International Council of Infant Food Industries. Both companies are now part of the NUMICO group. The statement and recommendations of the 1979 meeting were endorsed by all present and committed them to comply.

3. Promotion of breastmilk substitutes other than infant formula.

NUMICO further states that it

“...will ensure that the marketing for follow-on formula and weaning or complementary foods does not discourage continued breastfeeding during the first months of life.”

“... will not advertise infant formula to the general public. We will ensure that advertising on follow-on formula will not give the impression that it is a breast-milk substitute.”

Any form of promotion (direct or indirect) of products covered by the International Code is prohibited under Article 5. The prohibition covers all breastmilk substitutes, not just infant formula but also follow-on formula. According to the recommendation for optimal infant feeding in WHA resolution 54.2 [2001], infants should be exclusively breastfed for 6 months. That means that any other food or drink given to them before that age will replace breastmilk and is a breastmilk substitute.

Products such as infant teas and baby juices replace breastmilk. These, as well as cereals, vegetable mixes, and other complementary foods for use under 6 months should therefore never be promoted.

The following WHA Resolutions support a wide interpretation.

[WHA Resolution 39.28 \[1986\]](#) “Any food or drink given before complementary feeding is nutritionally required may interfere with the initiation or maintenance of breastfeeding and therefore should neither be promoted nor encouraged for use by infants during this period; the practice being introduced in some countries of providing infants with specially formulated milks (so-called follow-up milks) is not necessary.”

[WHA Resolution 49.15 \[1996\]](#) urges Member States to “ensure that complementary foods are not marketed for or used in ways that undermine exclusive and sustained breastfeeding”.

After the age of 6 months, products which replace the milk part of the baby’s diet, which would ideally be fulfilled by breastmilk are also breastmilk substitutes. Therefore, follow-on formulas which are marketed as suitable for babies from 4 months in some markets and from 6 months in others are breastmilk substitutes and any form of promotion of these products are in violation of the International Code.

4. Information and education

The NUMICO GPs state that it “...will only produce, publish or distribute products, literature, and relevant information on infant formula, if they support our goal of providing safe and effective nutrition for infants by advocating the appropriate, correct and safe use of such formula.”

In the section under Advertising, the GPs state that “any dissemination of information on infant formula directed to health workers will contain a statement to the effect that breastfeeding is the best source of nutrition for infants and that professional advice should be sought before using any

infant formula.”

Article 4 of the International Code provides that the dissemination of objective and consistent information is the responsibility of governments. Companies may only provide information and educational equipment and materials at the request and with the written approval of governments and then only if they comply with special requirements.

Many materials produced by NUMICO companies have been found to be promotional in nature. Since promotion to the general public and mothers is prohibited under Article 5.1, NUMICO cannot use Article 4 as a back door for access to the general public. Moreover, no mention is made in the GPs about the prohibition in Article 4.2 against the use of any pictures or text which may idealise the use of breastmilk substitutes in materials containing information on infant formula.

NUMICO claims it produces, publishes and distributes the materials mentioned in the GPs as part of its goal of providing safe and effective nutrition for infants by advocating the appropriate, correct and safe use of infant formula. Such information should appear on product labels and Article 9.2 of the International Code sets out in full detail the information which is necessary.

Product information and instructions for use should be clearly printed on labels or on leaflets inserted into the packaging, both of which are governed by specific rules under the International Code.

Materials for health workers are required under Article 7.2 of the International Code to be restricted to scientific and factual matters and should not imply or create a belief that bottle feeding is equivalent or superior to breastfeeding.

5. Labelling, sampling and free supplies

The GPs merely require that *“infant formula products be labelled in the local language of the country in which the infant formula is marketed”* without any reference to the requirements of the International Code.

The GPs further state that *“in exceptional cases (e.g. humanitarian aid), and with the permission of appropriate officials, NUMICO infant formula may be labelled in a non-local language provided that full local language instructions are given with each package of infant formula.*

The GPs take for granted that humanitarian aid in the form of donation of infant formula can be freely given. NUMICO must realise that even in emergencies, donations of breastmilk substitutes are not needed as they may put infant lives at risk. What is sorely missing in the GPs is any reference to World Health Assembly resolution 47.5 [1994] which sets out the conditions³ without which donations of breastmilk substitutes should not be made in emergency relief operations. NUMICO would also do well to refer to internationally agreed guidelines⁴ on infant feeding in

3 The three conditions are a) infants who have to be fed on breastmilk substitutes; b) continued supply for as long as the infants concerned need it; and c) the supply is not used as a sales inducement.

4 The Operational Guidance for Emergency Relief Staff and Programme Managers Version 2.1 (2007) incorporates relevant parts of the International Code and World Health Assembly resolutions into its guidance regarding procurement, distribution, management and use of breastmilk substitutes. The Guidance, developed by the IFE Core Group, an international collaboration of UN agencies and NGOs, is available on line at <http://www.ennonline.net>

emergencies which advise that labels of procured infant formula should be in an appropriate language and adhere to the specific labelling requirements of the International Code.

The GPs highlight that NUMICO does not distribute free samples of infant formulas to mothers. It is silent on the distribution of samples and free supplies to health workers and health care facilities. This means the practice is condoned despite the call in WHA resolution 49.15 [1996] for donations of free or subsidised supplies of breastmilk substitutes to cease in all parts of the health care system.

6. Legislation and Monitoring

NUMICO states that the GPs were developed based upon the International Code.

To keep up with latest scientific knowledge, research and marketing trends, NUMICO must move with the times and implement subsequent WHA Resolutions through its GPs. To confine itself to the International Code alone is akin to keeping NUMICO's morals, ethics and social accountability in a 1981 time capsule while NUMICO's marketing practices are allowed to surge ahead. The support and commitment NUMICO professes for the Code must be full - this means: "subsequent WHA resolutions as well as the Code", "all breastmilk substitutes" and in "all countries" and at all levels.

7. What is missing?

Despite professing that the NUMICO Guiding Principles are developed based on the International Code, there is selectivity in application obviously because it would be detrimental for business to implement the International Code in its entirety. The GPs do **not** cover the following:

- a) other forms of promotion apart from advertising (Article 5.1)
- b) promotional devices to consumers at the retail level (Article 5.3)
- b) gifts to mothers which may promote the use of breastmilk substitutes ((Article 5.4)
- c) direct and indirect contact with mothers (Article 5.5)
- d) promotion in health-care facilities (Articles 6.2, 6.3, 6.4 & 6.5)
- e) promotion to health workers (Articles 7.2, 7.3 & 7.4)
- f) prohibition of incentives to marketing personnel (Article 8)

Conclusion

NUMICO's GPs cleverly dwell on the periphery of the International Code to pacify the company's share holders and the general public. To anyone familiar with the Code's provisions, the GPs fall far short of the International Code and are silent concerning relevant subsequent World Health Assembly Resolutions. Worse, monitoring has revealed that the NUMICO companies fail even to comply with its own shallow and narrow GPs (see IBFAN Global Monitoring Reports at www.ibfan.org).

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