

*Every day, 4000 babies die because they are not breastfed. Implementing the International Code of Marketing of Breastmilk Substitutes will help to save infant lives.*

22 February 2007

The Secretary of the Committee on the Inquiry into Breastfeeding  
Standing Committee on Health and Ageing  
House of Representatives  
PO Box 6021  
Parliament House  
Canberra ACT 2600  
AUSTRALIA

Dear Committee Secretary,

Re: **Inquiry into Breastfeeding**

Our organisation (ICDC) 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.

ICDC would like to make the following submission:

- 1) Over the past year, ICDC has been receiving complaints about the marketing practices of baby food companies in Australia and it has compiled a summary report on trends and practices which undermine the practice of breastfeeding. The 4-page report entitled "**Look What They're Doing in Australia**" (hereafter: **ICDC Report**) is endorsed by the Australian Breastfeeding Association and is submitted herewith to the Committee as "**Annex 1**". Since it is difficult to photocopy, we have enclosed 10 originals.
- 2) The **ICDC Report** is submitted to facilitate the Committee's inquiry into item **b** of the Terms of Reference: *evaluate the impact of marketing of breastmilk substitutes on breastfeeding rates and, in particular, in disadvantaged, indigenous and remote communities.*
- 3) ICDC believes that parents and care-givers must be enabled to make informed decisions about infant and young child feeding free of commercial influence. The **ICDC Report** is aimed at acquainting the Committee to the type of promotional activities which health professionals, parents and care-givers have to contend with when giving advice or making infant feeding decisions which impact on infants and young children - the most vulnerable members of society.
- 4) There are ample social studies on the negative impact of commercial promotion in the area of infant and young child feeding. Extracts of several such studies are attached herewith as "**Annex 2**".

ICDC would, in this regard, like to re-iterate a statement from WHO in relation to the burden of proof in establishing the impact of promotion -

"Trying to prove the precise effect of advertising, however, misses the point that there are inherent dangers in encouraging uninformed decision-making and the bypassing of the mother's physician or other health worker. Those who suggest that direct advertising has no negative effect on breastfeeding should be asked to demonstrate that such advertising fails to influence a mother's decision about how to feed her infant."

- Document WHA45/1992/REC/1, Annex 9, paragraphs 120–123

5) Going on this premise, the **ICDC Report** focuses instead on showing how many marketing practices in Australia are in violation of the *International Code of Marketing of Breastmilk Substitutes and subsequent World Health Assembly Resolutions*. A full compilation of the International Code of Marketing of Breastmilk Substitutes and subsequent World Health Assembly Resolutions is attached herewith as "**Annex 3**". Page 1 of the **ICDC Report** compares these international recommendations with the Marketing in Australia of Infant Formulas: Manufacturers and Importers (MAIF) Agreement and shows where MAIF falls below the minimum international standards, all of which were supported by the Australian Government at the respective World Health Assemblies.

6) A brief overview of MAIF and its inadequacies are set out below:

a) Limited coverage - MAIF is a voluntary agreement restricted to signatories only. Other players in the game are not bound by it - See top of Page 4 of the ICDC Report and the sections entitled **Bayer breaks all the rules with Novalac** and **Own Brand by Retailers**.

b) Limited scope - MAIF applies only to infant formula, not to other products covered by the International Code. Complementary foods marketed for babies below 6 months are being promoted without restraint despite the international recommendation on exclusive breastfeeding for 6 months as enunciated in World Health Assembly Resolution 54.21 (2001). Companies promoting feeding bottles and teats also fall out of the purview of MAIF even though these products are specifically covered by the scope of the International Code. See Page 3 of the **ICDC Report** on **Complementary Foods** and page 4 on **Feeding bottles and teats**.

c) Full blown promotion - MAIF provisions allow for brand recognition and promotion under the guise of information and other circumventions. The following prevailing practices which are highlighted in the **ICDC Report** are causes for concern which need to be addressed.

- The prolific presence of company "information" materials which cross the thin line into promotion.
- Promoting brand recognition through other products bearing the same or similar brand names or logo to formula products.

- Promotion on the internet.
- The easy availability of samples.
- The use of idealising text and messages like cute mascots, health and nutritional claims.
- sponsorship of health professionals.

d) Absence of independent panel and legal sanctions - The Advisory Panel which administers MAIF and decides on complaints is partly represented and funded by industry. This gives rise to conflicts of interest – the industry representative has to agree that his member is in breach. There is also no publication or education of the public or health professionals about MAIF. This task falls on NGOs and concerned individuals so participation in the process is limited. The lack of legal sanctions means that MAIF has no bite and can be treated with impunity.

7. ICDC's recommendations are for Australia to have –

- a) an enforceable law of general application which
  - i) extends to all manufacturers and distributors;
  - ii) covers all breastmilk substitutes, feeding bottles and teats, not just infant formula; and
  - iii) strong prohibitions against all types of promotion.
  
- b) an independent, transparent monitoring system which is free of commercial influence in line with the recommendation under World Health Assembly Resolution 49.15 (1996).

These recommendations are in line with the Global Strategy for Infant and Young Child Feeding which is endorsed by World Health Assembly Resolution 55.25(2002). Paragraph 34 thereof identifies the following as an area of high-priority action:

“implementing and monitoring existing measures to give effect to the International Code of Marketing of Breastmilk Substitutes and to subsequent World Health Assembly Resolutions, and where appropriate, strengthening them or adopting new measures.”

It is also pertinent to note that Paragraph 44 of the Strategy limits the role of industry to ensuring quality and Code compliance.

“Manufacturers and distributors of industrially processed foods intended for infants and young children also have a constructive role to play in achieving the aim of this strategy. They should ensure that processed food products for infants and children, when sold, meet applicable Codex Alimentarius standards and the Codex Code of Hygienic Practice for Foods for Infants and Children. In addition, all manufacturers and distributors of products within the scope of the International Code of Marketing of Breastmilk Substitutes, including feeding bottles and teats, are responsible for monitoring their marketing practices principles and aim of the Code. They should ensure that their conduct at every level conforms to the Code, subsequent relevant Health Assembly resolutions and national measures that have been adopted to give effect to both.

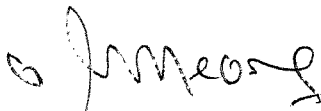
8) ICDC, in consultation with its partners within the International Baby Food Action Network (IBFAN), has published a chart – **State of the Code By Country** - which summarises how countries around the world have implemented the International Code on a scale of “1 (Law)” to “9 (No Action)”. 10 original copies of this chart is attached herewith as “**Annex 4**”. Hitherto, Australia has been categorised under **Category 3 – Voluntary Measure**. The partners within IBFAN and breastfeeding advocates within Australia have since called for Australia to be downgraded as MAIF is too narrow in its coverage and application. In addition, no subsequent World Health Assembly resolution has since MAIF’s inception been implemented nationally even though Australia supported every one of the 12 resolutions adopted at the international level. Having re-assessed the criteria for each category, it was decided that Australia will in the next review of the publication be placed in **Category 5 - some provisions voluntary**.

9) In addition to the above, ICDC submits as **Annex 5**, additional documents showing the extent of the health benefits of breastfeeding to support the Committee’s inquiry into item a of the terms of reference.

10) The electronic version of this submission is provided in the compact disk attached. All annexes hereto are in the public domain.

I hope this submission will receive the due consideration by the Committee.

Yours faithfully



Yeong Joo Kean  
Legal Advisor  
IBFAN-ICDC Penang

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*The International Baby Food Action Network (IBFAN) works for better child health and nutrition through the promotion of breastfeeding and the elimination of irresponsible marketing of infant foods, bottles and teats.*

*The International Code Documentation Centre (ICDC) is established by IBFAN to focus on the implementation of the International Code and monitors Code compliance worldwide.*

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