Marketing of Breastmilk Substitutes in the USA: What is the Role of State Breastfeeding Coalitions?

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What is the Code?

- The Code is a set of recommendations to regulate the marketing of breast-milk substitutes, feeding bottles, and artificial nipples
- The Code was formulated in response to the realization that poor infant feeding practices were negatively affecting the growth, health and development of children, and were a major cause of mortality in infants and young children.
What is the Code?

• The Code aims to contribute "to the provision of safe and adequate nutrition for infants, by the protection and promotion of breastfeeding, and by ensuring the proper use of breastmilk substitutes, when these are necessary, on the basis of adequate information and through appropriate marketing and distribution" (Article 1).

• The Code advocates that babies be breastfed.

• If babies are not breastfed, the Code says that they be fed safely on the best available nutritional alternative.

What is the Code?

• Breastmilk substitutes should be available when needed, but not be promoted.

• The Code was adopted through a WHA resolution and is an expression of the collective will of governments to ensure the protection and promotion of optimal feeding for infants and young children.
What is the Code?

- A recommendation to the World Health Assembly regarding the marketing practices for breast milk substitutes, bottles and artificial nipples
- A minimum standard
- A compromise between industry and health protection
- Covers developing and developed countries
- Does not ban the sale or use of breast milk substitutes, bottles, or nipples

A tool to curb the unethical marketing practices, false and misleading advertising, and complicity by health workers, health care systems, and governments that combine to influence a mother to replace her breast milk with a commercial substitute, either completely or partially.
Henri Nestlé develops the first breast milk substitute. In his "Memorial on the Nutrition of Infants" printed in 1869, Henri Nestlé wrote: "During the first months, the mother's milk will always be the most natural nutriment, and every mother, able to do so, should herself suckle her children."

First Nestlé boycott led by U.S.-based INFACT (Infant Formula Action Coalition); end to infant-formula promotion demanded.

U.S. Senate hearings (chaired by Edward M. Kennedy) further damage Nestlé's reputation and suggest the need for international consensus. Senator Kennedy asks the World Health Organization to "convene an international conference on infant health and nutrition."
The Code Has 11 Articles and 14 Resolutions

1. **Aim** - The Code aims to protect and promote breastfeeding by ensuring appropriate marketing and distribution of breastmilk substitutes.

2. **Scope** - The Code applies to breastmilk substitutes, when marketed or otherwise represented as a partial or total replacement for breastmilk. These breastmilk substitutes can include food and beverages such as:
   - infant formula
   - other milk products
   - cereals for infants
   - vegetable mixes
   - baby teas and juices
   - follow-up milks.

   The Code also includes feeding bottles and artificial nipples

3. **Advertising** - No advertising of above products to the public.

4. **Samples** - No free samples to mothers, their families or health workers.

5. **Health care facilities** - No promotion of products, i.e. no product displays, posters or distribution of promotional materials. No use of mothercraft nurses or similar company-paid personnel.

6. **Health workers** - No gifts or samples to health workers. Product information must be factual and scientific.

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The Code

7. Supplies - No free or low-cost supplies of breastmilk substitutes to any part of the health care system.

8. Information - Information and educational materials must explain the benefits of breastfeeding, the health hazards associated with bottle feeding, and the costs of using infant formula.

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9. Labels - Product labels must clearly state the superiority of breastfeeding, the need for the advice of a health worker and a warning about health hazards. No pictures of infants, or other pictures or text idealizing the use of infant formula.

10. Unsuitable products, such as sweetened condensed milk, should not be promoted for babies. All products should be of a high quality.
What Undermines the Code?

- Lack of awareness
- inaction
- fear
- policies, contracts, marketing tactics
- excuses to justify objectionable behaviors

- it violates anti-trust laws"
- it’s not good for commerce”
- it’s too fanatical”
- “the mothers want the freebies”
- it’s only for developing countries”
- “but the materials are free”

What Are Code Violations?  
The Letter and the Spirit

- free samples and supplies
- free formula to hospitals, pediatric offices, mailed to mothers through formula clubs, starter packs, discharge gifts
- formula contracts that bind hospitals to give out formula discharge packs
Posters, Calendars, Displays

• Code articles 6.2, 6.3, 4.3
  - posters, calendars, clocks, stickers, weight charts, teaching flip charts, measuring tapes

Gifts to Health Workers

• Code Articles 7.3, 6.3, 6.2
  - using gifts as inducements to promote products
    • one year free formula to nurses and physicians, trinkets like pens, mugs, note pads, growth charts
    • bigger trinkets like Club Med membership, ski trips, tickets to sporting events, food, cash to hospitals, continuing education programs
Product Information for Health Professionals

• Code Article 7.2
  – information or advertising?
  – scientific & factual or false & misleading?
  – Pictures and text that idealize use of formula
  – ads in health workers journals
  – ads in professional association’s publications
  – implying equivalency

Promotion to the Public

• Code Article 5.1
  – tv, newspapers, magazines, radio
  – the internet
  – complementary foods
    • Resolutions 39.28, 47.5, 49.15
    • age at introduction of complementary foods
Point of Sale Promotion

- Code Article 5.3
  - retail promotion of formula
  - shelf talkers
  - coupons
  - displays

Samples and Gifts to Mothers

- Code Articles 5.2, 5.4
  - discharge packs, starter packs, literature, videos, coupons, clubs, contests, logo laden baby products such as bibs, diaper bags, toys
Sponsorship

• Resolution 49.15
  – acceptance of inappropriate funding may influence the objectivity of training in infant and child health
  – assure that financial support for professionals does not create conflicts of interest
  – financial assistance from the infant feeding industry may interfere with professional’s unequivocal support of breastfeeding

Feeding Bottles and Teats

• Code Articles 2,4,5,6,7,9 promotion to the general public
• idealizes bottle-feeding
• markets the concept of equivalency
“... truly works like Mom’s breast!”

“... results more like breastfeeding than any other bottle!”

“As close to breastfeeding as your baby can get.”
What Can Your Members Do?

- Learn more about the Code
- Avoid using formula company products
- Refuse money, gifts, food
- Use and promote publications that adhere to the Code
- Join organizations that adhere to the principles of the Code
- Help other organizations learn more about the Code

Don’t Be Used

- Avoid being used for “image transfer”
  - “They’ll just print it anyway”
  - “At least the information will get out there”
  - “But they give such good in-services”
  - “Why can’t we just sit and have a dialogue”
  - “Our out-patient breastfeeding support program depends on that money”
  - “But at least it will be good information”
Eliminating Formula Dependency

- Log the violations
- Use the system
- Marketing to patients
- Job description
- Mission statement
- Risk Management
- Corporate compliance

- Hospital licensure regulations
- Ethics committee
- Legal counsel
- Vendor policy
- Formula company contract
- Bulk purchasing

Federal Trade Commission

- Regulates food advertising under the Federal Trade Commission Act
  - Advertising must be truthful and non-deceptive
  - Advertisers must have evidence to back up their claims
  - Advertisements cannot be unfair
What Makes an Advertisement Deceptive?

• If it contains a statement or omits information that:
  – Is likely to mislead consumers acting reasonably under the circumstances; and
  – Is “material”—that is, important to a consumer’s decision to buy or use the product

What Makes an Advertisement Unfair?

• It causes or is likely to cause substantial consumer injury;
• Which a consumer could not reasonably avoid;
• And it is not outweighed by the benefit to consumers
FTC Bureau of Consumer Protection

- Complaints may help spot a pattern of violations and misinformation

Federal Trade Commission
Consumer Response Center
600 Pennsylvania Avenue, NW
Washington, DC 20580
877.382.4357
www.ftc.gov

Food and Drug Administration

- Regulates food labeling for such things as health claims and nutrient claims
- Adverse effects of formula can be reported through MedWatch program

MedWatch
5600 Fishers Lane
Rockville, MD 20852
www.fda.gov
What Can Coalitions Do?

• Petition the FTC to monitor, enforce, and penalize companies who engage in false and misleading advertising
  – NABA and Cornucopia Institute filed a petition with FTC to end misleading formula advertisements

• Petition the FDA to require a label notice for all infant food products containing the DHA and ARA oils warning of the possible side effect

What Can Coalitions Do?

• Ask coalition members to report all instances of false and misleading advertising to the FTC
• The more reports the FTC receives the more likely it will take action
What Can Coalitions Do?

- Develop a close working relationship with DPH
- Consider changing hospital regulations (perinatal regulations) to eliminate hospital distribution of commercial discharge bags
- Create hospital collaboratives to share challenges and solutions

Ban the Bags

- Visit the website at www.banthebags.org
- Use the toolkit and resources to approach the hospitals in your state
- Use the concept of the hospitals volunteering to market products to patients rather than the effect on breastfeeding
- Compare to pharmaceutical influence
What Can Coalitions Do?

• When bags are eliminated from hospitals, local physicians offices often give out the “gifts”
• Ask all pediatricians, obstetricians, and clinics to avoid distributing formula company gifts

Anticipating Resistance

• Anti-business
• Anti-choice
• Government regs are intrusive & unnecessary
• Makes women feel guilty
• Deprives poor women of gifts/elitist
• Formula is safe and healthy/millions raised on it with no problems
Anticipating Resistance

- We need to give out these bags
- Bag removal interferes with doctor/patient relationship
- The Code is outdated
- The Code is only for developing countries
- I am not influenced by advertising