

Dear Ms Sprackett,

Thank you for sharing with us information on the European Parliament deliberations regarding the Delegated Acts on Baby Foods and Formulas. There are a number of issues raised in the documents and the discussion on it that directly relate to WHO guidance that we would like to bring to your attention:

1. Coverage of Follow-on Formula. The “Delegated Acts on Baby Foods and Formulas” generally consider infant formula and follow-on formula jointly. However, in Article 10, follow-on formulas are exempted from all of the restrictions with no good rationale. In 2013, WHO issued a document (http://www.who.int/nutrition/topics/WHO_brief_fufandcode_post_17July.pdf) clarifying that follow-on formulas are used as breast milk substitutes and de facto replace breast milk. Research has demonstrated that follow-up formulas are perceived by mothers to be a breast-milk substitute. Therefore, they should be covered by the International Code of Marketing of Breast Milk Substitutes.

This point was reiterated in WHO’s “Clarification and Guidance on Inappropriate Promotion of Foods for Infants and Young Children” that was posted on the WHO website in July 2015 (<http://www.who.int/nutrition/events/draft-inappropriate-promotion-infant-foods-en.pdf>). WHO explicitly said that “Implementation of the International Code of Marketing of Breast-milk Substitutes should clearly cover all products that function as breastmilk substitutes. This should include any milk products (liquid or powdered) marketed for young children up to two years (including follow-up formula and growing-up milks).”

2. Nutrition and health claims. The “Delegated Acts” similarly exempts follow-on formula from Article 8 in saying that “Nutrition and health claims shall not be made on infant formula.” This is in contrast to Codex Alimentarius guidelines on nutrition and health claims (CAC/GL 23-1997) (http://www.codexalimentarius.org/download/standards/351/CXG_023e.pdf) which states that “Nutrition and health claims shall not be permitted for foods for infants and young children except where specifically provided for in relevant Codex standards or national legislation.” There is no such exception made by Codex for follow-on formulas. In 2010, the World Health Assembly likewise urged Member States “to end inappropriate promotion of food for infants and young children and to ensure that nutrition and health claims shall not be permitted for foods for infants and young children, except where specifically provided for, in relevant Codex Alimentarius standards or national legislation” (WHA 63.23 1(4)). By explicitly mentioning young children, it is clear that the Assembly intended for follow-on formula to be included in the ban on nutrition and health claims.
3. Allowances for advertising. The “Delegated Acts” explicitly allows for advertising of infant formula in publications specialising in baby care and scientific publications. This exemption appears to be quite broad and it is not clear why it is needed. The International Code of Marketing of Breast Milk Substitutes states that “there should be no advertising or other form of promotion to the general public of products within the scope of the Code.” Many publications “specializing in baby care” are directed to the general public, indeed toward pregnant women and new mothers, so it is problematic that these publications would be allowed to show advertisements for infant formula. Furthermore, whereas the Code does allow for information on infant formula to be provided to health professionals (e.g. through scientific publications), the Code is very explicit in the way this information must be conveyed (including all information in Article 4.2 of the Code) and this information would

rarely be considered to be an “advertisement.” Of course, as I noted in #1 above, WHO considers that follow-on formulas fall within the scope of the Code, so the prohibitions on advertising should likewise be extended to follow-on formulas.

I hope that these points are helpful to you in your work to improve the status of regulations in the European Union. Please let us know if you need clarification on any of these points.

With best wishes

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<http://www.who.int/nutrition/en/index.html>

From: TAYLOR Keith [<mailto:keith.taylor@europarl.europa.eu>]

Sent: 07 January 2016 13:09

To: BRANCA, Francesco

Cc: PERROUD Sophie

Subject: Request for WHO briefing on objections to delegated acts on baby food/infant formula/follow-on formula and food for special medical purposes

Dear Dr Branca,

I am writing to you on behalf of Keith Taylor MEP to request the input/viewsw of the WHO on three objections that Mr Taylor has tabled to EU commission delegated acts on baby food, infant formula, follow-on formula and food for special medical purposes (please see attached for details).

These objections will be voted on next Thursday by the Parliament's Committee on Environment, Food Safety and Public Health.

Keith would be very grateful therefore if you can send a briefing from the WHO as soon as possible.

If you have any questions, please don't hesitate to let me know.

Many thanks and best wishes

Joanna

Joanna Sprackett

Parliamentary Assistant and Researcher

Please note that I work Monday-Thursday

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