



The  
**Baby Friendly  
Initiative**

---

For all babies

# A guide for health workers to working within the International Code of Marketing of Breastmilk Substitutes



UNITED KINGDOM

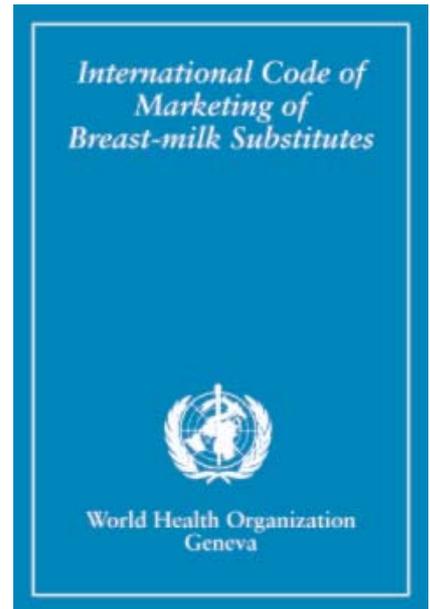
## Why is this guide needed?

*"The simplest definition of advertising, and one that will probably meet the test of critical examination, is that advertising is selling in print."*

- Daniel Starch

*"Asked about the power of advertising in research surveys, most agree that it works, but not on them."* - Eric Clark

Despite what we would prefer to believe of ourselves, advertising influences our behaviour. The very existence of bodies such as the Advertising Standards Authority reflects that advertising has a power that must be regulated in order to prevent its' abuse. The body of research into the psychology and extent of advertising influence have repeatedly shown that people are affected, sometimes directly, sometimes in more subtle, indirect ways, by adverts. And, more prosaically, companies would simply not spend so much money (over £15 million per year in the UK alone) on advertising if it did not work.



This is as true of advertising for formula milk as it is for any other product. The formula milk industry spends millions of pounds each year on advertising and marketing for its products, often skirting and occasionally crossing the boundaries of what is within the laws and guidelines. Recognising both what forms this marketing can take and where it may breach is crucial for health professionals looking to ensure parents have access to unbiased information.

This guide will provide you with an overview of the relevant UK legislation, the importance of the World Health Organization's International Code of Marketing of Breast-milk Substitutes (which is part of the Baby Friendly Initiative's standards), the different forms of promotion and how to watch out for them, and how to take action against misleading adverts.

We hope this guide will help health professionals to recognise the tactics that advertising and marketing can employ, and what steps they can take to minimise the impact on parents receiving impartial, evidence-based advice.

## Glossary

- Code – International Code of Marketing of Breast-milk Substitutes
- The companies – Any company producing goods covered by the International Code of Marketing of Breast-milk Substitutes
- Health worker – Any public service employee (e.g. midwife, health visitor, doctor, nurse, nursery nurse, family care worker etc.) who has contact with mothers, babies and their families
- Public Services – Hospitals, health centres, community clinics, GP surgeries, children’s centres

## Formula milk companies and other organisations

*This list is accurate as of March 2013.*

The main brands of infant formula in the UK, and their parent companies, are:

Brand	Parent company
Aptamil	Nutricia / Danone
Cow & Gate	Nutricia / Danone
SMA	Pfizer Nutrition (in process of being taken over by Nestle)
Hipp Organic	Hipp
Enfamil	Mead Johnson
Babynat	Vitagermine
Alpro	Alpro
Holle	Ulula

Other groups or organisations that are associated with the formula industry are:

Infant and Toddler Forum

Little People’s Plates

Feeding for Life Foundation

International Formula Council

British Specialist Nutrition Association

In Practice

Professional Know-How

It is important to be familiar with these names so that you are clear when you receive information, materials or invitations how they are connected with the marketing of infant formula.

## Background

The UNICEF UK Baby Friendly Initiative requires that all public services seeking Baby Friendly accreditation adhere to the International Code of Marketing of Breastmilk Substitutes. This means working to ensure that there is no advertising of formula milk, bottles, teats or solid food for babies under six months old to mothers and their families. This requirement is intended to restrict the influence of commercial interests related to infant feeding and so protect breastfeeding as the healthiest option for mothers and their babies. It does not in any way prohibit the provision of factual information about bottle feeding or introducing solid food, or require that mothers who bottle feed be denied information or care. It is rather intended to ensure that all parents, whichever way they feed their baby, have access to accurate and effective information free from the influence of marketing campaigns designed to protect profits rather than babies.

## Rationale

The companies often present themselves as philanthropic partners in the fight to protect and improve infant health and health workers may feel reassured by this.

In reality, the companies, like all other commercial companies, exist to increase shareholder value by maintaining and increasing profit. For companies manufacturing formula milks or other food for babies this means seeking to sell as much of their product as possible. To do this, they need to persuade parents to formula feed rather than breastfeed and/or to choose their formula milk rather than a competitor's, and/or to use their brand of baby food as early and as much as possible.

*The global infant formula market is worth approximately \$25 billion*

*(Euromonitor, Safety First: Global baby food opportunities and challenges to 2015 (2011))*

While claims may be made regarding support for breastfeeding or a desire for parents to be able to make unbiased decisions regarding which formula to use, this is in contradiction of their primary purpose. Health workers are widely trusted by the public and have constant access to new parents, making them the ideal conduit for relaying the company's messages to parents. They are therefore frequent targets for marketing tactics.

Health workers have been aware and vigilant of the impact of traditional formula milk advertising for many years. However, health workers' relationships with the companies are often much more subtle than this and can involve research, education and supplies or materials often related to topics which seem to have nothing to do with feeding babies. This document is therefore designed to cover the main areas of contact between health workers and the companies and provide guidance on what to consider in each situation.

*“Any food being marketed or otherwise presented as a partial or total replacement for breast milk, whether or not suitable for that purpose.”*

Any facility seeking Baby Friendly accreditation must adhere to the requirements of the International Code.

The WHO/UNICEF International Code of Marketing of Breastmilk Substitutes (the Code) was adopted by a Resolution of the World Health Assembly in 1981.

You can read the full Code here: <http://who.int/nutrition/publications/infantfeeding/9241541601/en/>

The Code prohibits all promotion of bottle feeding and sets out requirements for labelling and information on infant feeding. Any activity which undermines breastfeeding also violates the aim and spirit of the Code. The Code and its subsequent World Health Assembly Resolutions are intended as a minimum requirement in all countries.

### **What is covered?**

All breastmilk substitutes. This means products which can be marketed in a way which suggests they should replace breastfeeding, even if the product is not suitable for that purpose. They may include:

- infant formula;
- follow-on formula;
- baby foods;
- bottles/teats and related equipment.

### **Key points**

The companies may not:

- promote their products in hospitals, shops or to the general public;
- give free samples to mothers or free or subsidised supplies to hospitals or maternity wards;
- give gifts to health workers or mothers;
- promote their products to health workers: any information provided by companies must contain only scientific and factual matters;
- promote foods or drinks for babies;
- give misleading information;
- have direct contact with mothers.

## The UK law

The UK regulates the marketing of breastmilk substitutes through the Infant Formula and Follow on Formula Regulations 2007 and accompanying guidance notes which are designed to help with interpretation of the law.

The regulations can be found here: <http://www.legislation.gov.uk/uksi/2007/3521/contents/made>

The guidance notes can be found here:

<http://tna.europarchive.org/20110116113217/>

<http://www.food.gov.uk/multimedia/pdfs/guidancenotes2008amendmar09.pdf>

The regulations implement European Commission Directive 2006/141/EC which is intended to 'give effect to the principles and aims of the WHO Code'.

The directive can be found here:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006L0141:EN:NOT>

The UK regulations are intended to 'regulate labeling and restrict advertising and presentation of infant and follow-on formula so as not to discourage breastfeeding.' However, they are not as robust as the Code and so the companies do not have too much difficulty finding ways around the law. One of the biggest weaknesses is that, while the Code considers follow-on formula (i.e. milk intended for babies over six months) as a breastmilk substitute, the UK law does not. This allows the companies to advertise their brand name and logos on TV, in magazines etc.

### Infant Formula and Follow on Formula Regulations 2007, Regulation 21

*1) No person shall advertise infant formula —*

*(a) except —*

*(i) in a scientific publication, or*

*(ii) for the purposes of trade prior to the retail stage, in a publication of which the intended readership is other than the general public; and*

*(b) unless the advertisement complies with the provisions of regulation 17(1)(e), (2), (3) and (4), regulation 19 and paragraph (2) and (3).*

*(2) Advertisements for infant formula shall only contain information of a scientific and factual nature.*

*(3) Information in advertisements for infant formula shall not imply or create a belief that bottle-feeding is equivalent or superior to breast feeding.*

## Professional codes of practice

The following clauses in professional codes of practice should be considered by health professionals in the context of formula milk marketing.

### **The NMC Code**

#### *Maintain clear professional boundaries*

18. You must refuse any gifts, favours or hospitality that might be interpreted as an attempt to gain preferential treatment.

#### *Be impartial*

58. You must ensure that your professional judgment is not influenced by any commercial considerations.

<http://www.nmc-uk.org/Publications/Standards/The-code/Introduction/>

### **GMC: Conflicts of Interest - Guidance for doctors**

1.74. You must act in your patients' best interests when making referrals and when providing or arranging treatment or care. You must not ask for or accept any inducement, gift or hospitality which may affect or be seen to affect the way you prescribe for, treat, or refer patients. You must not offer such inducements to colleagues.

#### *Sponsorship of conferences and meetings*

17. It is normal practice for medical journals to require authors of papers to declare any competing interests. This practice is often not followed at medical meetings and conferences. Delegates are often unaware of who is paying the speaker and whether their contributions might be influenced by such payments or other sponsorship or benefits.

18. Where a contributor to an educational meeting has been sponsored by a pharmaceutical company, this should be announced at the meeting and disclosed in all the papers relating to the meeting and in the published proceedings.

[http://www.gmc-uk.org/guidance/ethical\\_guidance/conflicts\\_of\\_interest.asp](http://www.gmc-uk.org/guidance/ethical_guidance/conflicts_of_interest.asp)

### **British Dietetic Association, Code of Professional Conduct**

#### *Personal profit / gain*

3.7 You must not accept favours, gifts, or hospitality from service users, their families or commercial organisations when the offer might be construed as an attempt to gain preferential treatment.

[http://www.bda.uk.com/publications/Code\\_of\\_Professional\\_Conduct.pdf](http://www.bda.uk.com/publications/Code_of_Professional_Conduct.pdf)

## Advertising within public services

Advertising through public services can be both effective and low cost and so has a particular appeal for the companies. Branded materials intended for parents such as leaflets, posters etc and gifts to health workers which they will then use in front of parents, such as pens, diary covers, weight charts, obstetric / age in weeks calculators, tape measures etc. are all designed to trigger brand recognition which is then associated with the trust parents feel for the health workers and institution they work for.

This implication of endorsement is misleading to parents and the constant subtle advertising of formula milks and related products undermines any attempts to normalise breastfeeding within our culture.

All advertising of products covered by the Code should be prohibited within the policies of the institution and company representatives should have only very restricted access to the service or staff. It is suggested that they see the member of staff considered most expert in infant feeding and that she/he then distribute any relevant scientific and factual information to the rest of the staff in an appropriate manner.

### **Information / materials provided for parents or staff which does not appear promotional**

Companies may offer anything from unbranded diary covers to teaching packs to whole websites of information that appear to have no promotional element at all. Given their goal of increasing shareholder value as described above, it is important to consider the true purpose of distributing such 'gifts'. Gratitude and obligation are common reactions to being given a gift and such emotions can be a good basis for future contact and relationship building. Providing something useful is also a really good way of getting the all important contact details of parents or health workers who work with parents. These contact details are extremely valuable and can be used for much more sophisticated and targeted marketing than expensive, random advertising to the general public.

Websites, leaflets etc can also easily be changed. Initially, highly aware professionals may scour these for inaccurate or promotional information before declaring them 'clean' and suitable for use. Changes can then be included which go undetected for long periods of time as the information continues to be distributed or recommended by health workers.

UNICEF UK recommends that when any externally provided product of any sort is offered for use within public services or for use by parents, the source of this is established at the outset. If it is associated with any company coming within the scope of the Code it should be refused.

## **Promotional material via third-party providers on public service premises**

Many public services allow advertising to pregnant women and new mothers via commercial companies who provide bags or books of sample goods, leaflets and coupons. They also provide written information for mothers without a commercial element as an inducement to health workers to distribute the bags / books and to mothers to read the material offered. These providers make their profit by selling advertising on the promise of reaching a large number of mothers. Their relationship with health workers is therefore very important, as only through them can they reach the number of mothers required.

The Baby Friendly Initiative require that all such bags and books comply with the Code. Appendix 1 is our guide to the providers on what is and is not acceptable. Health workers themselves have a duty to ensure that this material is not harmful and so we suggest regular checking to ensure that it complies with this guidance.

Other considerations include the contact details obtained from mothers who receive these bags and books and which can be sold on to other companies. Care should be taken when signing contracts or agreeing to distribute these bags and books to ensure that mothers details will not be sold to companies that come under the remit of the Code. There is also usually advertising to persuade mothers to visit websites, sign up to clubs etc made via the bags and books and therefore, regular checks should be made of websites, clubs etc that are promoted via the bags and books to ensure that these are Code compliant.

Many hospitals now have some form of screen set up by beds in wards with a range of programmes and information for the patient to watch/read. Some of the content on these screens may include promotion for materials that come under the remit of the Code. The screening of such content, unsupervised, at a sensitive time for mothers who may be having trouble establishing breastfeeding is potentially very damaging. The material for these screens is usually supplied by a third-party company who may be supplying to several hospitals in the area. A member of staff needs to contact the third party provider and request the removal/ amendment of any advert that does not comply with the Code and regular checks made to ensure that they do not reappear.

Many hospitals, particularly those built recently, have independently run shops within their buildings. These shops often sell formula milk, bottles, teats and dummies While having these products available for sale does not violate the Code, the active promotion of them does. Therefore, store managers should be asked to avoid overt displays and promotions as this would contravene the Code, and indeed the law.

## Education for parents

The companies provide a plethora of education / 'support' for parents, from leaflets to telephone helplines to smartphone apps to websites. They also offer to conduct classes for parents within public service premises and to provide materials for health workers to run these classes themselves. The subjects range from infant feeding to other aspects of pregnancy and early child care. The companies justify this by stating that parents need to be in a position to make informed choices about feeding and caring for their baby. In reality, such information is usually promotional in nature and designed to sell their products, rather than to educate in any way that would truly allow informed decision-making.

*It was estimated in 2006 that formula companies spent £20 on marketing for every baby born in the UK. (Ecologist, April 2006)*

UNICEF UK recommends that none of these products are ever offered or recommended to parents. Public services who care for new babies and their parents have a duty to provide accurate and effective information, free from any commercial interest and based on individual need. Sources of support with this include:

- Start4life leaflets ([www.nhs.uk/start4life](http://www.nhs.uk/start4life))
- Best Beginnings ([www.bestbeginnings.org.uk](http://www.bestbeginnings.org.uk))
- UNICEF formula guidance ([www.unicef.org.uk/formulaguide](http://www.unicef.org.uk/formulaguide))
- Infant Milks in the UK (First Steps Nutrition Trust) ([www.firststepsnutrition.org](http://www.firststepsnutrition.org))



© UNICEF UK / Jill Jennings

As stated before, health workers are the ideal conduit for promoting company products. They engender public trust and respect and have easy access to virtually all new mothers and babies. The 'halo effect' of having mothers associate the company brand with a health worker, be this a personal recommendation or simply a logo on a pen, is highly valued.

However, for this to happen, the companies need access to those health workers. As recently as 10 years ago, access to health professionals was relatively easy. Company representatives had free access to many health-care premises and induced health workers to attend their talks with hospitality and free materials. Students would be exposed to company lectures as part of their course and offers of free trips and nights out were common.



© UNICEF UK / Jill Jennings

With the advent of the Baby Friendly Initiative and increased support for breastfeeding in the health services, health professionals have gradually become much more aware of the real purpose of this 'generosity' and its negative effect on breastfeeding and efforts to support informed choice. Subsequently, much of this easy access to health workers has stopped.

However, the companies continue to mail staff directly with promotional material and invitations to attend study days, often for free. Expert staff are also invited to speak at these days. The arguments made for attending range from the topics covered at the days being relevant and helpful to practice, to the prohibitive cost of non-sponsored study days, to the assertion that there is no promotional element to the day, and even if there is, that the attendee will not be influenced by it. What is so often missing from these arguments is evidence of a full understanding of how commercial companies operate and the real purpose of a 'free' study day.

*The study days no longer directly focus on breast and bottle feeding, which would only arouse suspicion, but rather are specialist in nature, focusing on, for example, allergy or growth*

This has resulted in the companies becoming ever more sophisticated in their approach. Sponsored study days are a highly effective mechanism for circumventing workplace controls on access by company representatives and so gaining direct access to health professionals. The study days no longer directly focus on breast and bottle feeding, which would only arouse suspicion, but rather are specialist in nature, focusing on, for example, allergy or growth, thus reassuring prospective participants of their legitimacy. Well qualified speakers are invited and these experts become a further inducement to attend and a quality assurance for the participants. They also provide the added bonus of enhancement of the company brand by association.

Participants are asked to register for the study day, so providing the company with contact details for future promotional opportunities. At the event itself there are opportunities for introductions, closing statements, the odd lecture by company representatives and promotional materials that can be given to everyone who attends. Opportunities are also there to cast doubt on the evidence base for recommendations made by Government or the World Health Organisation which adversely affect company profits. For example, the recommendation to introduce solid food to babies at around six months delays parents starting to buy commercial weaning foods which harms profit. Any doubt which can therefore be cast on the legitimacy of this recommendation is only good for the company.

The result is health workers who are highly aware of the company's brand and product, informed of the product's key selling points, worried about recommendations that adversely affect company profits, in possession of company materials and possibly well disposed to the company providing them with 'free' education. The company is in possession of accurate contact details of large number of health workers for future mailing and influence. If any of this is then passed on to parents, the company's outlay can be justified to shareholders as being designed to increase profits.

UNICEF UK requires that education provided by the companies not be held on Baby Friendly accredited facilities premises. We also recommend that staff are not allowed to attend such events on work's time. However, there is nothing to stop individual health workers attending such events on their own time. We recommend that all health workers receive education on the Code and how it affects them as part of their Baby Friendly training, so that they are at least able to make informed decisions when invited to such events.

Any health worker considering attending such a day, should ask themselves:

- whether attendance is really necessary for their education;
- whether it is compatible with their Code of Conduct and responsibilities to implement best practice;
- how their attendance will reflect on their employing institution and its stated values;
- whether their name could be used to enhance the name and reputation of the formula company;
- what effect their attendance could have on the families they serve.

If a decision is made to attend, the health worker should be highly aware of the true purpose of the day and make every effort to ensure that their attendance does not compromise the content, emphasis or tone of information imparted to parents.

It should also be noted that study days may be offered by a seemingly-independent third party, which is in fact funded or owned by one of the companies. This could be a not-for-profit organisation and might appear to be completely public service-orientated, however it is always worth looking closely at its website to check who it is funded by. These organisations offer the same sorts of study days, but with a few differences in an attempt to circumvent the Code and Baby Friendly's guidelines. These could include:

- offering heavily subsidised, rather than free study days;
- stressing the fact that 'benefactors' (i.e. the companies) have no involvement or influence on the study day;
- reassurance that contact details will not be passed;
- subtle pressure to attend.

If you find the organisation is being funded by one of the companies, it is recommended that you go through the above checklist, as with a directly sponsored study day, to consider what impact attendance might have.

## Market research surveys

The companies may undertake market research surveys, to access information about and possibly quotes from health professionals. These are rarely sent directly from the companies, and are instead often sent through a third party, usually a market research agency.

These surveys are ostensibly designed to gather health professionals' views on a variety of topics related to infant feeding. However, the scope of the answers is often narrow and worded in order to elicit answers that would be helpful to the company. The results of these surveys can then be used to help companies devise targeted marketing campaigns, to justify their activities by referring to "what health professionals want," or to undermine the 'competition', which as well as rival companies, includes charities, other organisations and individuals trying to protect and support breastfeeding.

Surveys can also be marketing tools in themselves, using the questions to build a ladder of affirmation by having the health professional answer a series of questions which lead towards an implicit recommendation of a certain type of formula milk or a certain set of care practices.

Payment is sometimes offered as an inducement for completing the questionnaire – this is an indication of how valuable health professionals' answers are to companies.

Careful consideration is needed when deciding whether to complete these questionnaires. As with attendance at education events, consider whether it is compatible with your Code of Conduct and whether the information you provide could be used to undermine breastfeeding and those that work to protect it. If after considering these points you still have doubts, then it may be best to not complete the survey.

## Taking money from the companies

Money, in the form of grants and prizes, is often given to health workers by the companies. A usual pattern for this activity is to partner with a charity or professional organisation to develop a competition element around good practice or innovation. The benefit to the company is that there is generally a lot of positive publicity where the company name is associated with a respected organisation and excellent practice. The 'halo' effect of this induces trust, while the recipients of the money feel grateful. These recipients are likely to be highly trusted and valued members of their profession and so influential.

The total implied endorsement of the company by respected organisations and individuals is extremely valuable and yet has cost very little. The organisation and the individuals involved however, compromise their own extremely valuable integrity and reputation for that same small amount of money. In addition it makes it harder for these organisations and individuals to speak out when company activities could compromise the health and wellbeing of mothers and babies.

*"We identified that the stakeholder who exerts the major influence over mums-to-be is neither the GP, nor fellow mums of a similar age, but the midwife, who combines the crucial blend of impartiality, depth of knowledge, experience and objectivity that mums trust wholeheartedly."*

Julian Routledge, Marketeer

A similar principle applies to individuals given payment for speaking engagements, media appearances etc. Senior clinicians, managers and academics can be extremely influential within their profession and with the public. If they think it acceptable to work with the companies then others are reassured that the company must be trustworthy and it is acceptable for them to do likewise. Even when the individual speaks on topics that are of no possible value to increasing company profits, that halo effect remains. When such influential individuals hold views, or can be persuaded to state views, that align with increasing company profits they are even more valuable to the company and monetary inducements to make these views known to the widest possible audience are worthwhile.

None of this activity is illegal and most does not fall under the Baby Friendly standards. The majority of health workers and organisations involved would not dream of participating in any activity that could harm mothers and babies if they were aware that this was the case. The answer is therefore education. Raising awareness of the difference between companies that come under the requirements of the Code and companies that do not is important, along with how marketing works and the true value of their own or their organisation's reputation and standing with the public.

UNICEF UK recognises the importance of research and welcomes any that may improve the care of mothers and babies. We support research intended to bring about improvements to infant formulas so that the potential risks of artificial feeding are minimised. However, we have a responsibility to promote, protect and support breastfeeding and to ensure that any such research does not compromise best practice for breastfeeding or the right of parents to make fully informed choices about how to feed their baby.

Although UNICEF UK can provide expert advice and opinion, it does not have a responsibility to decide whether or not research trials should be carried out in individual hospitals. Senior staff within the hospitals and Research Ethics Committees would be expected to make that decision based on whether or not they are confident the trials will not harm the wellbeing of patients or the implementation of best practice in the clinical area for which they are responsible.

### **General considerations when planning a research trial**

It is strongly advised that the views of local practitioners, infant feeding experts, mother support groups and other interested parties be included in the study design in order to avoid damage to practice and to local relations (1).

Research trials are subject to ethical approval which provides some reassurance regarding the protection of mothers and babies. However, it should be noted that local research ethics committees may not include members who are experts on all aspects of infant feeding (including the protection, promotion and support of breastfeeding) which is a specialised field. Neither would the research co-ordinators necessarily be expected to have this expertise. Therefore, it is suggested that locally based specialists such as infant feeding advisors are involved in the planning and implementation of trials.

When considering institutional participation in research trials it is important to take into account the possible effect on the practice of all staff whether directly involved in the trial or not. Making the changes in practice and routines required to implement the Baby Friendly best practice standards on an institutional level requires years of education, support and monitoring. Changing practice for some mothers to accommodate research trials could easily lead to a perception that senior staff have changed their priorities and are relaxing the breastfeeding policy. This is particularly pertinent in light of the training given to staff in Baby Friendly accredited units on the implementation of the Code.

### **Research trials and Baby Friendly accreditation**

Baby Friendly accreditation is based on interviews with mothers and staff about the care that is provided. Therefore, although it is possible to surmise how far a research protocol will affect Baby Friendly status, it is not possible to give definite reassurances, as this would be dependent on the implementation of the protocol in the clinical areas and on the individual experience of mothers interviewed during assessments and progress monitoring visits.

It is strongly advised that the research team seek advice from the key staff responsible for the implementation of the Baby Friendly standards during both the planning and any implementation of the trial and that these key staff carry out their own independent audits to ensure that best practice is being implemented.

## Protecting best practice for breastfeeding

In any trial involving infant feeding there is the potential for undermining breastfeeding with subsequent potential long-term damage to the health of mothers and babies. For example, research involving unnecessary restriction of feeding frequency or duration, separation of mother and baby, use of teats or dummies, or restriction of information for parents should be considered carefully in light of what is established good practice. Some specific examples are listed below:

- All pregnant women should have the opportunity to discuss infant feeding. Years of experience have shown that, in a predominantly bottle feeding culture such as the UK, the successful implementation of this standard requires a great deal of tact and sensitivity. UNICEF recommends that women are not asked to decide their feeding intention in the antenatal period as this can imply that a choice is required that cannot later be changed and can make it more difficult to deliver information effectively. Rather, information tailored to each woman's needs should be provided at an appropriate time during pregnancy. We recommend that health professionals avoid agreeing to any research proposals which require women to state a feeding intention in the antenatal period.
- A number of recent research proposals have been aimed at families with a history of allergy. To allow a fully informed choice it is important that such parents be given specific information that breastfeeding will provide better protection from allergy than infant formula. Therefore, it is recommended that health professionals ensure that research proposals make clear to parents prior to recruitment into any trial that they are advised to choose exclusive breastfeeding (even if this means that they cannot take part in the trial).
- All mothers should be encouraged to have prolonged skin contact with their baby in an unhurried environment after delivery which leads to an offer of help with a first feed. Eliciting feeding intention from the mother prior to her having skin contact can mean that she does not then go on to offer her baby a first breastfeed. Therefore, health professionals are advised to ensure that mothers are only recruited into research trials into infant formulas after having prolonged skin contact with their baby and an offer of help with a first breastfeed. Only if the mother states an intention to formula feed at this point should recruitment into a formula trial be introduced.
- No food or drink other than breastmilk should be given to breastfed babies unless clinically indicated or as a result of a fully informed choice by the mother. It is important that health professionals ensure that research proposals strictly adhere to this standard. Mothers taking part in trials should only be encouraged to give supplements when clinically indicated. Breastfeeding mothers whose babies require a supplement of infant formula for clinical reasons or who request a supplement of infant formula should not be prospectively designated "formula feeding" or "partially breastfeeding", rather such mothers should be given every help to breastfeed fully.

## Footnotes

1. The COMA (1996) report, "Guidelines on the nutritional assessment of infant formulas" sets out Department of Health policy in this area and states "The views of all those to be involved in the study should be taken into account in designing it".

## Wider advertising to the general public

Health workers would be forgiven for wondering why such care is taken to prevent advertising within public services when there appears to be advertising for formula milk on television and in magazines all the time.

### Follow on formula – A loophole in the law?

The Infant Formula and Follow-on Formula Regulations 1995 were introduced to protect parents from the commercial promotion of infant formula so that they could get reliable, impartial information to make an informed choice about feeding their babies. It did this by implementing parts of the Code. Although the law fell short of the Code, it was hoped parents would be given the protection they needed.

At the time that the International Code was written, all formula milk was known simply as “infant formula”. The creation of “follow-on formulas” was a reaction by manufacturers to the introduction of the Code. They claimed that formula milks for children over six months were not “breastmilk substitutes” and therefore not subject to the same marketing regulations as infant formula. This argument has been accepted by the UK government and means that the advertising of follow-on formula, though regulated, is legal.

However, UNICEF UK, along with many other organisations, considers that follow-on formula should be considered in the same way as infant formula. This is why:

### The Code applies to all breastmilk substitutes

The Government itself recommends that milk continues to be the main part of a baby’s diet for the first 12 months, and that it provides an important source of nutrients in the second year of life. Follow-on milks replace that part of the child’s diet best provided by breastmilk between 6 and 24 months and are, therefore, breastmilk substitutes, and should be subject to the same marketing regulations.

### Follow-on formulas are virtually identical to standard infant formulas for babies up to six months’ old

The World Health Organization says follow-on formulas are “not necessary” (World Health Assembly Resolution 39.28, 3b, 1986). The Food Standards Agency states that babies should continue to be breastfed or receive infant formula until they are at least a year old: additional nutritional requirements are met by solid foods and a change to follow-on milk is not necessary at any stage.

By advertising follow-on formula it is possible to advertise all formula. Formula milk companies exploit two loopholes in the law. First, they are promoting follow-on milks in a way that makes them difficult to distinguish from normal infant formula. Second, they are deliberately confusing their company name and logo with their formula milk brand names.

### Promoting follow-on milks in a way that makes them difficult to distinguish from normal infant formula

By naming and labelling follow-on milks almost identically to infant formula, manufacturers ensure that both products are promoted at the same time. Typically packaging and branding across a manufacturer’s range of products is designed to look very similar; follow-on milk is only mentioned in small print, and the product is often compared to breastmilk. When parents see adverts for follow-on formula they think they are seeing adverts for infant formula.

In the recent Infant Feeding Survey (2010), 46% of mothers said that they had seen an advert for first-stage formula milk, despite such adverts being banned, indicating a significant confusion in what was being

advertised. When giving reasons for why they started using follow-on formula, 18% said it was because it was better for the baby or had more nutrients, a claim that has no scientific basis.

This confusion is not limited to mothers, since 17% of them said that they had switched to follow-on formula on the advice of a health professional.

*“When giving reasons for why they started using follow-on formula, 18% said it was because it was better for the baby or had more nutrients, a claim that has no scientific basis.”*

### **Deliberately confusing their company name and logo with their formula milk brand names**

The law states that companies can give information materials about infant formula to parents, providing the information is not “marked or labelled with the name of a proprietary infant formula” – although it can “bear the name or logo of the donor” (Article 21:3, c).

Since 1995, however, manufacturers have made changes to their brand names, or logos, or both, with the result that the “name of a proprietary brand of infant formula” has become the same thing as the “name or logo” of the manufacturer. The law is therefore both permitting and prohibiting the same thing, making it impossible to enforce. The provision of information materials bearing the donor name can thereby serve as an advertisement for that company’s infant formula, which the law aims to prevent. A MORI poll among women in their reproductive years showed that 80% associated the SMA logo with infant formula.

Because of the legal ambiguity between the acceptability of a company logo and its formula brand name, manufacturers are left with a host of advertising opportunities, while Trading Standards are left powerless to intervene and enforce the law.

## Public advertisements and complaints

The regulations regarding advertising of infant formula are contained within the ASA regulations and simply say that the adverts for infant (first) formula are not permitted, and that adverts for follow-on formula must not confuse between infant formula and follow-on formula.

However, formula advertisements may also come under other aspects of ASA regulations, particularly misleading advertising, which includes clauses around substantiation, exaggeration and comparison.

### Making a complaint

The ASA has a very easy-to-use online form for submitting complaints which you can find at:

[www.asa.org.uk/Complaints/How-to-complain.aspx](http://www.asa.org.uk/Complaints/How-to-complain.aspx)

It is key to remember that the ASA assesses complaints against the Code of Advertising Practice (CAP), rather than the International Code of Marketing of Breastmilk Substitutes, and so your complaint should focus on where the advert may be in breach of this.



You can read both the broadcast and print versions of the Cap Code at [www.cap.org.uk](http://www.cap.org.uk) but some common areas you may wish to consider where the advert may be in breach is:

- Substantiation/Exaggeration: Making claims either directly or indirectly (via visual insinuation) about the benefits of infant formula that are not scientifically valid.
- Comparison: This can commonly fall into one of three categories:
  - Comparison with breastmilk: Implication that the formula in question is comparable to breastmilk as a natural follow-on or being “as good as”.
  - Comparison with other formula milks: Since all formula milks must by law have any ingredient that is shown to be of benefit to the infant in them, there is no scientific evidence that any one milk is better than another. Adverts indicating otherwise may be in breach of the CAP Code.
  - Comparison of follow-on formula with infant (first) formula: There is no scientific reason for giving your baby anything except infant (first) formula, so claims that follow-on formula is a required progression for babies over six months may also be in breach of the CAP Code.

If you are complaining about an advert that was broadcast on TV /radio/ cinema, make a note of the general time and channel the advert was broadcast.

If you are complaining about an advert that was in print media, scan a copy to include as part of your submission.

If you are making a complaint, please let us know as we may be able to help.

## Appendix 1

### Guidelines for compliance with the requirements for advertising in Baby Friendly health care facilities

The following guidelines should be used when considering what can be allowed to be advertised.

1. Advertisements for infant formula, follow-on formula, baby milks, juices and teas, feeding bottles, teats, dummies and nipple shields are **not acceptable**.
2. No generic 'company level' advertising from Cow & Gate, Aptamil, SMA, Nestle, Pfizer, Nutricia, Danone, Hipp, Mead Johnson. (This includes any advertisements which may be inserted in mailing programmes etc.)
3. Mothercare, Boots and similar companies: Anything from these companies must have nothing to do with feeding.
4. Complementary/Weaning foods: No samples. Advertising may be acceptable but any advert should be crystal clear in the copy or headline that weaning is something which begins at six months. No copy, image or headline should suggest use before six months.
5. Breast pumps: Acceptable (but see point 1). Adverts should not include negative imagery of breastfeeding. Adverts for breast pumps which also promote a company's bottles and/or teats are not acceptable. Companies that produce bottles/teats as well as breast pumps should make no reference to them by text, audio or image in an advert for breast pumps.
6. Breast pads: Acceptable, provided that the copy is not negative towards breastfeeding.
7. Nipple creams, nipple sprays, etc: Not normally acceptable. Adverts for some products in this area may be appropriate where there is clinical evidence that they do not interfere with successful breastfeeding.

The copy should:

- a. never be negative in any way towards breastfeeding
  - b. not claim that the product can prevent sore or cracked nipples
  - c. clearly state that correct positioning and attachment is the way to prevent and cure sore or cracked nipples
  - d. only make claims that have been clinically proven in relation to the product's ability to soothe sore nipples or aid moist wound healing
  - e. not recommend routine use.
8. Any advert aimed at the mother should not imply that she needs to consume any specific food or drink in order to breastfeed.
  9. Other adverts should not be negative towards breastfeeding or present bottle feeding as the norm for all babies. Examples of offending adverts in this area would be those which use bottles, dummies, infant formula, etc in illustrations to depict a 'typical' baby's environment.
  10. Any editorial should be accurate and positive about breastfeeding and reflect the principles of the above guidelines. It is recommended that editorial does not contradict Baby Friendly principles such as skin-to-skin contact after delivery, rooming-in and demand feeding.