

LOOK WHAT THEY'RE DOING 2017

How marketing of feeding products for infants and young children in the UK breaks the rules



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FEED YOUR BABY THE NATURAL WAY

Top baby-brand Chicco wants you and your baby to try out its innovative feeding range

FEEDING IS A LOVELY TIME for you and your baby to bond, and Chicco's great new NaturalFeeling range can help ensure that it's special and comfortable for both of you. Chicco believes that feeding should be as natural as possible, whether you choose to breast- or bottle-feed, which is why its new range of bottles are designed to replicate the instinctive way your baby feeds.

The teats are uniquely angled and are made from extra-soft silicone to replicate the natural feel and shape of your breast. They have a wide base that stays full of milk to reduce the amount of air swallowed, and the two anti-colic valves encourage a constant, regular flow of milk to avoid creating a vacuum and help prevent gas and reflux.

Babies love them too, as clinical studies from Chicco's research centre in the USA revealed that nine out of 10 immediately accepted the teat when they used the bottles. The bottles are suitable for ages 0m+, 1m+, 2m+, 3m+, 4m+, 6m+, 9m+, 12m+, 18m+, 24m+, 30m+, 36m+, 42m+, 48m+, 54m+, 60m+, 66m+, 72m+, 78m+, 84m+, 90m+, 96m+, 102m+, 108m+, 114m+, 120m+, 126m+, 132m+, 138m+, 144m+, 150m+, 156m+, 162m+, 168m+, 174m+, 180m+, 186m+, 192m+, 198m+, 204m+, 210m+, 216m+, 222m+, 228m+, 234m+, 240m+, 246m+, 252m+, 258m+, 264m+, 270m+, 276m+, 282m+, 288m+, 294m+, 300m+, 306m+, 312m+, 318m+, 324m+, 330m+, 336m+, 342m+, 348m+, 354m+, 360m+, 366m+, 372m+, 378m+, 384m+, 390m+, 396m+, 402m+, 408m+, 414m+, 420m+, 426m+, 432m+, 438m+, 444m+, 450m+, 456m+, 462m+, 468m+, 474m+, 480m+, 486m+, 492m+, 498m+, 504m+, 510m+, 516m+, 522m+, 528m+, 534m+, 540m+, 546m+, 552m+, 558m+, 564m+, 570m+, 576m+, 582m+, 588m+, 594m+, 600m+, 606m+, 612m+, 618m+, 624m+, 630m+, 636m+, 642m+, 648m+, 654m+, 660m+, 666m+, 672m+, 678m+, 684m+, 690m+, 696m+, 702m+, 708m+, 714m+, 720m+, 726m+, 732m+, 738m+, 744m+, 750m+, 756m+, 762m+, 768m+, 774m+, 780m+, 786m+, 792m+, 798m+, 804m+, 810m+, 816m+, 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Baby Milk Action is the UK member of the International Baby Food Action Network (IBFAN)

Baby Milk Action works to stop misleading marketing by the baby feeding industry.

We aim to protect breastfeeding and to protect babies fed on formula

Author and acknowledgements

This report was written by Mike Brady of Baby Milk Action based on our own monitoring activities and reports of violations from members of the public.

Many thanks to colleagues and volunteers who have checked the text and provided advice. Baby Milk Action accepts full responsibility for the finished report.

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This report, and the company profiles in particular, are subject to update in response to possible action by enforcement authorities regarding the practices highlighted, policy changes to strengthen the law or changes in practices by the companies concerned.

The latest version of the report is available as a free download on the Baby Milk Action website.

LOOK WHAT THEY'RE DOING 2017

How marketing of feeding products for infants and young children in the UK breaks the rules



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Feeding products marketed for infants and young children

What is this report about?

- How baby feeding products are marketed.
- Whether practices comply with UK and international standards.
- Where current UK law should be strengthened to stop harmful practices.

Who is the report for?

- Enforcement authorities, to take action on the examples that break the law.
- Policy makers, to show how the existing law needs to be strengthened and better enforced.
- Companies have already been asked to respond.

What products are covered by the report

- Milks marketed for feeding babies below 36 months of age (Infant formula, follow-on formula and other baby milks) and feeding bottles, teats and other products used with them.
- Other baby foods, when these are marketed for very young babies in breach of international standards.

Why are better regulations needed?

- Independent information on these milks from **NHS Choices** and other experts is being contradicted by company marketing messages and product labels.
- Unnecessary products are being marketed for different age groups of babies and for supposed feeding problems, using misleading health claims.
- The current UK regulations do not cover milks for babies over one year of age, feeding bottles and teats, and do not adequately address new marketing channels (such as smartphone apps and social media).
- Fortified milks can undermine good nutrition in young children since they are almost universally higher in sugar than a plain animal milk or unsweetened milk alternative. Higher-calorie, energy-dense milk products are likely to contribute to overweight and obesity in children.
- Health workers are encouraged to endorse products. They are offered sponsorship, training and other benefits by companies.

Don't some babies need formula?

- When babies are not breastfed or receiving expressed or donor breastmilk they should be fed on infant formula, which is suitable for use from birth to 12 months of age.

Shouldn't they move on to follow-on formula?

- Formula companies make a product called “*follow-on formula*” which they market for babies from 6 months of age. This product is universally agreed to be unnecessary. It was invented to bypass the current regulations on promoting infant formula.



Nestlé advertises follow-on formula on television as providing the “*Nutritional Foundation for Life*”.

NHS Choices (www.nhs.uk) states:

Research shows that switching to follow-on formula at six months has no benefits for your baby. Your baby can carry on having first infant formula as their main drink until they are one year old.

Are “*growing-up*” or “*toddler*” milks necessary?

- **No.** Formula companies market fortified milks for children for use from one year of age (calling them “*growing-up*” or “*toddler milks*”). However, UK health experts agree these are not needed.
- They are an unnecessary expense to families and can undermine healthy eating when flavoured and sweetened.

NHS Choices states:

When your baby is one year old, they can start to drink whole cows' milk or sheep's or goats' milk (as long as it's pasteurised).

Don't some babies need specialised formulas for feeding problems?

- There are specific medical conditions where a doctor may prescribe a specialist formula. Parents should not self-diagnose and purchase a formula without taking independent medical advice.
- Companies medicalise infant feeding by promoting formulas they claim are specifically for “hungrier babies”, “reflux” or “colic and constipation”, for example, but these have little proven benefit.

How are companies allowed to contradict independent experts?

- UK marketing regulations are weaker than in many other countries and are poorly enforced.
- Some company claims to the public have been successfully challenged at the Advertising Standards Authority (ASA). However, this is a self-regulatory system that does not levy fines or require corrections to be published.



The screenshot shows the Aptaclub website interface. At the top, there's a navigation bar with 'Aptaclub Feed their future', 'Join Aptaclub | Sign in', and menu items for 'CHAT', 'YOUR STAGE', and 'OUR PRODUCTS'. Below the navigation, there's a search bar with the text 'Colic symptoms in babies' and a search icon. A dropdown menu shows 'DIET & NUTRITION' and 'BABY FEEDING PROBLEMS'. The main content area features a close-up image of a baby's face with a 'HUSH LITTLE BABY' button overlaid. A vertical text on the right side of the image reads 'See Danone profile'.

Danone markets exactly the same *Comfort* milk powder in two brands in different packaging. Current prices in the Boots.com store (February 2017) are *Aptamil Comfort* £12.99 and *Cow & Gate Comfort* £11.50. A premium of £1.49 for the *Aptamil* name.

NHS Choices states regarding *Comfort* milks:

This type of formula contains cows' milk proteins that have already been partly broken down (partially hydrolysed). This is supposed to make it easier to digest and help prevent digestive problems like colic and constipation. However, there's no evidence for this.

Independent information for families

Don't families need company information to know which products to use?

- Company information is promotional and often misleading. Independent information is available.
- Information about products is available to the public from regional health departments, from midwives and health visitors who support families, and from the NHS Choices website: www.nhs.uk
- Staff in maternity facilities accredited to the Unicef Baby Friendly initiative (all in Scotland and Northern Ireland and a growing number in England and Wales) are trained to support families.



Don't health workers need company information to know what is available?

- Health professionals can freely access independent up-to-date information on the composition and safety of all infant formula, follow-on formula and other milks marketed in the UK from the charity First Steps Nutrition Trust: www.firststepsnutrition.org
- A designated expert assesses company information in Baby Friendly facilities so only relevant information is communicated to staff. This is sometimes coordinated regionally, as with the Local Infant Feeding Information Board (LIFIB) in the North West.

Isn't company information scientific?

- Companies should only provide information to health workers that is “scientific and factual” under current UK law. However, the First Steps Nutrition Trust publication “*Scientific and Factual?*” A review of breastmilk substitute advertising to health professionals shows just how misleading this information can be.
- Unicef Baby Friendly hospitals and other facilities only allow company representatives contact with the designated expert. Companies bypass this by targeting staff at conferences, online, through their professional associations and through training and educational prizes and grants.



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The current marketing rules

THE CODE

Marketing requirements were first introduced in 1981 by the World Health Assembly (WHA), made up of government health ministries.

The *International Code of Marketing of Breastmilk Substitutes* and subsequent, relevant WHA Resolutions (the Code, for short) cover breastmilk substitutes, feeding bottles and teats for babies 0-36 months old. The Resolutions adopted since the Code address changes in marketing practices and scientific knowledge, and questions of interpretation.

The *International Code* and Resolutions aim both to protect breastfeeding and to protect babies fed on formula, by ensuring information is adequate and marketing appropriate. Health workers are given responsibility for supporting parents.

Companies are limited to providing scientific and factual information to health workers. There are also provisions on how these and other baby foods should be labelled and the composition requirements they should meet.

Under the *International Code* and Resolutions companies should not promote breastmilk substitutes (covering milks for babies up to 36 months of age), feeding bottles and teats.

The Code says that companies should abide by these provisions independently of government measures (Article 11.3). However, in practice, they do not do so unless they are legally required to do so. Although the UK supported the *International Code* and Resolutions at the WHA, it has still not implemented them fully itself. Over 70 countries have introduced legislation implementing all or most of the provisions of the Code.

THE UK REGULATIONS

The current UK law is the *Infant Formula and Follow-on Formula Regulations (2007)*. These *Regulations* are implemented separately, but identically, by the four countries that make up the UK (England, Northern Ireland, Scotland and Wales).

The Food Standards Agency introduced *Guidance Notes* to advise companies, enforcement authorities and others on how to interpret the *Regulations*. These are now the responsibility of the Department of Health (since 2010).

The *Regulations* provide less protection than the Code, as shown on the following pages. For example, companies are allowed to advertise follow-on formula and milks for older babies.

Statutory Instruments were introduced in the four countries of the UK in 2016 to manage the transition. In England, Northern Ireland and Wales, these empower enforcement authorities to issue *Improvement Notices* with legally-binding deadlines. In Scotland there is no warning period prior to prosecution.

The *Regulations* derive from *EU Directives*. EU Member States can go beyond EU law to protect health, as long as they do not contravene it. The UK Parliament and devolved authorities can bring the law into line with the Code even before the *Great Repeal Bill* breaks the link to EU law. This has always been the case.

A MODEL LAW

A *Model Law* for fully implementing the provisions of the *International Code* and Resolutions is available from Baby Milk Action's partners at the International Code Documentation Centre. www.ibfan-icdc.org

Key provisions of the *International Code* and Resolutions compared with UK Regulations

Products covered

THE CODE

(The *International Code of Marketing of Breastmilk Substitutes* and subsequent, relevant WHA Resolutions.)

- Breastmilk substitutes to **36 months** of age.
- WHO *Guidance on ending the inappropriate promotion of foods for infants and young children* (addendum to Resolution WHA 69.7, 2016) states:

A breast-milk substitute should be understood to include any milks (or products that could be used to replace milk, such as fortified soy milk), in either liquid or powdered form, that are specifically marketed for feeding infants and young children up to the age of 3 years (including follow-up formula and growing-up milks).

THE UK REGULATIONS

(The *Infant Formula and Follow-on Formula Regulations (2007)* and *Guidance Notes* on interpretation.)

- ✓ Breastmilk substitutes to 12 months of age.
- ✗ Outside the scope: products aimed at children older than 12 months, up to the age of 36 months.
- ✗ Outside the scope: feeding bottles and teats.
- ✗ Outside the scope: other foods and drinks marketed for use below 6 months of age.

Marketing to the general public and mothers

THE CODE

- There should be no advertising or other form of promotion of products covered by the Code, including point-of-sale advertising, giving of samples or any other promotional device to induce sales directly to the consumer at the retail level. (Summary of Article 5).
- Marketing personnel, in their business capacity, should not seek direct or indirect contact of any kind with pregnant women or with mothers of infants and young children. (Article 5.5).
- There should be an end to inappropriate promotion of food for infants and young children. (WHA 63.23).
- There should be no cross-promotion to promote breast-milk substitutes indirectly via the promotion of foods for infants and young children. (WHA 69.7 add.1).

THE UK REGULATIONS

- ✓ No advertising or promotion of infant formula to the public.
- ✓ No “*infant formula free or at a reduced or discounted price, or any gift designed to promote the sale of an infant formula the general public, pregnant women, mothers*” or their families.
- ✗ No ban of follow-on formula promotion (although it is a requirement that its packaging is clearly different from infant formula).
- ✗ No ban of follow-on formula promotion at point-of-sale or of free samples and gifts (the *Guidance Notes* state that promotion for follow-on milks should not be placed alongside infant formula).
- ✗ Milks for older babies and feeding bottles and teats are outside the scope of the law and so there are no restrictions on advertising and promotion. Hence, no restrictions on free samples and gifts.
- ✗ There are no restrictions on promoting breastmilk substitutes via other products.
- ✗ There are no restrictions on company marketing staff making direct or indirect contact with pregnant women and mothers of infants and young children.

HUMAN RIGHTS OBLIGATIONS

States have a human rights obligation to prevent marketing from harming health.

The UN Committee on the Rights of the Child has called three times for the UK to implement the *International Code* and Resolutions (2002, 2008 and 2016).

Marketing in the health care system and to health workers

THE CODE

- No facility of a health care system should be used for the purpose of promoting infant formula or other products within the scope of this Code. (Article 6.2).
- There should be no subsidized supplies of products covered by the Code in any part of the health care system. (WHA 47.5).
- Information provided by manufacturers and distributors to health professionals regarding products within the scope of this Code should be restricted to scientific and factual matters. (Article 7.2).
- Financial support and other incentives for programmes and health professionals working in infant and young-child health should not create conflicts of interest. (WHA 58.32).
- Companies that market foods for infants and young children should not create conflicts of interest in health facilities or throughout health systems. Health workers, health systems, health professional associations and nongovernmental organizations should likewise avoid such conflicts of interest. (WHA 69.7 add.1).

THE UK REGULATIONS

- ✓ No advertising or promotion of infant formula to the public (so covering the health care system). Advertising to health workers has to be restricted to scientific and factual information.
- ✓ No donations of informational or educational material shall be made unless with the written authority of the Secretary of State or in accordance with guidelines drawn up by the Secretary of State (which have not been drawn up to date). (Regulation 24).
- ✗ The above restrictions apply to infant formula only, and not other milks, feeding bottles or teats.
- ✗ Institutions may receive infant formula free or at a reduced rate for use inside and outside of the institution *“for infants who have to be fed on infant formula and only for as long as required by those infants”*. (Regulation 25)
- ✗ There are no legal provisions regarding conflicts of interest and manufacturers and distributors supporting health programmes and workers.

Product labels

THE CODE

- Labels should be designed to provide the necessary information about the appropriate use of the product, and so as not to discourage breastfeeding. (Article 9.1).
- 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).
- Infant formula labels should include required warnings and important information, including the fact that powdered infant formula may contain pathogenic microorganisms and must be prepared and used appropriately. (WHA 69.7 app).

THE UK REGULATIONS

- ✓ Labels of infant formula shall be designed to provide the necessary information about the appropriate use of the product so as not to discourage breast feeding. (Regulation 17)
- ✓ The labelling of an infant formula may bear nutrition and health claims only as specified in an annex to the law, when meeting the given conditions. Labels must bear stipulated information (Regulation 17)
- ✓ The labels of infant formula and follow-on formula must be clearly different and the name of the type of milk must be at least as large as the brand name. Idealising text and images are not permitted on infant formula (Regulation 19 and *Guidance Notes*).
- ✗ The above restrictions apply to infant formula only, and not other milks, feeding bottles or teats.

Profiles of baby feeding companies

THE DATA IN THIS REPORT

This monitoring report profiles the major formula, feeding bottle and teat manufacturers and retailers in the UK.

It features examples of marketing practices gathered during 2016 and the beginning of 2017. A few earlier examples are included where these illustrate other practices or demonstrate that promises to change behaviour have not been delivered.

PRACTICES THAT BREAK THE UK LAW

Baby Milk Action has added an *Improvement Notice?* stamp to examples in the profiles that it believes break the law, having consulted the Department of Health *Guidance Notes* on how to interpret the *Infant Formula and Follow-on Formula Regulations (2007)*.

The *Improvement Notice?* stamps are to alert the enforcement authorities, such as Trading Standards, so that action may be taken. The location and date of the example is given alongside the image. The contact details for the company are given in the summary box to the company profile.

Examples include the promotion of infant formula, which is explicitly prohibited. Infant formula brands are also promoted through baby clubs, which seek to replace independent sources of information on infant care. Companies offer free gifts and services to pregnant women and new mothers as inducements to join the clubs.

The example below was posted Facebook. Idealising claims are used in the text and an idealising heart



image on the labels. The infant formula and other milks in the range share the same branding, in breach of the law.

Point-of-sale promotion of infant formula is common in-store and also occurs online. In addition, infant formula is generally not separated from milks for older babies as recommended in the *Guidance Notes* to the law.

Free samples and other promotions for milks for older babies cross-promote infant formula. This example from Nestlé was distributed from a street stall during a city festival. Action could be taken to enforce the regulations prohibiting identical branding.



PROMOTION THAT BREAKS THE CODE

The company profiles give examples that break the Code, but do not necessarily break the law. Boxes like that below show how the law needs to be strengthened. In this case, the marketing of feeding bottles needs to be covered by the law.



Some of the examples in these boxes are tagged with *Improvement Notice?* stamps as well because limited action may be possible. For example, follow-on advertising is currently allowed, but action could be taken to stop it cross promoting infant formula.

List of company profiles

Company profiles can be found at:

www.babymilkaction.org/monitoringuk17