

# **Baby Milk Action and IBFAN Comments on the European Commission Discussion Paper on Nutrition and Functional Claims (SANCO/1341/2001)**

**July 2001**

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## **Summary**

This commentary is sent on behalf of Baby Milk Action and the International Baby Food Action Network (IBFAN), a global network of more than 150 citizens groups in more than 90 countries. IBFAN welcomes the opportunity to comment on the above discussion paper and hopes that our views will be taken into account in the formation of the EU position regarding all food claims made within the internal market, those exported from it and to EU advocacy in international fora such as Codex and the World Health Assembly.

The Commission paper lays out many of the problems relating to the use of nutrition and functional claims and rightly points out that, for the most part, such claims are used by the food industry as marketing tools. The Commission paper illustrates the complexity and difficulties facing policy makers when attempting to regulate this area of labelling and marketing.

### **Conditions under which claims are made:**

IBFAN is opposed in principle to the use of claims on food labels and in food promotions especially when they imply that a certain food or ingredient plays a special beneficial role in diet. We base our concerns on our long experience in examining the impact of such claims on the nutrition of infants, young children, pregnant women and mothers of young children. We feel that the infant feeding issue illustrates how commercial claims can distort healthy eating practices. IBFAN supports the current view of the Codex Committee on Food Labelling that health claims should not be permitted for any foods for infants and young children (CCFL May 2001) and would extend this to foods for adults also.

**IBFAN's position is that the nutritional well being of populations, and especially of infants and young children, is too important to be influenced by commercial interests. Nutrition education and recommendations should be the responsibility of health departments, which are best placed to identify links between nutrition information and health and recommend them to the population.**

Any links made should be in the form of generic statements which reflect national or international health policies which have been developed on the basis of evidence which has been rigorously reviewed and which has stood the test of time. For example the benefits of eating fresh fruit and vegetables. Claims for a product or ingredient should never be made on the basis of research initiated and funded by a party with a vested interest in selling that product or ingredient.

The distinctions between the different types of claims are very subtle, and in relation to the labelling of foods for infants, young children, and pregnant and lactating women, are largely academic. All claims (health claims, nutrition claims, functional claims, comparative claims and reduction claims) promote the product on which they appear. Because breastmilk is not on sale or packaged and is rarely promoted in glossy brochures, claims which imply a benefit from any artificial substitute create an imbalance and inevitably mislead. This imbalance and distortion of public perception of what constitutes a healthy balanced diet occurs also in relation to other foods and drinks which are often not promoted or packaged, such as fresh fruits, vegetables and tap water.

If claims are to be truthful then any comparisons made should be to the normal feeding standard, which in the case of infant feeding, is breastfeeding. A truthful comparison would state that artificially fed infants have a higher incidence of gastro-enteritis, otitis media, atopic disease, etc

In the case of infant feeding, no breastmilk substitute should be placed on the market if it does not meet stringent safety and compositional standards. If a particular ingredient is proven to be safe and to be important for a baby's development or health, it should be in all milks, or prescribed on the advice of an independent health professional. Health claims about that ingredient are irrelevant and misleading.

### **Specialised products**

Only in very rare circumstances may nutrient content claims be justified, for example, in the case of certain diagnosed medical conditions such as galactasaemia, where breastfeeding is likely to be contraindicated. Such conditions are very rare and the specifically designed products should not be on the open market. The health professional dealing with the care of such infants need accurate information about the composition of the products - information that is best dealt with by good nutrition labelling - or if really needed - nutrient content claims such as "Low in phenylalanine." It would be entirely inappropriate for such products to be on the open market or to carry promotional health claims or disease risk reduction claims, since this would encourage self diagnosis.

### **Evaluation and authorisation systems.**

The evaluation and authorisation of commercial claims presents an impossible task for policy makers. Public resources will always be comparatively limited and should be devoted to establishing the evidence base for national health policies and to supporting

scientists who are interested in working to improve public health, independently of the food industry.

As the discussion paper outlines, it is inevitable that the food industry will use every possible combination of wording to promote products and get round any restrictions placed on them. IBFAN believes that policy makers should not succumb to the pressure to enter the debate at this level, spending valuable time trying to bring sense to this area of marketing. The only straightforward and effective solution is to ban claims which make any link to health, allowing only accurate nutrition statements and requiring good clear nutrition labelling, with full declarations of ingredients and warnings where appropriate. The public has a right to be correctly informed about the composition of products and to make wise decisions in the context of their whole diet. The EU has a responsibility to support this right and should not endorse and encourage claims which it knows that few governments will have the resources to verify and check. Indeed in the context of world trade, national concerns about health claims may be impossible to support.

There is a need for much more clarity regarding the terms ‘transparency’ and ‘independence.’ The need for independently funded science was discussed at the Codex Working Group on Health claims in Ottawa in May and is mentioned in the report of the Working Group. Several delegations also called for an independent review panel. This would be a start, but is in our view not enough. All too often members of scientific committees are not required to declare links with the food industry unless the links are specific to the issue in question, and this can open the door to bias and suppression of evidence.

In order to rectify this problem, it is essential that the EU sets aside funds for research in the public interest entirely independently of the food industry - research that the public already assumes is carried out on its behalf. Such a strategy would enlarge the pool of scientists who could honestly describe themselves as ‘independent.’

### **How claims can undermine healthy eating patterns.**

The food industry inevitably accentuates the positive aspects of foods and minimises the negative. It is understandably reluctant to alert the public to the presence of ingredients which cause alarm, for example genetically modified ingredients, or trans-fatty acids. It uses the argument that the public is confused by such terminology. However, the industry is quite prepared to use ‘scientific’ language and very complex arguments if this results in an increase in sales.

This is especially true of the baby food market, which is fast growing and currently worth \$10.9 billion globally. If every baby in the world were artificially fed for 6 months then this could easily increase to \$36 billion. As governments introduce tighter controls companies try to find innovative ways to circumvent these rules. Increasingly companies are turning to claims which sound ‘scientific’

*“supports visual, cognitive and psychomotor development close to that of breastfed infants”*

*“LCPs help your baby to develop and grow. Two key LCPs (DHA and AA) are particularly important in the development of your baby’s nervous system, especially the brain and eyes.”*

The companies know that the public - and the majority of health workers - are unlikely to question the evidence used to support claims and will in any case be unable to verify them. The public wrongly assumes that such claims are strictly regulated and that independent procedures are in place to check them.

And even if such checking procedures were in place, how would one stop companies from making claims which may be ‘true’ but do not convey the full picture? Already transgenic herds of cows exist which carry the human gene which produces the whey protein in human milk, and some of the components in breastmilk are being patented and marketed as treatments for HIV, or ‘problems’ such as colic, crying, vomiting and allergies.

Because breastmilk is not on sale, claims made for these substitutes - however complex and ‘advanced’ they are - will inevitably imply a benefit and distort public perceptions of the risks of artificial feeding. A mother’s milk, in contrast to any genetically engineered product, is a living substance, tailor-made for her baby. Its anti-infective, anti-viral and growth factors even now, are not fully understood, factors which can actively destroy many bacteria, viruses and parasites - practically anything the new-born infant may confront. Breastmilk is also delivered in a uniquely safe way.

### **Using ‘science’ to undermine mothers confidence**

Not content with promoting breastmilk substitutes themselves, companies also use ‘functional’ claims to target nursing mothers. Such marketing undermines women’s confidence in the quality of their breastmilk.<sup>1</sup> Breastmilk is known to contain high levels of essential fatty acids which are readily available to the infant. However, there is some evidence that the levels of these fats in the breastmilk of North American women is lower than in the South. This is thought to be the result of the high use of trans-fatty acids in North American diets.

**The sensible public health solution to such a problem**, if it exists, would be to educate the public, and especially pregnant and nursing mothers, about healthy eating practices and the benefits of eliminating or reducing the consumption of hydrogenated fats (which are high in trans fatty acids).

**The commercial solution is entirely the opposite and by focusing on just one aspect of nutrition could exacerbate the problem.** For example, one company selling LCPs

made from vegetable sources mentions the need for breastfeeding mothers to eat a healthy balanced diet, but suggests only that lactating mothers eat foods rich in LCPs such as fish offal and egg.<sup>1</sup> Another company suggests that mothers eat two 'DHA-enriched Gold Circle Farms eggs' each day in order to raise the DHA levels in breastmilk.<sup>2</sup> Apart from the possible health risks of eating two eggs each day without taking into account the whole diet of the mother, it is not difficult to see how such a strategy is likely to increase the chances of women deciding not to continue breastfeeding for more than a few weeks.

Very often the products sold to nursing mothers to boost or improve their milk, are as expensive as buying formula in the first place!

## **The International Code ensures full information**

IBFAN has consistently expressed its concerns about the problems associated with the manufacture, distribution and marketing of artificial baby feeding products and the failure of the baby feeding industry to provide parents with full and frank information about the risks associated with artificial feeding. If there were better controls on nutrition information for all food packaging and marketing parents would be better able to make wise decisions regarding infant feeding.

IBFAN is calling for full disclosure and mandatory full nutrition labelling - a requirement of Article 9 of the International Code of Marketing of Breast-milk Substitutes which all EU member states are signatories to. This means clarity of language regarding the ingredients, for example, the presence of genetically modified ingredients, fish oils, trans-fatty acids, egg lipids, beef fat, peanut oil etc.

## **RECOMMENDATIONS**

- **The European Union should not permit the use of claims on food labels and in food promotions which imply that a certain food or ingredient plays a special beneficial role in diet**
- **EU-based companies should not be allowed to use such claims in third countries.**
- **The European Union should require full disclosure and mandatory full nutrition labelling on all food products placed on the market.**
- **The European Union should take steps to ensure that its legislation covering the marketing of breastmilk substitutes within the internal marketing and covering**

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<sup>1</sup> *LCPs & breastfeeding - 10 things every mother should know.* Martek, science for Life leaflet.

<sup>2</sup> June 26 2001 OmegaTech Study Shows DHA Enrichment of Human Breast Milk From Functional Food Nursing mothers'

**exports from it are in line WHO International Code of Marketing of Breastmilk Substitutes and the subsequent WHA Resolutions in their entirety**

- **The European Union should ensure that sufficient funds are set aside for research in the public interest, and that such research is carried out entirely independently from the food industry.**

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