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**CODEX COMMITTEE ON NUTRITION AND FOODS FOR  
SPECIAL DIETARY USES  
(41<sup>st</sup> Session)  
24 - 28 November 2019  
Düsseldorf, Germany**

**European Union Comments on**

**Codex Circular Letter CL 2019/77-NFSDU:**

**REVIEW OF THE STANDARD FOR FOLLOW-UP FORMULA (CX  
156-1987): DRAFT SCOPE, DESCRIPTION AND LABELLING FOR  
FOLLOW-UP FORMULA FOR OLDER INFANTS**

*European Union Competence  
European Union Vote*

The European Union (EU) would like to submit the following comments:

**1. General Comments on the proposed draft scope, description and labelling for Standard for follow-up formula for older infants**

The EU in general agrees with the proposed labelling provisions for follow-up formula for older infants, which reflect what was agreed in CCFSDU39 and CCNFSDU40. The EU considers that the proposed text adequately addresses one of the main concerns, which is to make sure that the labelling of follow-up formula for older infants does not discourage breastfeeding. This principle is also reflected in a number of provisions of EU legislation applicable to follow-on formula as well as in the Infant Formula Standard. Furthermore, the EU agrees with the amendments made by CCFL45 to the provisions as they ensure consistency with other relevant Codex Standards and Guidelines.

In light of these considerations, the EU welcomes the outcome of the discussions in CCFL45 as well as in CAC42 and in particular the endorsement of sections 9.1 to 9.6.3 with amendments to points 9.2.2, 9.3 and 9.4.1 (i) and (ii), the endorsement of the first sentence of section 9.6.4. and the agreement to return the last sentence on cross-promotion to CCNFSDU for further consideration.

## **2. Specific comments on the proposed draft scope, description and labelling for Standard for follow-up formula for older infants: section 9.6.4**

With respect to section 9.6.4 the EU strongly supports the first sentence of the section, as the EU considers essential to ensure that different products intended for infants and young children are clearly distinguishable from each other by the consumers. The best way to achieve this is to include in the Standard a provision clearly specifying how that should be ensured. The EU therefore particularly welcomes the inclusion of the specific reference to “*text, images and colours used*” in the provision, which is also in line with the EU legislation (Article 6(6) of delegated Regulation (EU) 2016/127).

However, the EU does not support the second sentence of the section on cross-promotion. The concept of cross-promotion was introduced as a new concept for the labelling provisions during the 40<sup>th</sup> plenary session of CCNFSDU. Upon request of the Committee the representative of WHO clarified at CCNFSDU40 that “*the intent of the provision on cross-promotion was to avoid messages on labels that a product for a particular age group was also suitable for another age group or that reference was made to a similar product for another age group*”. However, due to time constraints, no further discussion took place on the intent of the proposed sentence in CCNFSDU40.

The EU wishes to note that the term cross-promotion is not defined in Codex texts and it may therefore be subject to different interpretations at national level. In other literature, the term is broadly defined and often covers different concepts. By way of example, cross-promotion is referred to in the WHO Guidance on ending the inappropriate marketing practices of foods for infants and young children as follows: “*Cross-promotion (also called brand crossover promotion or brand stretching) is a form of marketing promotion where customers of one product or service are targeted with promotion of a related product. This can include packaging, branding and labelling of a product to closely resemble that of another (brand extension). In this context, it can also refer to use of particular promotional activities for one product and/or promotion of that product in particular settings to promote another product*”.

As a consequence, the interpretation of the term considered in CCNFSDU40 appears to differ from the definition used in the WHO Guidance document. In addition, it cannot be excluded that other definitions could be used.

The EU is of the view that CCNFSDU should further clarify the intent of the sentence “Cross promotion between product categories is not permitted on the [label/labelling] of the product.” and consider an alternative formulation without the use of the term “cross promotion”. This new formulation would ensure that this sentence is interpreted and implemented in a consistent way by Codex members.