

Minutes of meeting with stakeholders to discuss the review of controls on infant formula and follow-on formula, 8 January 2008, Aviation House, 2:30pm

Present:

Rosemary Hignett	FSA (Chair)	
Claire Boville	FSA	
Bindiya Shah	FSA	
Clare Lowrie	FSA	
Derek Hampson	FSA (Note)	
Sarah Newman	FSA	
Hillary Neathey	FSA Wales	via video link
Sarah Meredith	FSA Wales	“
Susan Sky	Welsh Assembly	“
Mervyn Briggs	FSA Northern Ireland	“
Sharon Gilmore	FSA Northern Ireland	“
Chris Raftery	FSA Scotland	“
Sheela Reddy	Department of Health	
Parminder Nijjar	Department of Health	
Roger Clarke	IDFA	
Graham Crawford	SMA	
Sally Griffiths	Nutricia	
Michael Collyer	IDFA	
Helen Gardiner	Hipp	
Jane Mayall	Hipp	
Louise Radcliffe	H J Heinz	
Belinda Phipps	NCT	
Phyll Buchanan	BFN	
Rosemary Dodds	NCT	
Carolyn Basak	RCN	
Sue Ashmore	UNICEF	
Patti Rundall	BMA/BFLG/IBFAN	
Sarah James	The Nutrition Society	
Judy More	BDA	
Alison Baum	Breastfeeding Manifest Coalition	
Joan Reid	Breastfeeding Manifest Coalition	
Les Bailey	LACORS	
Brian Griffiths	Croydon CC (Nestle)	
Oliver Darius	London Borough of Hillingdon (Heinz)	
Tom Hutchinson	Wilts CC (Nutricia)	
Anna Coombs	West Berks TS (Hipp)	
Kathryn Heirons	Bucks TS (SMA)	

1. The chair opened the meeting by explaining the background to the review, in particular the Minister's request that the new controls (legislation and guidance) are assessed and the objective of ensuring advertising for follow on formula is clearly seen as advertising a product for older babies, and

therefore does not undermine breastfeeding. The outcome of the review will be used to inform Government policy and will be used by the Minister to decide whether further action needs to be taken.

2. The Chair explained that the aim of the meeting was to establish how the review would work by getting stakeholder views on the draft options paper. A track changed version of the paper, sent to stakeholders on 7 January, was tabled at the meeting and formed the focus of the discussions (see annex for tabled version without track changes).

Objective of the review

3. The National Childbirth Trust (NCT) welcomed the recognition that something needs to be done on formula advertising and felt the review was a small step toward the WHO International Code of Marketing of Breast-milk Substitutes being fully implemented. Although they agreed the review should look at confusion, the NCT also wanted to see it assess the impact on carer's behaviour. A view echoed by the Royal College of Nurses.
4. The Baby Feeding Law Group (BFLG) offered to take part in the review on the basis that it would give the Government the information it needed to take further action to fully implement the WHO code. The BFLG believed the Minister wanted the review to assess whether the promotion of follow-on formula affects carer's choices, and asked that the objective of the review also look at carers' access to independent information and advice. The BFLG stated its position, which reflects WHA resolutions, that breastfeeding is important both before and after 6 months; that follow-on formula is an unnecessary product (and that artificially infants would be better served by continuing use of standard infant formula until 12 months.) They also emphasised that all promotion (including health and nutrition claims) for follow-on formula, even if clearly targeted to infants over 6 months, undermines breastfeeding and increases the perception that artificial feeding is the norm during this phase.
5. Both BFLG and the NCT asked that the last sentence of the proposed objective of the review, *'which seek to remove confusion in the mind of the consumer between infant formula and follow-on formula'* be deleted, since they considered the term "confusion" to be too narrow. LACORS felt such an amendment would widen the remit of the review extensively. Industry felt if the review remit was widened in this manner it would not have a distinct output. Industry considered that the review should reflect the scope of the Directive.
6. The Chair suggested that the review would need to look at the impact of the new controls, that the confusion between infant formula and follow on formula would be a key consideration, although it need not be the only one. She noted the very different views of stakeholders and suggested

that, as agreement could not be reached, the last sentence could be deleted, on the understanding that more detail would be inserted elsewhere in the document. Later in the discussions it was agreed that the Agency would revise the objectives and options paper in light of comments received and would circulate it to stakeholders for comment.

Review remit

7. BFLG raised the following points; the Directive asks Member States to implement the Code, carers should understand the risks of formula use and the measures they should take to reduce these risks, claims made on follow-on formula are seen to apply across the brand, including infant formula, and therefore undermine breastfeeding rates and duration. The Chair noted their concerns and suggested that as they were outside the scope of this review they could be considered separately after the 12 month review period.
8. NCT believed the review should measure the end effect of all promotions on consumers' perceptions of follow-on formula versus infant formula and asked that the term "formula" be clarified. Both the NCT and BFLG expressed the view that advertising of and all information on bottle feeding has an impact on the use of infant formula and that follow on formula should not be fed to infants under 6 months. The Chair agreed to clarify the term "formula" and include reference to the use of follow-on formula before six months in order to address NCT and BFLG's concerns.
9. The Chair clarified that "practical issues" referred to enforcement and as such Lacors agreed to input into the review. Lacors stated that if there is a lack of clarity on the requirements of the Regulations they look to the Directive and then the Agency/Commission, rather than the WHO Code.
10. IDFA wanted to know how the review would measure the efficacy of the Regulations, in particular on carers "perceptions". An explanation was also sought on what is meant by this term and it indicated it had particular concerns about how this would be accurately measured. It also wanted to know whether or not the review would be based on UK consumer's views only. The Chair explained that "perception" is what people believe they have seen, and stressed that the package was trying to ensure that consumer's are clear as to the nature of the product being advertised. She confirmed that it would be a UK based review and it will be for the panel to decide what evidence and information it would require.

Management of the review

11. The Breastfeeding Manifesto Coalition (BMC) raised concerns that the proposed criteria for independence may preclude many international experts from the review panel. Sheela Reddy (DH), acknowledged the difficulties, if using these criteria, associated with identifying a suitable expert in the field of infant nutrition. NCT and BFLG both asked that a NGO representative be on the panel and suggested it should be someone

who can represent the global view. IDFA considered that panel members should not have had links or payment from NGO's or industry in the last 10 years. The Chair suggested removing "formally declared remit position on infant formula or follow-on formula advertising", from the criteria to recognise the fact that many independent experts may have declared a view and agreed that the secretariat would propose panel members, which it would seek stakeholders comments on. She noted that the review related to the UK, but suggested that, although there may be merits of having a European perspective, there was no need to have a panel member that would represent a global view.

12. It was agreed that the panel would collectively need to have expertise in consumer perception and behaviour, clinical aspects of infant nutrition, health inequalities and diversity as well as knowledge of marketing and an understanding of the effect of promotion on consumer perception. The chair agreed that the secretariat would approach NICE for advice on possible candidates for the panel and that details of possible panel member's expertise would be detailed, when nominations are sent to stakeholders for comment. It was also clarified that the Agency would provide the secretariat to the panel, and that the review would be taken forward in conjunction with DH.

Stakeholder input in review process

13. Lacors agreed with the approach proposed, but suggested that the panel also needed to look at breaches of the legislation. Lacors reiterated that it can only take action where there is a breach of the Regulations and ultimately it is only the Courts who can decide if there should be criminal penalties. It was noted that it cannot take action on moral issues or breaches of the WHO Code and also that prosecution is a last resort, if there has not been progress to achieve compliance with the law by working with businesses. A Home Authority asked what particular information the panel would want them to provide. The Chair asked Lacors and Local Authorities to consider and suggest sources of information that it could provide which may be helpful to the review, but stressed that ultimately the review panel would decide what information would be needed.
14. Industry indicated that it could provide any promotional information that the review panel may request, and said that they would be happy for the panel to visit industry carelines. The BFLG questioned whether the information industry provided the panel would represent the full range of information available to carers on infant and follow-on formula. The BMC asked that the six week timescale to provide information requested by the panel be extended to 12 weeks, to take account of the summer holidays when volunteers may not be available.
15. The Chair thanked those who had offered to contribute information and data for the review and noted that the panel would need to reflect this

before deciding what information would be required and the best way of collecting it early in the process.

Evaluation/Data requirements

16. It was suggested that the review not only look at the effect of infant and follow-on formula labelling and advertising on the use of infant formula, but also what would encourage mothers to breastfeed. The Chair noted that this went beyond the scope of the review and suggested this was best left to Department of Health to look at in connection with their breastfeeding survey.
17. NCT suggested that the review panel consider the Department of Health surveys on breastfeeding, the Mori polls as well as the two additional consumer research surveys that the Agency was proposing to be carried out as part of the review. The NCT felt the consumer research should look not only at parents' perceptions, but also parents to be, pre-parents and healthcare professionals and that it should also consider brand perception. The Chair agreed that these ideas would be forwarded to the review panel for consideration, but was conscious that the panel would not be limited to suggestions included in the options paper and terms of reference. The Chair agreed that stakeholders should have an opportunity to comment on the design of any research conducted as part of the review.
18. IDFA suggested basing the review on returns and sales data, which they could make available to the Agency. NCT made the point that parents are unaware that the information presented to them is confused and inconsistent. They may be oblivious to the fact that they have purchased products which may be unsuitable for their children and are unlikely to return products when they do not know they are inappropriate. IDFA felt that the review must be based on robust data and asked that a statistician be involved. The Chair agreed that robust data should be included in the review and noted the suggestion that a statistician should be involved.

Review timelines

19. NCT questioned what the output of the review would be and how this would affect the Regulations and Guidance. The Chair explained that the review panel would make a recommendation about whether the Regulations and guidance fulfil their objective.
20. IDFA expressed concern that the time lines would not be long enough to take account of the changes in the Regulation and publication of the guidance. The Chair explained that the timetable reflected the Minister's request that the review be completed within a year. If once the panel has been appointed and the remit of the review has been finalised, it appears that a longer timescale is required this could be discussed again with the Minister.

21. In conclusion the Chair suggested that the Agency revise the options paper, taking into account comments made at the meeting, and send this to attendees together with a note of the meeting and suggestions for panel members so they could make written comments.
22. Attendees were advised that the agreed note of the meeting would be placed on the Agency's website and the Agency would be in contact with revised objectives for the review and details of proposed panel members, for comment.

Derek Hampson