

Third Meeting of the Network for Global Monitoring and Support for Implementation of the International Code of Marketing of Breast-milk Substitutes and subsequent relevant WHO resolutions (NetCode)

25-27 April 2018 – WHO, Geneva, Switzerland

Background

The third meeting of the NetCode was held on 25-27 April 2018 in Geneva, Switzerland.

Meeting Objectives

- Present and discuss WHO/UNICEF Code-related publications in 2017/18
- Update on national monitoring of Code violations
- Review the status of capacity development on the Code and Code monitoring
- Discuss advocacy opportunities for Code Implementation
- Discuss guidance on Code implementation issues
- Develop action plans for each NetCode task force
- Refine NetCode operations

WHO/UNICEF Code-related publications in 2017/18

- **Latest publications**

Laurence Grummer-Strawn from WHO presented the latest Code-related publications that have been made available over the past year, which included:

- *NetCode monitoring toolkit* (<http://www.who.int/nutrition/netcode/toolkit/en/>). The toolkit includes protocols, guidance and tools to reinvigorate and reinforce ongoing monitoring and periodic assessment of the Code and national laws;
- *Frequently Asked Questions on the Code* (<http://www.who.int/nutrition/publications/infantfeeding/breastmilk-substitutes-FAQ2017/en/>). The updated Frequently Asked Questions of the Code was released in 2017 to serve as an easy-to-read simple language description of Code provisions;
- *Implementation Manual for Guidance on Ending Inappropriate Marketing of Foods for Infants and Young Children* (<http://www.who.int/nutrition/publications/infantfeeding/manual-ending-inappropriate-promotion-food/en/>). The Implementation Manual provides the rationale and clarification of each recommendation in the guidance for controlling the marketing of foods and beverages targeted toward children under the age of 36 months, with the goal of protecting breastfeeding, preventing obesity and chronic diseases, and promoting a healthy diet. It also delineates key steps in establishing national legislation or regulation that gives effect to the recommendations;
- *Joint statement on human rights and breastfeeding* (<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20871&LangID=E>) The joint statement was released in November 2016 by the UN Special Rapporteurs on the

Right to Food and the Right to Health, the Working Group on Discrimination against Women in Law and in Practice, and the Committee on the Rights of the Child in support of increased efforts to promote, support and protect breast-feeding. The statement reminds States of their obligations under relevant international human rights treaties to provide all necessary support and protection to mothers and their infants and young children to facilitate optimal feeding practices, and calls upon States to fully align with the recommendations contained in the International Code and the aforementioned new WHO Guidance;

- *BFHI Implementation Guidance*
(<http://www.who.int/nutrition/publications/infantfeeding/bfhi-implementation/en/>) The updated Implementation guidance of the revised Baby-friendly Hospital Initiative was launched in April 2018 and presents the first revision of the Ten Steps to Successful Breastfeeding since 1989. The Code is now explicitly part of the Ten Steps and there are clear global standards for compliance by maternity facilities;
- *Lancet article on health professional associations and industry funding*
([https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736\(17\)30277-5.pdf](https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(17)30277-5.pdf)) This commentary, published in the Lancet (February 2017) about the UK Royal College of Paediatrics and Child Health's announcement and its decision to continue to accept funding from manufacturers of breast milk substitutes (BMS), draws attention to the need for health professional associations to avoid receiving industry funding.
- **Safeguarding against possible conflicts of interest in nutrition programmes**
(<http://www.who.int/nutrition/consultation-doi/comments/en/>) Francesco Branca from WHO presented on the WHO draft approach for the prevention and management of conflicts of interest in the policy development and implementation of nutrition programmes at country level. This document proposes a methodology for Member States to consider in their engagement with individuals and non-state actors for preventing and managing conflicts of interest in the area of nutrition. The draft tool proposes a six-step process for evaluating the risks and benefits of engaging with non-state actors and managing the risks when a decision is made to engage. The paper and tool will be presented to the World Health Assembly in May 2018, with the expectation of piloting and testing in select countries to review and strengthen the tool.

National monitoring of Code violations

- **NetCode monitoring toolkit and dissemination**
Marcus Stahlhofer from WHO presented the NetCode Toolkit Protocols for 1) ongoing monitoring systems and 2) periodic assessments. The ongoing monitoring system protocol describes methods for governments to detect, report, investigate and validate violations of the national laws and/or the Code; activate enforcement procedures that would stop such violations; and hold manufacturers, distributors, retail outlets, the health-care system and health-care workers to account for their breaches of national laws and/or the Code. The periodic assessment enables a quantitative assessment of the level of compliance with the provisions of the Code and national measures, trends and changes in compliance over time, identification of priority areas for Code implementation and enforcement work, and reveals gaps and limitations of national laws.

- **Survey results of the periodic assessments**

- **Chile:** Representatives from Chile, Luisa Maura Kipreos Garcia and Patricia Bustos Muñoz, presented the main findings of the monitoring survey results conducted to analyse the violations of the Code in Santiago, Chile, using the protocol developed by NetCode. Frequent violations of the Code were observed to be prevalent by means of promotion through on-line media, sale points and health services. Messages addressed to mothers in health services, family advice, publicity and sales were also frequently in violation of the code. Advertisements for infant formula for 0-12 months were few in number compared to the advertising for formulas focused on children >12 months. A high prevalence of advertising for discounts in stores and magazine brochures was observed and frequent contact of company employees with health professionals was also reported. The need to develop a permanent monitoring system was emphasized to help eliminate the inappropriate marketing of food for infants and to allow a regular assessment of the level of compliance with the Code and with national measures.
- **Ecuador:** The Ecuador survey results were presented by Fabio da Silva Gomes, from WHO Regional Office for the Americas. The implementation of the Code was monitored from March to May 2017. During this period (3 months), the total expenditure of companies for media marketing was USD 1,025,000 (USD 11,500 per day). Nestlé was recorded as the major advertiser, and as the company that has mostly contacted health facilities, followed by Abbott. Although 1 in every 2 professionals was aware of the Code, 1 in every 2 health professionals recommended the introduction of breast-milk substitutes before 6 months, more commonly in private facilities than in public ones.
- **Thailand:** Rachel Crossley from the Access to Nutrition Foundation (ATNF) presented the results of the study conducted in Thailand on marketing of breast-milk substitutes (BMS). The most prevalent form of marketing was point-of-sale promotion on major online retailers' sites. The study documented numerous donations of equipment and promotional materials in health care facilities. Although little direct contact by the companies with mothers was found, stakeholders reported that a lot of contact happened via social media, emphasizing the need to find ways to better monitor such practices. Good government control of imports was in place as there were no parallel imports that were found. However, many non-compliance issues with labelling were observed, specifically the use of nutrition and health claims, the lack of required product expiry information, and the lack of a statement that the product should be used on the recommendation of a professional. The report recommended that companies need to bring their practices in line with the Guidance on Ending the Inappropriate Promotion of Foods for Infants and Young Children (WHA 69.9) and cease donating materials to health facilities.
- **Nigeria:** Rachel Crossley also presented on the ATNF study in Nigeria. Point-of-sale promotion on major online retailers' sites was highly prevalent. The study found close to 150 incidences of BMS marketing in Nigeria that do not comply with the recommendations of the Code or the prevailing local regulations. A high number of parallel import products were observed, and more needs to be done by the government to clamp down on such imports. Extensive advertising of milk-based products aimed at older children was noted, using

similar branding and packaging to infant formula. Thus, greater emphasis should be placed by companies and the Government on eliminating the cross-promotion of such products.

- **Progress in strengthening ongoing monitoring**

- **Kenya:** Adelheid Onyango of WHO presented on the situation with building a monitoring system in Kenya. The process has been stalled since mid-2017 due to the Kenyan elections and delays in enacting draft regulations. Rollout of the NetCode monitoring has been very slow, waiting for further clarity on the regulations. Public vetting of the regulations was supposed to begin in May 2018.
- **Cambodia:** Representatives from Cambodia, Oum Samol and Aing Hoksrun, presented how the NetCode tools were adapted for Code monitoring, and the implementation of the pilot monitoring in four provinces in the country. The challenges in implementing the system were reported along with proposed solutions to address them. One of the key challenges being the integration of the monitoring of the national Sub-Decree on Marketing of Products for Infant and Young Child Feeding (Sub-Decree 133) into the ongoing work of each line ministry due to lack of capacity, increased workload and limited resources.
- **Oman:** Salima Al Mamary, representative from Oman, presented the results of the pilot in three health institutes within the Ministry of Health and the features of the web-based technology to report a violation from any health institution and provide real time data analysis. The pilot approach revealed the technical constraints of the module which may delay the coverage of all health institutes more than expected.

- **Future plans of countries**

Country representatives from Bangladesh, Thailand, Brazil, and Armenia presented the rationale for adopting the NetCode protocols for monitoring and their future implementation and action plans to monitor Code violations.

- **Barriers and challenges identified by countries**

Representatives from all countries discussed the major challenges they faced in implementing Code monitoring systems. These included:

- Political/bureaucratic barriers:
 - Limited resources (human and financial)
 - Insufficient buy-in or attention from other ministries (besides MOH), indicating the need for internal advocacy about the Code
 - Difficulty in coordinating multiple stakeholders within government and in civil society
 - BMS industry's influence over health professionals
 - Limited public understanding of the problem of BMS marketing, highlighting the need for enhanced public information and education
 - Conflicts of interest among industry and government staff
- Technical issues with ongoing monitoring
 - Too long a checklist of potential Code violations

- When violations are reported, there is insufficient information to take any direct actions on them
 - Technical IT challenges in implementing an electronic reporting system
 - Knowledge and attitudes of trainers
 - Lack of clarity on who has authority to enforce the Code
 - Ambiguity about specific Code violations
 - Difficult to differentiate responsibility of retailers and manufacturers
- Technical issues with periodic assessments
 - Gaining access to private facilities is often difficult
 - Obtaining ethical approvals for data collection is slow and complicated
- **Expanding the use of the NetCode toolkit**

A key priority for NetCode is to increase the number of countries engaging in Code monitoring by promoting broad usage of the NetCode toolkit. Some ideas that were brainstormed included:

 - Establish Code monitoring as a key theme for World Breastfeeding Week
 - Educate more people about the Code
 - Include Code monitoring as part of the non-communicable disease agenda
 - Scale up advocacy to countries through WHO (HQ and regional office) visits to countries
 - Utilize food safety law to build monitoring activities
 - Incorporate Code monitoring into the Baby-friendly Community Initiative
 - Focus on only select sectors for monitoring at one time to simplify the monitoring system
 - Translate toolkit into multiple languages and disseminate
 - Develop larger pool of people to provide technical assistance on Code monitoring

Capacity development on the Code and Code monitoring

- **General capacity development on the Code**

Joo Kean Yeong from IBFAN presented the features of the trainings offered by the International Code Documentation Centre (ICDC) for policy makers, regulators, health officials, lawyers and enforcement officials. The trainings aim to build their skills on how to draft effective national measures based on the Code and subsequent WHA Resolutions. Although, three levels of trainings are offered (international, regional / sub-regional, and national), the 5-day regional courses were observed to have the most impact and proven to be the most cost effective. Over half (53%) of the countries that participated in regional courses followed up with concrete actions in their countries.

Marcus Stahlhofer from WHO presented the Code-related capacity building activities conducted over the past year including regional workshops on Code monitoring and NetCode protocols. Regional workshops were conducted in Mexico City, Mexico, and Muscat, Oman, for government officials, academics and civil society organizations.

Stahlhofer also presented the new introductory e-course on the Code and subsequent relevant WHA resolutions (<https://agora.unicef.org/course/info.php?id=12360>). The e-course developed by WHO and UNICEF has 8 modules, and is freely accessible to all who work on maternal, newborn and child health, and on infant and young child nutrition. The e-course can currently be

accessed on UNICEF's Agora website, and will shortly also be available via the WHO Nutrition e-learning hub at UNITAR.

- **Discussion**

To increase the uptake of the introductory e-course, the provision of Continued Medical Education (CME) hours on the course would be a good incentive for medical professionals to undertake the course. The course could also be made mandatory as part of performance appraisal and professionals could receive credits. The e-course needs to be more widely disseminated with blast e-mails by multiple organizations.

The revision of the introductory e-course will be initiated after one year, based on the comments and feedback from users.

- It was recommended that the request for feedback on the online course should not be limited to technical limitations but also suggestions for improvement. Although the auto-google translate feature works, making the online course available in French at the earliest possible time was recommended. Currently, the online course includes elements of WHA 69.9, but there is no specific section on conflict of interest and could be considered as part of the next revision.

Participants recommended linking all the various courses (offered by WHO, UNICEF and ICDC) to a broader capacity building initiative, as part of a comprehensive plan.

- As part of the comprehensive plan, it is recommended to encourage individuals to undertake the basic information Code course online prior to face-to-face trainings. This would allow for the face-to-face trainings to more quickly delve into more in-depth content and practical skills.
- Having a go-to list/register of all the relevant courses pertaining to the Code and breastfeeding, categorised according to level of experience and time demand required would be appreciated by the regional and national colleagues.
- Code training needs to be integrated into other capacity development activities, such as BFHI trainings, SUN movement activities, and the Model Chapter on Breastfeeding for Medical Textbooks.

Participants discussed the need to better tailor to courses to distinct audiences. The most critical issues to understand are likely different for health care providers, food inspectors, advocates, etc. The skills to be developed may differ between countries that have already developed Code legislation and those that have not. Many people know about the Code but are scared by the complexity of many legal issues.

The challenges of having materials available or providing trainings for private sector such as small-scale local companies was raised. While resources might be limited to extend the civil society organised trainings to private sector colleagues, one of the solutions could be for companies to start with the free online introductory e-course on the Code and subsequent relevant WHA resolutions and then reach out to WHO and UNICEF for further information.

- **In-country training for monitoring**

David Clark from UNICEF presented on the need to develop training materials specifically for Code monitoring. Despite the fact that one of the objectives of NetCode was to “Guide the adaptation of training materials for monitoring the Code, and the formulation, monitoring and enforcement of national Code legislation” this has not been achieved. Some materials already

exist, but they need to be revised, adapted and address the challenges to monitoring that have been identified. Although a wealth of experience and resources are already available among NetCode members, adaptation requires time and dedicated resources to create the required customized training materials. Clark provided outlines of needed content and resources required in terms of training materials for both the ongoing monitoring protocol, and for the periodic assessment protocol.

Recommendations include:

- The NetCode member organizations could develop courses as part of their organizational activities.
- Strengthen the pool of qualified trainers who can train others.
- NetCode could suggest use of any of the existing materials and who people should turn to for support in the meantime.
- Country-level trainings have proven to be the most cost effective when there is a demand from the country for code-relevant trainings. Hence, it is important to consider the experiences of countries that have already implemented the protocol to be able to adapt the training packages.

Advocacy for Code Implementation

- **Global advocacy activities**

Frances Mason from Save the Children described the current landscape on global Code advocacy. Several reports have recently been published by civil society organisations and independent entities to document violations of the Code or to describe how Code compliance can be strengthened. The reports include:

- the Food for Thought report (https://www.dropbox.com/s/8acidrqb2rlm7u/Food%20for%20Thought%20Report_presentation%20%28hi-res%29.pdf?dl=0) discusses Code compliance as part of the 'business and human rights' agenda;
- the Access to Nutrition Index surveys (<https://www.accesstonutrition.org/>) document non-compliances by companies in Viet Nam, Indonesia, India and Thailand;
- the Breaking the Rules report (<http://ibfan.org/fact-monitoring-overview-reports>) published by IBFAN identifies a total of 792 Code violations from 79 countries by 28 companies;
- the FTSE4Good Index (<https://www.ftse.com/products/indices/F4G-BMS>), designed to help investors identify companies that meet globally recognised corporate responsibility standards, includes both Danone and Nestle. The FTSE4Good standards are weaker than the Code and thus reward companies even when they violate the Code;
- the Milking It report by Changing Markets (<https://changingmarkets.org/portfolio/milking-it/>) investigated the health claims made on milk formula products for <12 months produced by the four largest BMS companies, documenting that the claims are not science-based and drive up the cost of formula;

- the Don't Push It report by Save the Children (<https://resourcecentre.savethechildren.net/library/dont-push-it-why-formula-milk-industry-must-clean-its-act>) found that the marketing expenditure of the BMS industries may be as high USD 17 billion, and reports evidence that aggressive marketing is driven from most senior levels.

Additional ideas for increasing advocacy on the Code included:

- Use social media to promote Code-relevant messages;
 - Develop and utilize infographics as simple ways to communicate about the Code;
 - Embed messages on the importance of the Code into other advocacy publications;
 - Shape messages on the importance of the Code for protecting all mothers and their babies and ensuring the availability of safe alternatives when breastfeeding is not possible;
 - Utilize country-level data wherever possible for national advocacy;
 - Utilize the results of NetCode monitoring as tool for advocacy
 - It may be useful for WHO to post NetCode study results on its website
 - A standard set of indicators is needed to compare across NetCode studies
 - Publish NetCode results in multiple formats including full reports, short communications, and journal articles;
 - Work more with communications experts to shape messages;
 - Work with Child Health Information For All (CHIFA);
 - Collaborate more with the Inter-Parliamentary Union (IPU);
 - Work with the SUN Movement to engage with parliamentarians.
- **Role of NetCode in WHA and Codex meetings**
Participants presented the rationale for the WHA resolution on infant and young child feeding that was being discussed among Member States. Several new tools and guidance documents have been produced by WHO and there is value in a call to action for countries to utilize and implement these tools. The country representatives of the NetCode membership agreed to reach out to their officials regarding the resolution.

Regarding Codex, participants noted the challenges associated with ensuring that country delegations to Codex fully understand, and convey, the importance of Codex policy coherence with WHA resolutions. Capacity building of delegates on policy coherence, and ensuring strong health sector representation in Codex country delegations, were considered priorities. It was also noted by participants that inclusion of industry representatives in some country delegations raised additional challenges and concerns.

Guidance on Code implementation issues

- **Trade issues**
David Clark of UNICEF, on behalf of the NetCode task force for guidance presented the forthcoming policy brief that describes the implications of trade agreements for domestic implementation of the Code. The policy brief provides a brief description of the right to regulate under World Trade Organization (WTO) law, including core principles and relevant WTO covered

agreements, highlighting that although a majority of countries worldwide have implemented the Code in legislation, there has never been a formal legal dispute concerning domestic implementation of the Code under an international trade agreement. The policy brief also provides advice on how governments can strengthen their legal positions by defining regulatory objectives and gathering evidence to support implementation of legislation and policy.

- **Guidance needed from WHO and/or NetCode to improve Code implementation**

Elizabeth Zehner from HKI presented on top priorities for guidance on the Code, including basic descriptions of the Code, clarification of ambiguities, implementation issues, and defending the Code. These are all areas for the WHO and NetCode to focus on.

Specific questions that were raised as priorities included:

- providing clarification regarding issues on use of breast pumps, associated bottles, and pacifiers;
- implications of the Code for donor human milk;
- clarity on claims and cross branding/cross promotion;
- Code enforcement issues.

Action plans for each NetCode task force

- **Capacity Building**

The NetCode task force for capacity building identified Marcus Stahlhofer as the Chair of the group and presented the discussions of their action plan:

- Conduct a training needs assessment;
- Identify key target groups and establish priorities for who should be addressed first. Countries in the process of drafting a legislation or needing to strengthen their monitoring mechanisms probably have different training needs;
- Evaluate existing training materials to be utilized or adapted. Work on translation of key materials;
- Explore the provision of professional credits as part of the Continuing Medical Education for health professionals;
- Focus attention first on ongoing monitoring systems.

- **Guidance**

The NetCode task force for guidance identified Elizabeth Zehner, HKI and David Clark, UNICEF as co-chairs of the group and presented the discussions of their action plan:

- Take stock of existing Code content documents, noting title, author, topic, target group and language;
- Identify gaps and needs for updating. Develop a plan for dissemination of most useful materials;
- Develop guidance on complicated issues that require clarification, particularly the use of breast pumps. Draw from WABA and ILCA statements on the topic;
- Establish a community of practice to address country-level implementation questions;
- Develop case studies on enforcement provisions and sanctions;
- Write up case studies on implementation around monitoring, potentially resulting in an article for journal publication;

- Develop an advocacy brief on the Code to be used by NetCode member organizations. It was noted that the task force has already produced several documents, including a brief on WHA 69.9, a commentary on the WHA 69.9 focusing on human rights (Maternal and Child Nutrition journal), and a draft text on Codex.

- **Advocacy**

The NetCode task force for advocacy identified Thiago Luchesi, Save the Children and Fabio da Silva Gomes, WHO Regional Office for the Americas as the co-chairs of the group and presented the discussions of their action plan:

- Work to strengthen FTSE4Good criteria;
- Pick 2-3 countries to concentrate advocacy for stronger legislation at the country level;
- Address Code application in emergency response;
- Advocate on the importance of health professionals individually respecting the Code in their own relationships (particularly focusing on conflict of interest), and using health professionals as better Code advocates (or in some cases make sure they are not Code opponents.)
 - Strengthen medical curricula to include more information about the Code;
 - Tackling the issue of sponsorship of health professional associations;
 - Address the Academy for Breastfeeding Medicine (ABM) to be better Code advocates;
 - Strengthen dialogues with the International Paediatric Association and Federation for Obstetrics and Gynaecology;
- Advocacy for ongoing monitoring systems;
- Support countries participation in Codex discussions, particularly around follow up formula.

NetCode operations

- **Discussion of expanding membership**

The current membership of the NetCode was discussed. Nine countries are part of the NetCode now, and as mentioned in the concept note, they can continue their membership up to a term of three years. The number of NGOs participating in NetCode have doubled over the past year. Six organisations were reached out to and three of them joined the meeting (La Leche League, International Lactation Consultant Association and Action Contre la Faim). Three other organizations have all expressed positive interest to be a member (ABM, World Vision International, and NCD Alliance) but would need to undergo an application process and be screened for conflicts of interest. The incumbent members will be vetted by WHO and UNICEF and the recommendations for inclusion will be shared with the members of the NetCode.

Another potential new member could be the Emergency Nutrition Network, with whom NetCode partners have extensively worked with and most of the members agreed to reach out to them. The possibility of reaching out to organizations focusing on trade was also raised. Country representatives emphasized the value of partnering with consumer rights organizations to help push the agenda forward.

It was also agreed that the membership expansion of NetCode is aimed at strengthening the capacity of the network to address specific complicated issues. As worked in the past, NetCode will continue to collaborate with external partners and members on specific topics.

- **Discussion of internal communications**

A quarterly teleconference with members along with quarterly updates through email/word documents was the initially agreed format for internal communications. Given that the teleconferences were not well attended in the past, changes were proposed:

- A repository of documents for communal exchanges would be helpful for the NetCode membership along with different levels of permission for the task forces and for those interested in the Code to continuously share – either through Dropbox, Google drive, or a cloud sharing format.
- Potential webinars to share country-level experiences and catch up with a broader group.
- One video check-in to check on progress of the NetCode members and tasks.

NetCode self-evaluation

The meeting concluded with a brief discussion of the key successes and failures of the NetCode partnership to date. Several key points were raised:

- The development of the NetCode toolkit for monitoring has been a key success.
- Implementation of the NetCode periodic assessment was highly valuable for the countries that conducted it and has served as an important tool for global advocacy.
- While NetCode has provided technical assistance on the development of ongoing monitoring systems and many countries have been working to strengthen their systems, there have been numerous challenges identified and progress has been slow.
- NetCode has helped to align the messages and strategies of member organizations.
- Scaling up capacity building on the Code has not progressed as quickly as it should.
- Global attention to the Code has been growing, but NetCode could do more on Code advocacy—reliance on the Global Breastfeeding Collective for advocacy on the Code is unrealistic and so NetCode needs to take this on more directly.
- Countries participating in the NetCode meeting have found them to be very informative and the NetCode partners have found their involvement invaluable.
- The expansion of NetCode membership to six civil-society organizations has been extremely beneficial and has enriched the discussions.
- Participation of WHO regional advisors in NetCode meeting is very helpful.