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Thailand's Position on the International Code of Marketing of Breast-Milk Substitutes: An Overview

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Abstract

The International Code of Marketing of Breast-Milk Substitutes aims to regulate marketing practices of breast milk substitutes to protect breastfeeding. The Code was introduced due to the negative impact of aggressive marketing and promotion of breast milk substitutes on breastfeeding rates, which provide essential nutrients and health benefits for both infants and mothers. Key provisions of the Code, such as banning advertising and promotion to the general public and ensuring accurate information from manufacturers, help reduce the influence of marketing on infant feeding choices. Many countries have adopted and implemented the Code's guidelines, resulting in increased awareness and reduced promotion of breast milk substitutes. However, challenges remain in effective implementation and enforcement, and breastfeeding rates still vary globally. Thailand supports the Code and has implemented its guidelines into national legislation. The country has established laws to restrict promotion and advertising of breast milk substitutes and initiatives to promote and support breastfeeding, such as the Baby-Friendly Hospital Initiative. However, challenges in enforcing the guidelines and varying breastfeeding rates remain. Thailand is working towards improving implementation and enforcement of the guidelines and promoting breastfeeding practices in the country.

Keywords
- ► the international code
- ► marketing
- ► breast milk substitutes

Introduction

The International Code of Marketing of Breast-Milk Substitutes (herein after the term "Code" refers to both the International Code of Marketing of Breast-Milk Substitutes and all subsequent resolutions) was developed as a response to growing concerns about the decline in breastfeeding rates and the aggressive marketing of breast milk substitutes, which contributed to this decline.[1] The 1970s saw a significant increase in the promotion and sales of infant formula, leading to the widespread use of these substitutes, often without proper guidance or understanding of their potential negative impacts on infant health.[2] In 1979, the World Health Assembly (WHA) requested the Director-General of the World Health Organization (WHO) to work on the development of an international code to govern the marketing of breast milk substitutes.[3] After extensive consultation with governments, nongovernmental organizations (NGOs), the infant food industry, and other stakeholders, the Code was adopted by the WHA in 1981.[1] Since its adoption, the Code has been revised and expanded through many subsequent WHA resolutions, which provides additional guidance and clarification.[4]

Since the adoption of the Code in 1981, many countries have implemented its guidelines into their national

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legislation to regulate the marketing practices of breast milk substitutes. According to the WHO, as of 2019, 135 countries have enacted laws that partially or fully incorporate the Code's provisions into their national legislation. These countries include both high and low-income countries across various regions, indicating the widespread recognition of the importance of regulating the marketing practices of breast milk substitutes. However, the implementation and enforcement of the Code's guidelines vary across different countries, and challenges still exist in ensuring appropriate marketing practices and promoting breastfeeding. In some countries, the infant food industry has found ways to circumvent the Code's provisions, such as through the use of indirect advertising or misleading marketing claims. Additionally, some health care professionals may not have adequate knowledge or training on appropriate infant feeding practices and may unintentionally contribute to the protecting of breast milk substitutes or not giving good counseling to successful breastfeeding. Therefore, it is crucial for countries to continue working toward effective implementation and enforcement of the Code's guidelines and to promote and support breastfeeding practices. The efforts of countries in implementing the Code's guidelines protecting, supporting, and promoting breastfeeding can have a significant impact on improving infant health and reducing infant mortality rates globally.

Key Points of the Code

The Code aims to protect and promote breastfeeding by setting guidelines for the marketing and promotion of breast milk substitutes, ensuring that mothers and health care professionals receive accurate and unbiased information about infant feeding.[1] Some of the key points of the Code include:

1. No advertising or promotion of breast milk substitutes, feeding bottles, or teats to the general public (WHO, 1981, Article 5).
2. No free samples or supplies of breast milk substitutes to pregnant women, mothers, or their families (WHO, 1981, Article 5).
3. No promotion of breast milk substitutes in health care facilities, including the distribution of free or low-cost supplies (WHO, 1981, Article 6).
4. Health care professionals should not receive gifts, samples, or incentives from manufacturers or distributors of breast milk substitutes (WHO, 1981, Article 7).
5. Information provided by manufacturers and distributors to health care professionals should be limited to scientific and factual matters (WHO, 1981, Article 7).
6.) Manufacturers and distributors should comply with the Code's provisions even in countries where the Code has not been implemented through national legislation (WHO, 1981, Article 11).
7. The Code encourages governments to adopt and enforce national measures to give effect to its principles and aim (WHO, 1981, Article 11).

Breastfeeding requires protection and endorsement. The Code faces implementation hurdles, especially in Southeast Asia. Effective application of the Code involves legislation, strict enforcement, and public education on the benefits of breastfeeding. A holistic approach, including community actions, peer promotions, and firm political commitment, is essential. National breastfeeding committees must be established to enhance regulations and enforce laws. Systematic surveillance is necessary to identify and penalize violators. Additional measures include strengthening protections for breastfeeding mothers, large educational campaigns, excluding formula industry from policy roles, supportive legal structures, and independent research on breastfeeding-supportive interventions.[5]

The Situation of Code in Thailand

The International Baby Food Action Network (IBFAN) report states that Thailand lacks formal laws that provide protection for mothers, parents, and infants from the intrusive and unethical marketing practices of breast milk substitutes. Instead, Thailand relies on a series of voluntary initiatives. Thailand has taken steps to comply with Code by implementing the Regulation of Marketing of Foods for Infants and Young Children and Related Products in 2008. However, this regulation does not possess the force of a legislative or statutory law to combat the marketing of breast milk substitutes.

Moreover, the Food and Drug Administration (FDA)'s advertisement criteria issued under the Food Act of 1979, and its second revision in 2012, set out prohibitions related to food advertising. But these rules only limit advertisements for infant and young children's food. They do not address broader promotion and marketing strategies. This represents a significant loophole in Thailand's regulatory environment, as it lacks specific provisions to control the marketing of breast milk substitutes. As a result, it is a major obstacle to breastfeeding and tends to sway mothers toward infant formula. Given the absence of national legislation controlling the marketing of breast milk substitutes in Thailand, the question arises as to what actions Thailand should take to fully align with the Code, ensuring maximum protection and implementing the right measures.

What Is Thailand's Stance on the Code?

Thailand's proactive and comprehensive approach to implementing and enforcing the Code is an example of a country that has taken the guidelines seriously and made significant efforts to protect and promote breastfeeding.

1. *Legal framework*: Thailand was among the first nations to incorporate the Code into national legislation with the enactment of the Control of Marketing Promotion of Infant and Young Child Food Act in 1984, affirming its commitment to breastfeeding promotion. This act has since been updated several times to stay aligned with WHO's recommendations. In 2017, the "Control on the Promotion and Marketing of Foods for Infants and Young

Children, B.E. 2560 (2017)" regulation was adopted. This updated the guidelines concerning breast milk substitutes' marketing, forbidding misleading marketing, free samples or gifts, and mandated accurate information on infant feeding.[6] It also tasked the Thai FDA with regulation enforcement. Thailand has also begun integrating the WHO's recommendations to curb the inappropriate promotion of infant and young children's food.[4] These actions reflect Thailand's sustained dedication in promoting and protecting breastfeeding, aligning with international best practices, and tackling emerging challenges.

2. *Enforcement and monitoring*: To ensure adherence to the Control of Marketing Promotion of Infant and Young Child Food Act and associated regulations, Thailand has instituted a thorough monitoring system. This system involves collaboration between multiple stakeholders, including NGOs, professional associations, and government agencies. Organizations such as the IBFAN and the local Thai Breastfeeding Center Foundation work in tandem to scrutinize the marketing practices of breast milk substitutes in Thailand.[7] They collect data on potential infringements and report them to pertinent authorities while also raising public awareness about breastfeeding's importance.[8,9] The Thai FDA, the key government agency involved, supervises law compliance, reviewing reported violations and enforcing appropriate action. This action can range from warnings to fines or legal action against violating manufacturers or distributors.[6,10]

In recent years, Thailand has made efforts to strengthen its monitoring and enforcement capabilities. For example, the 2017 regulation on the Promotion and Marketing of Foods for Infants and Young Children included provisions for establishing a national monitoring committee to oversee the implementation of the law and coordinate efforts between various stakeholders. These enforcement and monitoring efforts demonstrate Thailand's commitment to ensuring compliance with the Code and promoting breastfeeding as a public health priority.

The Strategies to Regulate the Marketing and Advertising of Breast Milk Substitutes in Thailand

In response to inappropriate marketing of breast milk substitutes, different countries have enacted various measures. For instance, the Philippines completely bans advertising of infant formula, while the European Union and the United Kingdom allows advertising under strict regulations to ensure information is scientific and factual. These regulations also prohibit sales promotions for infant formula. In Thailand, two main provisions control such advertisements and promotions (1) the Regulation of Marketing of Foods for Infants and Young Children and Related Products 2008 and (2) the Announcement of the Food and Drug Administration Criteria for Food Advertisement B.E.2551 and revision (No. 2) B.E.2555 (2012). However, these regulations have limitations. The 2008 regulation lacks practical enforcement capabilities and only covers children up to 2 years of age, falling short of international guidelines that recommend coverage for products intended for children up to 3 years of age.[11,12]

The FDA's advertisement criteria can only control advertisements for infant and young children's food and does not cover other marketing strategies. Considering the gaps in its current regulations, Thailand should enact national legislation with penalties for violations, to control the behavior of manufacturers, distributors, and representatives. This legislation should not only restrict advertisements but also other promotional methods, such as free sample distribution, seminars, and creating marketing in health care facilities. Moreover, advertisements should be allowed, provided they contain only scientific and factual information. This approach balances the need for consumer information and the necessity to curb inappropriate promotions of breast milk substitutes.[11,13]

Strategies to Regulate Marketing Methods that May Lead to Consumer Confusion

The Guidance to End the Inappropriate Promotion of Foods for Infants and Young Children, along with regulations from the United Kingdom and the European Union, discourages indirect promotion of breast milk substitutes via other infant and young children's food. They require clearly distinguishable labels on infant and follow-on formulas. Despite Thailand's existing restrictions on advertising infant formula and follow-on formula, manufacturers often use similar branding on related products to indirectly market these products. Concerns are raised about Thailand's current regulations, which mainly focus on product advertisement but overlook the risk of confusion arising from similar product presentation and labeling. Here are some key areas of concern:

Advertisement: Currently, only advertisements for infant formula and follow-on formulas are prohibited, leaving room for potential confusion from the advertising of related products targeted for older children. To avoid this confusion, it is suggested to extend the restrictions to products targeted for children up to 3 years of age.

Labeling: Thailand's current legislation lacks detailed requirements for labeling, such as clear font sizes for specific terms, different blocks of text, different pictures, and varying color schemes for different products. The suggestion is to implement these measures to prevent confusion.

Presentation: There are currently no regulations in Thailand to avoid confusion through product presentation. Measures suggested including clear product differentiation on shelves and requiring different parts of the store to display infant formula and follow-on formula products. However, these changes should consider the practical limitations of small stores.

By addressing these areas, Thailand can improve its regulations to control the marketing and advertising of breast milk substitutes, effectively reduce consumer confusion, and prevent indirect promotion strategies.

Strategies to Regulate the Promotion and Messaging around Breast Milk Substitutes

In Thailand, the Ministry of Public Health Notifications No. 156 and No. 157, along with EU Regulation 609/2013 Article 11, Infant Formula and Follow-on Formula Regulations, 2007

No. 24, and the Code, require clear messaging on breastfeeding's superiority and proper product preparation. However, they do not emphasize the importance of extended breastfeeding up to 2 years or beyond, which is recommended in the Guidance on Ending the Inappropriate Promotion of Food for Infant and Young Children. Therefore, it is suggested that legal regulations continue to promote breastfeeding through labels and other forms of communication, including advertisements and online information. They should also discourage images or text that idealize breast milk substitutes or undermine breastfeeding.

Currently, Thai regulations on infant formula and follow-on formula labels, as per Notification of Ministry of Public Health No. 156, only mandate clear usage information. They do not yet prohibit images or text that may idealize the use of breast milk substitutes, as recommended by the Code. By implementing these suggestions, Thailand could enhance its control over marketing strategies related to infant feeding.

Strategies to Measures and Sanctions to Control the Health Worker

Code and the Guidelines for Ending the Inappropriate Promotion of Foods for Infants and Young Children discourage health workers from accepting gifts or samples of infant formula from companies.[14] This is also echoed in the Philippines' Executive Order No. 51, which imposes strict penalties on health workers who violate this rule, including suspension or revocation of their licenses. However, Thai law presently lacks emphasis on the crucial role of health workers in promoting breastfeeding, focusing more on restricting manufacturers, distributors, and importers from promoting formula. Considering the substantial impact health workers have on mothers' decision to buy breast milk substitutes, Thai regulations should implement sanctions for health workers who breach these rules, similar to the Philippines' approach. The Department of Health's draft legislation does propose such sanctions, but these are missing from the Council of State's draft. The introduction of sanctions in Thai law would help control the influence of health workers who have close relationships with mothers and pregnant women, protecting a crucial channel through which infant formula is promoted and encouraging the support for breastfeeding.[11]

Challenges in Implementing Code in Thailand

The Regulation of Marketing of Foods for Infants and Young Children and Related Products 2008 governs the marketing of breast milk substitutes in Thailand. This regulation, however, is not legislative or statutory law that can be used to prevent the marketing of breast milk substitutes. Furthermore, the Food and Drug Administration Criteria for Food Advertisement Announcement B.E.2551 and revision (No. 2) B.E.2555 (2012) under the Food Act B.E.2522 established advertising prohibitions. However, the announcement and its revision can only limit food advertising to infants and young children. As a result, those prohibitions do not apply to the promotion and marketing tool.[11] While Thailand has made significant progress in implementing the Code, there remain potential barriers and limitations to its full implementation. Some of these challenges include:

1. *Limited enforcement capacity*: Despite having established regulations and monitoring systems, the enforcement capacity of relevant authorities, such as the Thai FDA, might be limited due to resource constraints or competing priorities.[15] This could result in insufficient oversight and a lack of effective enforcement of the Code's provisions.
2. *Cross-border marketing practices*: In today's globalized world, cross-border marketing practices make it challenging to regulate the promotion of breast milk substitutes within a single country. Companies might engage in marketing practices that target Thai consumers through channels that are difficult to regulate, such as social media and online platforms based outside of Thailand.[16]
3. *Industry influence*: The breast milk substitute industry has a vested interest in promoting its products and might exert influence on policymakers or health care professionals to undermine the implementation of the Code.[17] For example, companies could sponsor conferences or provide gifts to health care professionals, which could lead to biases in the promotion and support of breastfeeding.
4. *Insufficient health care professional training*: Health care professionals play a critical role in promoting and supporting breastfeeding, but they may lack adequate training or knowledge about the Code's provisions or the importance of breastfeeding.[18] This could result in health care professionals inadvertently promoting breast milk substitutes or providing insufficient breastfeeding support to mothers.
5. *Sociocultural factors*: Sociocultural factors, such as family and community beliefs or attitudes, could undermine the implementation of the Code. For instance, if breastfeeding is not widely accepted or practiced within a community, mothers might be more likely to turn to breast milk substitutes, regardless of regulations and promotion restrictions.[19]
6. *Workplace policies and support*: While Thailand has laws providing maternity leave, working mothers might still face challenges in maintaining breastfeeding after returning to work, especially if workplaces lack supportive policies or facilities, such as breastfeeding rooms or flexible work arrangements.[19]

Implementing Penalties for Noncompliance

Regarding enforcement and penalties for violations, the Regulation of Marketing of Foods for Infants and Young Children and Related Products 2008 lacks specific punishment clauses for infractions. Instead, it requests cooperation from health organizations but lacks legal binding. Contrarily, the Department of Health's draft proposal includes administrative penalties, including daily accruing fines until illegal actions cease. This draft, therefore, introduces a gradation of fines depending on the duration of the violation. The Council of State's draft proposal no. 1087/2559 introduces both

imprisonment and fines as punishment for violations, akin to the Executive Order No. 51. Nevertheless, it does not clarify the gradation of fines as the Department of Health's draft does. If these drafts become national legislation, they could enforce penalties not just for false advertising but for other marketing infractions currently not covered, such as unauthorized sales promotions or unsolicited contact with expecting mothers. The proposal by the Department of Health to impose daily fines until the violation ceases might be more efficient in controlling violations, given the large market value of breast milk substitutes. A fixed fine might not be significant compared with the profit margins for these products. Consequently, it would be advisable to impose graded fines depending on the violation's duration, which would likely deter further illegal behavior. Such an approach could be more effective in addressing the violations.[8,11]

Global Implementation and Enforcement of the Code: Country Approaches and Challenges

The Code has been widely recognized and adopted by many countries around the world. However, the degree of implementation and enforcement of the Code varies significantly across countries. Here are some examples of the stance and position of different countries on the Code:

The Philippines was among the first countries to implement the Code nationally.[20] The Philippines enacted the Milk Code in 1986 (Executive Order No. 51), adopting the Code into its national legislation (Philippine Government, 1986). The country has faced challenges in implementing and enforcing the Code due to industry interference, but it has made efforts to strengthen its monitoring and enforcement mechanisms.[21] The Philippines absolutely prohibits the advertisement of infant formula, whereas the European Union and the United Kingdom allow advertisements with certain conditions, such as focusing on scientific and factual information.[11]

Laos has high breastfeeding rates but low exclusive breastfeeding (EBF) for infants under 6 months, due to local postnatal nutrition practices. After Laos endorsed the Code, it was successful in reducing misleading advertising of formula products by 2004.[5,22] However, confusion caused by Nestlé's Bear Brand coffee creamer's bear logo led to instances of malnutrition and infant death.[23] Despite discontinuing the Bear Brand coffee creamer after these adverse effects, the bear logo re-emerged on other products. A campaign launched in 2010 by UNICEF and Lao health authorities saw a decrease in Code violations and an increase in EBF rates. Nevertheless, misleading marketing persists, with formula products still being sold and new Code violations emerging in 2012. Though progress has been made, maintaining it requires ongoing political commitment, vigilant surveillance, and stricter laws and penalties.[5,24,25]

Cambodia adopted this Code into its national policy via the Sub-Decree on Marketing of Products for Infant and Young Child Feeding (no. 133, November 2005). This law aims to support breastfeeding by regulating the marketing of commercial food products, including breast milk substitutes, for children younger than 2 years. The Joint Prakas on the Marketing of Products for Infant and Young Child Feeding (no. 061, August 2007) was enacted to facilitate the monitoring of this Sub-Decree. Despite the establishment of an oversight board by the government in 2014 to monitor the implementation of these policies, active monitoring of marketing promotions has yet to commence.[26] Cambodia has demonstrated significant strides in enhancing breastfeeding rates. With the prioritization of EBF by the government in 2004, various initiatives and health education messages fueled a nationwide breastfeeding movement in hospitals and community-based education programs. Consequently, the EBF rates for infants younger than 6 months surged from a mere 7% in 2000 to 71% in 2010.

Indonesia implemented a stringent law in 2011 to counter Code violations, stipulating penalties ranging from fines of around US$7,572.90 to 1 year of imprisonment. This led to an increase in the EBF rates among infants younger than 6 months from 32% in 2007 to 42% in 2012. However, despite the strict law, the execution remains inadequate as formula companies continue their promotion of breast milk substitutes.

Brazil has been a strong supporter of the Code and has implemented stringent regulations to protect and promote breastfeeding. The country adopted the Code into national legislation in 1988.[27] Brazil's National Health Surveillance Agency (ANVISA) is responsible for monitoring and enforcing the marketing regulations for breast milk substitutes.[28] The country has seen significant improvements in breastfeeding rates over the past few decades, partly due to these efforts.[27]

The United States has not adopted the Code as national legislation but has provided voluntary guidelines for the marketing of infant formula, which are less comprehensive than the Code.[29] The U.S. government has not actively supported the Code in international forums and has received criticism for its stance on the matter.[30]

India has enacted strict legislation to protect breastfeeding, including bans on advertising, free samples, promotions to health care professionals, and specific labeling of infant food products. However, the implementation of these regulations is challenging, and the effectiveness of the legislation is undermined by light sentences for Code violations. The Indian Academy of Pediatrics has taken a stand against industry sponsorship, highlighting the need for continued vigilance in upholding breastfeeding protection measures.[5] India adopted the Infant Milk Substitutes, Feeding Bottles, and Infant Foods (Regulation of Production, Supply and Distribution) Act in 1992, incorporating the provisions of the Code into its national legislation. The act has been amended several times to strengthen the regulations, and the government has established a monitoring and enforcement mechanism.[31]

These examples demonstrate the varying degrees of implementation and enforcement of the Code across different countries. It is essential for governments worldwide to adopt and enforce the Code to protect and promote breastfeeding and ensure that mothers and health care professionals receive accurate and unbiased information about infant feeding.

Strengthening the Code: Future Recommendations for Thailand and Other Countries

As efforts continue to improve the promotion and protection of breastfeeding, it is crucial to consider additional recommendations that can further strengthen the Code. These recommendations can help ensure that the Code remains relevant and effective in addressing the evolving landscape of infant and young child feeding practices. The following recommendations highlight key areas for consideration, drawing from various sources, including the WHO, UNICEF, and other stakeholders in global health and nutrition:

(1) *Regularly update the Code*: The Code should be reviewed and updated periodically to keep up with new research, technological advances, and cultural shifts in breastfeeding practices.
(2) *Strengthen monitoring and enforcement*: Develop a robust monitoring and enforcement mechanism to ensure compliance with the Code by all stakeholders, including governments, manufacturers, and health care professionals. This can be done by establishing an independent body responsible for monitoring and imposing sanctions for violations.
(3) *Promote awareness and education*: Increase awareness of the Code among health care providers, policymakers, and the general public through educational campaigns, training programs, and other communication strategies. This can help create a supportive environment for breastfeeding and reduce the influence of breast milk substitute marketing.
(4) *Address conflicts of interest*: Strengthen guidelines for addressing conflicts of interest among health care professionals and institutions, particularly those receiving funding, gifts, or sponsorship from the breast milk substitute industry.
(5) *Include digital marketing*: The Code should explicitly address digital marketing and social media, as these platforms have become increasingly influential in shaping consumer behavior.
(6) *Extend the scope of the Code*: Expand the scope of the Code to cover all types of infant and young child feeding products, including complementary foods, to avoid misleading marketing practices that could undermine breastfeeding.
(7) *Enhance global collaboration*: Encourage cooperation between countries to share best practices, research, and resources in support of the Code and to jointly address cross-border marketing of breast milk substitutes.
(8) *Support breastfeeding-friendly policies*: Governments should adopt policies that support breastfeeding, such as paid maternity and paternity leave, workplace accommodations for breastfeeding, and access to skilled lactation support.
(9) *Encourage industry self-regulation*: Encourage the breast milk substitute industry to develop and adhere to voluntary guidelines that align with the Code and prioritize the health and well-being of infants and young children.
(10) *Engage civil society organizations*: Partner with civil society organizations to advocate for the Code's implementation and monitor compliance, and to provide support and resources to breastfeeding families.

To explore these recommendations in more detail, consult resources from organizations such as the WHO, UNICEF, the IBFAN, and the World Alliance for Breastfeeding Action. These organizations regularly publish reports, guidelines, and updates related to the Code, which can provide valuable insights for strengthening the Code and its implementation.

Conclusion

Thailand's position on Code demonstrates a strong commitment to promoting and protecting breastfeeding and ensuring the appropriate use of breast milk substitutes. By implementing the Code and considering the future recommendations discussed, Thailand, along with other countries, can work to create a supportive environment for breastfeeding and address the challenges posed by the marketing of breast milk substitutes. Key areas of focus for Thailand and other countries should include regularly updating the Code, strengthening monitoring and enforcement, promoting awareness and education, addressing conflicts of interest, incorporating digital marketing, extending the scope of the Code, enhancing global collaboration, supporting breastfeeding-friendly policies, encouraging industry self-regulation, and engaging with civil society organizations.

By actively addressing these areas and learning from the experiences of other countries, Thailand can further strengthen its commitment to the Code and continue to prioritize the health and well-being of infants and young children. It is through collaborative efforts and shared best practices that countries around the world can work together to ensure the successful implementation and enforcement of the Code, ultimately contributing to improved maternal and child health outcomes.

Conflict of Interest
None declared.

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