International Code of Marketing of Breastmilk Substitutes: Kenya Country Example

PRESENTER: Betty Samburu¹

CO-AUTHORS:
Veronica Kirogo¹, Laura Kiige², Patrick Codjia², Martin Chabii³

¹ Ministry of Health Nutrition and Dietetics Unit, ²UNICEF Kenya, ³WHO, Kenya
Why regulate the marketing of breast-milk substitutes?

- **Breastfeeding** is unparalleled in providing the ideal food for infants:
  - Promotion, protection and support for breastfeeding: among the most effective interventions to improve child survival

- Inappropriate, aggressive and unethical marketing of breast-milk substitutes
  - undermine efforts to improve breastfeeding rates
  - negatively affect choice and ability of a mother to breastfeed her infant optimally

- Global sales of breastmilk substitutes account for US$44.8 billion, and this number is expected to rise to US$ 70.6 billion by 2019

- Mothers can make the best possible feeding choice through:
  - Access to information free from commercial influences
  - Support structures and mechanisms
The international code of marketing breast milk substitute

• International Code was ratified by WHA in 1981 as a global public health strategy to ensure that marketing of BMS is regulated

  ▪ **Aim of the Code:**
  ▪ To contribute to the provision of safe and adequate nutrition for infants through:
    ▪ protection and promotion of breastfeeding, and
    ▪ ensuring proper use of breast-milk substitutes, where these are necessary and through appropriate marketing and distribution

• Code violations still widespread, especially (but not exclusively) in countries that have not implemented the code as a national measure or where monitoring and enforcement is weak
Status of legal measures covering provisions of the Code
Key provisions in national legal measures (among countries with legal measures)

- Explicitly covers products for children over 1 year: 38%
- Covers complementary foods: 41%
- Informational/educational materials must include 5 required messages: 27%
- Prohibition of advertising: 58%
- Prohibition of samples and gifts: 59%
- Prohibition of contact with pregnant women/mothers: 37%
- Prohibition of free/low-cost supplies to health facilities: 44%
- Prohibition of gifts to health workers: 53%
- Labels may not include nutrition and health claims: 40%
- Labels may not include pictures idealizing infant formula: 83%

Kenya's example

The Kenya Governments adopted the code into national legislation

The **Breastmilk Substitutes (Regulation and control) Act 2012**, which came into force on 26\(^{th}\) October 2012.

This was through concerted action by the government, civil society and UN bodies to encourage policy makers to take action

⇒ The BMS Act 2012 binds the government making its compliance mandatory
Sections in the BMS Act, 2012

Part I: Preliminary including interpretation of terms

Part II: Establishment of the National Committee on Infant and Young Child Feeding

Part III: Restriction on advertisement, promotion, labeling of packaging, educational and information materials

Part IV: Enforcement

Part V: Miscellaneous
Scope of BMS Act, 2012

Designated products

The BMS Act classifies the following as designated products.

- Infant formula
- Feeding bottles, teats, Pacifiers, Cups with spout
- Follow-up formula for infants or children between the age of six months to twenty-four months;
- Products marketed or otherwise represented as being suitable for feeding infants of up to the age of six months
- Breast milk fortifiers
- Any other product the Cabinet Secretary may, by a notice in the Gazette, declare to be a designated product.
Act enforcement-Penalty

• A person who commits an offence for which no penalty has been specifically provided for, shall on conviction be liable to a fine not exceeding one million shillings or a term of imprisonment not exceeding three years, or to both.
The Act has given impetus to complementary initiatives to promote, protect and support breastfeeding:

1. Development of BMS Act implementation package

   • BMS Act implementation framework 2018-2022
   • Monitoring and enforcement protocol
   • Training package for enforcers
2. Enactment of laws related to workplace support for breastfeeding

- Article 72 strict measures to prevent any direct or indirect promotion, marketing or selling of infant formula
- Ministry of health to define standards
- Mandatory establishment of lactation stations at workplace

Health Act, 2017 (article 71 and 72)

- Guidelines and implementation framework have been developed by MOH
Scale up of workplace support in different settings in Kenya while protecting mothers from influence of marketing of BMS

- Scale up of day care centers in agricultural settings
- 40 private sector companies inclusive of corporates such as banks, safaricom- have signed to and established lactation
- Over 10 NGO have adopted and established lactation stations
- Scale up to government institutions- Training, Research institutions, national and county GOK offices

A mother expressing breast milk during flexi time at a tea estate day care centre
3. Adoption and scale up of Baby Friendly Community Initiative

- The BFCI implementation package
- Increases EBF - 2 fold - a study in the intervention had 88% vs 44% intervention and control respectively
- Scaled up to over 25 of Kenyas 47 counties
- Uses community health structures - CHVs
4. Adoption of WHO updated guidelines on infant feeding in the context of HIV

- All infants irrespective of HIV status should be exclusively breastfed for the first 6 months of life, with timely introduction of appropriate, adequate and safe complementary foods alongside breastfeeding for 2 years or beyond (Kenyan ART guidelines 2018)

- The mother and the baby should be covered with ART
Improved of Breastfeeding Status of Children Under 6 Months

- Exclusively breastfed: 61%
- Breast milk plus complementary foods: 15%
- Breast milk plus water, other milk, or other non-milk liquids: 23%
- Not breastfed: 1%

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003 KDHS</td>
<td>13%</td>
</tr>
<tr>
<td>2008-09 KDHS</td>
<td>32%</td>
</tr>
<tr>
<td>2014 KDHS</td>
<td>61%</td>
</tr>
</tbody>
</table>

Source: KDHS 2014
Challenges

• Continues violation in some aspects
• Devolution-two levels of government

Next step

• Finalization of regulations
• Dissemination of BMS Act implementation package
• A plan to establish a monitoring system for the Code implementation (NetCode) protocol
• Establishment of monitoring systems at county level
• Continues roll out of trainings for enforcers
Lessons learnt

• The Kenya experience shows the necessity of strong government leadership and partnership with UN agencies, NGOs, civil society and other players is key to promote, protect and support breastfeeding.

• There is a critical need for technical and legal expertise to support the drafting of the Code and Regulations, particularly to counter opposition to the legislative process and to manage conflicts of interest.
THANK YOU!