

Fourth 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)

10-12 April 2019 – WHO, Geneva, Switzerland

I. Background and context

The Network for Global Monitoring and Support for Implementation of the International Code of Marketing of Breast-milk Substitutes and Subsequent Relevant World Health Assembly Resolutions (NetCode) was established in 2015 under the leadership of the WHO Department of Nutrition for Health and Development (NHD) and the UNICEF Nutrition Section. The goals of NetCode are to strengthen the capacity of Member States and civil society to monitor the International Code of Marketing of Breast-milk Substitutes and all relevant World Health Assembly resolutions, and to facilitate the development, monitoring and enforcement of national Code legislation by Member States.

The fourth annual NetCode meeting, held from 10-12 April 2019 at WHO headquarters in Geneva, aimed to update participants on NetCode activities at global, regional and country levels, develop plans to facilitate NetCode-coordinated technical assistance to countries, strengthen capacity-building efforts on implementing the Code and Code monitoring, review plans for leveraging opportunities for advocacy on the Code, develop a NetCode workplan for 2018-2019 and refine NetCode operations. Presentations and discussions centred on:

- Providing updates on country-level progress on Code monitoring;
- Ramping up support to countries on Code monitoring;
- Understanding and implementing the International Code;
- Understanding the global landscape of Code implementation;
- Identifying emerging issues relevant to the context of Code implementation;
- Revisiting NetCode objectives.

II. Country-level progress on Code monitoring

Updates were provided by Ecuador, Myanmar, the Philippines, the Russian Federation, South Africa and the WHO Eastern Mediterranean Region.

Ecuador: The experience of Ecuador was presented by Juan Carlos Galarza, Executive Director of the National Health Regulation, Control and Surveillance Agency. In Ecuador, different agencies are responsible for dealing with sanitary regulations and with overseeing health facilities. It is recognized that these agencies should work together, but this is not yet in practice. A NetCode survey carried out in 2017 revealed that half of health professionals were not aware of the Code, and 10% received gifts, about half of which are related to breast-milk substitutes (BMS). In general, BMS-producing companies spend substantial amounts on advertising, up to US\$ 11,500 per day. The Ecuador Code law passed in 1993 is now being strengthened to permit sanctions for violations. The revised law should be drafted in two months' time. The Ministry of Health (MoH) is very active, and the government is preparing to add BMS to an existing mobile application for smartphones that is used to report violations on many items, including goods and medicines.

Updates were provided by Ecuador, Myanmar, the Philippines, the Russian Federation, South Africa and the WHO Eastern Mediterranean Region

Myanmar: Sabei Htet Htet Htoo of the Ministry of Health and Sports and Hla Myat Nwe of the Yangon General Hospital described implementation of the national code in Myanmar. Myanmar issued an Order of marketing in 2014, which covers BMS for up to 6 months and for 6-24 months, plus utensils. Categories of violations include language, stickers, health claims, pictures, and mascots. Enforcement includes a public announcement of violations. Surveys in 2017 found numerous violations in the media. Challenges include regulating social media, where companies deny responsibility, and large industry budgets versus small government budgets.

Philippines: In her presentation, Rosalyn Tomimbang of the Food and Drug Administration explained challenges to Code compliance, and how monitoring has been strengthened in the Philippines. The Government issued an Executive order (EO51) that is monitored by an interagency coordinating committee (IAC). The IAC reviews all advertising and promotional materials, develops procedural guidelines and determines whether gifts are in violation of the Code. To date, no specific guidelines for actors have been established for Monitoring and Reporting of EO51 violations. Weak monitoring and reporting have been found at the municipal and barangay levels, and health workers continue to be targets of aggressive and illegal marketing practices. There is incomplete information on reports of alleged violations, and a permanent legal staff is needed to assist in getting sanctions enforced. Three new public channels have been developed to permit crowd-based monitoring.

Russian Federation: Natalya Moshkina, Department of International Cooperation and Public Relations of the Ministry of Health presented the Russian Federation's efforts to initiate Code monitoring. The Code is not yet law in the country, although some laws regulating advertising and limiting samples of BMS in health facilities were enacted in 2015. Sanctions are not specified. There is, however, significant political momentum, and a NetCode survey will take place in the coming months.

South Africa: Madome Manyuha of the Department of Health described how South Africa concluded that earlier regulations needed to be given more importance, and that sanctions should be permitted for violations. Since the laws were revised in 2012, there has been significant progress, and they are considered some of the strongest laws globally. Companies are also reporting on transgressions by competitors. Exclusive breastfeeding rates have increased, and the government is now able to deal with violations. Most violations are at the point of sale, and 80% of recent transgressions were dealt with in a 72-hour period. There is a plan to develop an application based on the UNICEF/MoH monitoring forms. Challenges include cross-border advertising, particularly on social media.

WHO Eastern Mediterranean region: Regional experience was presented by Ayoub Al-Jawaldeh, Regional Adviser for Nutrition. The Region sees potential for Code monitoring and enforcement in a number of countries, including Jordan, Oman, Pakistan, the occupied Palestinian territory, Saudi Arabia and Tunisia. Regulatory measures exist in many places but implementation is often weak. Saudi Arabia revised its Code in 2018, and has a system that includes detection of violations and following consequences such as reporting in the media. However, the local infant food manufacturers wield considerable influence, and the market is increasing. Oman has established an electronic HMIS that integrates Code-related monitoring in health facilities and provides a means of reporting violations. Iran has a very effective system in place. Pakistan faces challenges due to decentralization, whereby regulations may vary by province. Punjab Province has incorporated monitoring into the MoH systems; WHO and UNICEF facilitated training in January 2019. Regional challenges include cross-border trade, media oversight, formula quality, the presence of BMS companies on advisory boards and sponsorship of health professionals to seminars or payment of holidays.

Discussion

- The challenges raised in monitoring Code violations can be loosely grouped into the categories of political, bureaucratic, practical, and tools needed.
 - Examples of political challenges include situations whereby a formula factory provokes a conflict of interest within the government, when industry sits on boards, when BMS-producing companies are owned by government leaders, or when health providers are not supportive of the Code.
 - Bureaucratic challenges mentioned in discussions were when two agencies that are responsible for related parts of Code implementation or monitoring do not work well together, when reports of violations are not reaching the right government offices, when weaknesses are apparent at local level and coordination across government offices is difficult, there is no permanent legal staff, or there is a lack of understanding of roles and responsibilities for Code implementation and monitoring.
 - Practical challenges raised included a limited budget for monitoring (especially compared to the generous budgets of marketing companies), limited other resources including staff and IT skills, guidelines for monitoring that need specificity, poor harmonization of monitoring tools, incomplete reports of violations, and the need to build capacity of health care providers, points of entry and the public. There are also practical issues concerning the fact that sanctions are not specified in law and enforcing them may require going to court; violations are not publicized even if sanctions are applied, enforcement is reactive rather than proactive, and monitoring is missing in rural areas.
 - Tools needed for monitoring include standardized training materials, a shorter summary of the NetCode protocol, simpler forms for emergencies, and virtual courses on Code monitoring.
- Meeting participants discussed a number of potential solutions. Addressing conflicts of interest and bureaucratic challenges requires getting people together to agree on common approaches and benefit from mutual goals and support. This is particularly important across different ministries. The term “conflict of interest” needs careful definition. If a BMS manufacturer has a social responsibility arm that pays for clean water, does that qualify as a conflict of interest, or is it for the common good? A system rife with conflict of interest can suffer from policies influenced strongly or made by industry. An unbiased external actor may be needed to call out conflicts of interest.
- Journalists should be encouraged to publicize the issues and to influence public perception; it would be useful if NetCode could facilitate these relationships. For this, hard evidence is needed to convince journalists of the problem, and should be presented as infographics rather than long documents.
- The needed buy-in from health care providers will require establishing a code of conduct and accountability. Bureaucratic challenges can be addressed by clarifying national level roles and responsibilities, with a designated responsible person at the implementation level who is familiar with protocols. Much success depends on the presence of dynamic, committed individuals.
- Practical issues concerning money might be addressed through cost recovery, by collecting monetary sanctions (fines).

Challenges elicited by participants fell into the categories of political, bureaucratic, practical, and tools needed

Conflict of Interest is an increasing challenge and is not always easy to define

III. Ramping up support to countries on Code monitoring

The NetCode monitoring toolkit is composed of two modules, one for ongoing monitoring, the other for periodic assessment. WHO and UNICEF are working with at least 12 countries to strengthen monitoring systems, and eight countries have conducted the NetCode periodic assessment study. Nonetheless, the support to countries on monitoring activities needs to be scaled up.

Many meeting participants were not familiar with the content of the NetCode tools available to assist Code monitoring. Three actions were requested: to apply more web-based monitoring, to simplify forms for use in emergency situations and to develop a smartphone application.

Countries need increased support for monitoring activities

WHO and UNICEF currently provide technical assistance to countries but are requesting guidance on where the needs are greatest. For training, they also need guidance on how to ensure the right participants. NetCode members could help accelerate action, such as through more country and regional workshops. Materials need to be developed or standardized, and regional workshops should be planned systematically, with the capacity to provide follow-up and support. In order to expand the pool of trainers, an intensive course is planned to train technical assistance providers who can then travel to countries to work with governments. Numerous non-governmental organisations (NGOs) expressed interest in participating in such courses.

The Access to Nutrition Foundation conducts assessments in two countries every two years; this number is limited largely by available funding. An option to consider would be conducting “NetCode-light” surveys in a greater number of countries.

The NetCode partnership is compiling a compendium of information on the actions of partners in support of the Code and its monitoring; this needs attention to ensure that the overall picture is accurate and available.

Discussion

- Demand needs to be created and additional groups identified who can carry out training on Code monitoring. Although a broader pool of experts to train on the development of monitoring systems is needed, it will be important to document their expertise and to take advantage of the clout of WHO or UNICEF. The use of consultants who work in other organizations risks bringing practical repercussions when these people are asked to leave their regular jobs to provide technical assistance. The UNICEF legal consultants placed in three regions and other NetCode members could help respond to the needs as required.
- Integrating Code monitoring into training on other breastfeeding initiatives may appear to be a practical solution, but it risks diluting the needed attention and level of detail.

IV. Understanding and implementing the Code

An e-course launched in 2018 is hosted on both the UNICEF e-learning platform and the WHO nutrition knowledge hub. While the course has been well received, technical glitches seem to cause constraints to many users in finishing it (only 146 completions out of 925 enrolments). WHO and UNICEF are currently exploring ways to improve and update the course. It would be useful to identify additional entry points for educating health professionals, for example through basic training, in-

An e-course on the Code, launched in 2018, is hosted on the UNICEF e-learning platform and the WHO nutrition knowledge hub

service training, tailored e-course modules and professional associations. The International Code Documentation Centre (ICDC), as the Code programme office of the International Baby Food Action Network (IBFAN) has granted licence to use one of their publications as a training module by the International Lactation Consultant Association (ILCA) to train lactation consultants on responsibilities of health workers under the Code. ICDC will be publishing a health workers' guide to the Code at this year's World Breastfeeding Conference in November 2019.

V. Understanding the global landscape of Code implementation

The Bill and Melinda Gates Foundation (BMGF) as part of their five-year nutrition strategy 2015- 2020 supports global compliance to the Code. The promotion of BMS is recognized as one of the critical barriers to improving breastfeeding rates. Activities supported by the Foundation include a) research on how women decide on infant and young child feeding (IYCF) practices, work coordinated by Helen Keller International (HKI) in Cambodia and Nepal, b) documenting barriers to breastfeeding and improving national Code monitoring in China, c) supporting global policy and advocacy, and d) strengthening the evidence on barriers including the marketing practices of BMS manufacturers. The Foundation has also worked with FTSE4Good¹, using the London School of Economics ethical investment index. However, since a BMS manufacturer was recently included in the index, the Foundation has withdrawn funding.

The last Code Status report was published in 2018. It was suggested to enhance the report with more best practices presented as case studies to complement the data presented. Its launch received relatively little attention; this will need to be strengthened to achieve more reach in 2020, for example by tying it to an event. It was noted that since the report will be launched prior to the World Health Assembly in May 2020, the Nutrition summit in Japan will be too late. One potential theme for the 2020 report could be the promotion of BMS to health workers and in facilities, and how countries have legislated to control this. A scientific paper compiling the results of NetCode monitoring surveys done to date is under way.

Efforts are required to ensure that the 2020 Code Status report gets adequate attention

VI. Emerging issues relevant to the context of Code implementation

This session covered multiple topics: implementation of the Code in the context of emergencies, BMS manufacturer support to health professional associations, social media, opportunities for Code advocacy in the context of human rights, and the Codex Alimentarius.

Challenges in **upholding the Code during emergencies** were described by Caroline Abila of the Emergency Nutrition Network. These challenges include legislation, operations, reporting (time is needed for attention to people, not to documents) and conflicts of interest in a situation where all help is considered welcome. Recommendations for preparedness include consulting the updated guidance on IYCF during emergencies, helping countries develop relevant plans, and ensuring the presence of a focal point for IYCF during emergencies on disaster management committees.

Any donation of BMS is a breach and should be refused. If BMS is needed during an emergency, it should be purchased following established recommendations

¹ The FTSE4Good Index is a series of [ethical investment](#) stock market indices launched in 2001 by the [FTSE Group](#).

Discussion

- In reality, many children may need breast-milk substitutes in emergency situations, so it will be important that the emergency manager is aware of how to deal with this.
- Any donation of BMS is a breach. If BMS is needed during an emergency, it should be purchased following established recommendations.
- Nepal stopped accepting and using donations, but then ended up with a stockpile. Haiti found ways to use donated BMS to enhance cooked complementary foods.

Industry support to health professional associations can alter the content of education and shape the research agenda. There are many instances of BMS companies sponsoring health professional associations; for example, a web and social media review of 114 IPA members showed that 60% had received some sort of sponsorship. None of the associations surveyed had conflict of interest policies that specified BMS.

More than half of IPA members document having received some sort of BMS company sponsorship

Discussion

- WHA resolution 69.9 (http://apps.who.int/gb/ebwha/pdf_files/wha69/a69_r9-en.pdf) calls for an end to sponsorship of health professional associations and meetings. This does not preclude reasonable opportunities for sharing factual and scientific information regarding BMS, as long as this does not become promotional. Further examination is needed to define criteria for differentiating these two purposes.
- The International Paediatrics Association has a policy to completely support the Code and its resolutions and amendments, but the application of this policy appears to be problematic in terms of enforcing national associations to comply with.
- South Africa could be a champion and lead the way on refusing sponsorship, similar to the role played by Australia in marketing tobacco.
- Guidance is welcome to help NetCode members to lead collectively and by example: refusing funding, refusing to publish industry research, refusing advertisements in scientific journals, not allowing distinctions between a BMS company and its foundation, or not accepting speaking engagements at conferences sponsored by BMS companies.

Nigel Rollins gave an update of work following on from the 2016 Lancet series on breastfeeding. A meeting is planned to discuss **the relationship between BMS marketing and breastfeeding practices**. Partners include the universities of Pelotas and Witwatersrand.

Discussion

- A renowned publisher recently asserted “Formula is feminist”, implying that breastfeeding is not so. In fact, it is the marketing of formula that seems anti-feminist.
- Formula marketers have also used a human rights angle, arguing that the child has no voice in what he/she gets to drink and eat.
- The breastfeeding advocacy community needs to adopt a human-rights-based approach to highlight the number of rights being violated by BMS marketing.

Social media are extremely effective and powerful. Joo Kean Yeong described various uses of social media for BMS marketing. Approaches include the creation of YouTube videos, Instagram peer-to-peer postings, celebrity endorsements, free samples, and tweets by a convinced individual mother (who receives payment for her postings). The ability to reach consumers with personalised content has created a new marketing paradigm and with it, a new challenge for Code compliance and the need to regulate both company and user-generated content.

Social media are effective and powerful. NetCode needs to develop tools to understand and monitor the use of social media for BMS marketing

Discussion

- In South Africa, the second greatest proportion of violations come from social media.
- Some distinctions are not clear, for example whether on-line shopping is considered to be a violation.
- A movement similar to “Me too” could be developed, targeting BMS promoters.
- It may be useful to make it offensive to post BMS marketing, similar to posting pictures of breasts on Facebook.

Code advocacy in the context of human rights was presented by Marcus Stahlhofer. There are numerous opportunities for breastfeeding advocacy in a Rights framework, particularly in the context of this year’s 30th anniversary of the Convention on the Rights of the Child (CRC). The reporting process for the CRC provides an example of monitoring and of crafting language. For the UN Human Rights Council session in September 2019, a resolution, joint statement and side event are being considered in relation to under-five mortality as a human rights issue. Opportunities may arise to ensure breastfeeding and the Code are adequately addressed. The Independent Review Panel of the UN Secretary-General’s Global Strategy for Women’s, Children’s and Adolescents’ Health (2016-2030) recommends developing a global human rights framework to address harmful marketing of foods for and to children.

Discussion

- UNICEF takes a human-rights-based approach to BMS marketing issues, because human rights documents are legally binding.
- 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 published a joint statement in 2016 in support of increased efforts to promote, support and protect breastfeeding
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20871&LangID=E>
 This statement has not been extensively utilized by the advocacy community and deserves more attention.

Elizabeth Zehner of Helen Keller International presented the **Codex Alimentarius** and explained that this is a joint instrument of WHO and FAO to protect the health of consumers and the practices of fair trade. The Codex Committee on Nutrition and Foods for Special Dietary Uses is currently revising the Codex Standard on Follow-up Formula. Industry is very present and sits on country delegations, sometimes comprising up to 60% of the observers. Labelling of follow-up formula is a significant issue under discussion (“label” vs “labelling”), as is cross-promotion. NetCode members will need to make strategic choices about priority revisions to the standard; this is recognized as difficult.

Discussion

- Many Member States may report that they are following Codex rules, but because this is not mandatory, they may use their own guidelines.
- It is not always clear who are the country delegates attending Codex; it would be useful if NetCode could help identify them.

VII. Revisiting NetCode objectives

The network has grown over its four years of operation, and this may be the time to revise the vision, mission and objectives of NetCode. Laurence Grummer-Strawn presented the current version of each of these, and the actions that NetCode has taken to date towards reaching the objectives.

Vision: A world in which all sectors of society are protected from the inappropriate and unethical marketing of breast-milk substitutes and other products covered by the scope of the International Code and relevant World Health Assembly resolutions.

Goals:

- To strengthen the capacity of Member States and civil society to monitor the Code and relevant World Health Assembly resolutions;
- To facilitate the development, monitoring and enforcement of national Code legislation by Member States, by bringing together a group of committed actors to support these processes.

Objectives and actions taken towards achieving them

1. Guide the adaptation and development of a monitoring framework, protocols and training materials for monitoring of the International Code and relevant World Health Assembly resolutions, and the formulation, monitoring and enforcement of national Code legislation.

Actions taken:

- Monitoring framework was published in October 2017
- Two protocols have been developed, for periodic assessment and for ongoing monitoring (available in five languages)
- Training materials for countries are developed but not standardized (note that training materials for monitors are not yet developed)
- Implementation manual on WHA69.9 was published in 2017

2. Facilitate the further development and strengthening of the capacity of Member States and civil society for monitoring of the International Code and relevant World Health Assembly resolutions, and the formulation, monitoring and enforcement of national Code legislation.

Actions taken:

- Regional training workshops have been held on NetCode monitoring
- Direct technical assistance was provided by WHO/UNICEF in 17 countries
- Periodic assessments were completed in 6-9 countries
- There is highly variable success with the implementation of ongoing monitoring

3. Facilitate the continued strengthening of national Code- legislation, monitoring and enforcement by Member States.

Actions taken:

- A joint regional workshop was held in Burkina Faso for Francophone African countries, and was organised by IBFAN through its programme offices Geneva Infant Feeding Association (GIFA) and ICDC, and UNICEF and WHO.
- Technical assistance in numerous countries was carried out separate from the coordination by NetCode

4. Provide input to WHO's Global database on the Implementation of Nutrition Actions (GINA) on policies and actions taken on national Code legislation, monitoring, and enforcement.

Actions taken:

- The report on the status of Code implementation was published in 2016 and 2018, with legislative actions added to GINA (note that national actions on the Code are not systematically documented)

Discussion

- It was agreed not to revise the objectives at this time. There is a need to spend more energy on raising awareness and on strengthening legislation. Targets can be set for the number of countries to have monitoring activities. There is always the tension between achievable and aspirational targets; the first step is the definition of indicators.
- The Scaling Up Nutrition (SUN) Movement needs to be more involved.
- It is difficult to quantify and measure the effects of NetCode, but it has clearly generated a lot of interest in Code implementation and monitoring. At the same time, country capacity to carry out monitoring remains weak.

VIII. Take-aways and commitments

Participants described the actions and commitments that their organizations and agencies will take in the coming months. All participants agreed that it is crucial to keep communication open, and keep collaborating even between NetCode meetings.