



## IBFAN Comments on the Outline of the Decision-Making Tool to Support Member-States on Private Sector Engagement for the Prevention and Control of NCDs – Nov 2021

### 1 Background and general comment.

As one of WHO's longest-standing partners, the International Baby Food Action Network (IBFAN) has worked with WHO to protect child health since the late 1970s and welcomes the opportunity to submit comments on this consultation. In addition to our work on the adoption and implementation of the *International Code of Marketing of Breastmilk Substitutes* and the 19 WHA Resolutions that clarify and strengthen it and the *Global Strategy on Infant and Young Child Feeding*,<sup>i</sup> we have followed WHO's work on NCDs since 2003, primarily to highlight the importance of early years feeding and the need to control and end predatory marketing practices that undermine breastfeeding and bio-diverse, culturally appropriate complementary feeding<sup>ii</sup> but also ensure effective conflicts of interest safeguards throughout all WHO policies.

Among the long list of policies and strategies that we have contributed to are: the Political Declaration on NCDs adopted at the 1st UN General Assembly on NCDs in 2011; the *Conflict of Interest Coalition* launched at this event that highlighted the concern of 161 NGOs that policy setting must be kept free from commercial influence;<sup>iii</sup> the *Global Strategy on Diet, Physical Activity and Health*; *WHO Recommendations on the Marketing of Foods and Non-alcoholic Beverages to Children*; the *Commission Report on Ending Childhood Obesity*,<sup>iv</sup> the *Political Declaration and Framework for Action* adopted in the 2<sup>nd</sup> International Conference on Nutrition in November 2014; the MDGs and SDGs, the *Framework for Engagement with Non State Actors* (FENSA) and WHO Reform. One of our key concerns has been that WHO's independence, integrity and trustworthiness should be protected if it is to maintain its capacity to fulfil its constitutional mandate and three core functions, to:

- act as the directing and coordinating authority in international health work (Art.2a)
- propose conventions, agreements and regulations.... (Art.2k)
- assist in developing an informed public opinion among all peoples on matters of health(Art. 2r)

Throughout this time we have been given many reassurances by WHO and Member States that WHO's policy-setting functions would be protected from commercial influence and that Conflict of Interest safeguards are a core element of its work, not only in terms of industry interference or involvement in regard to NCDs but also Universal Health Coverage (UHC),

maternal and child health, communicable diseases and pandemic preparedness and response. We see this tool as an important test!

As we mentioned during the consultation, we do think that WHO has a responsibility to provide guidance that will help Member States manage interactions with the Private Sector and specifically help them withstand the corporate pressure to delay or weaken much-needed controls on harmful marketing. Such a Tool, if well done, could have important implications for human and planetary health. It remains to be seen if this draft could be improved enough to do achieve this and we submit these comments in the hopes that it will.

**The current draft of the Tool seems more focused on *increasing Private Sector engagement* – finding things for them to do on a voluntary basis – rather than alerting Member States to *their obligations* to protect human rights and remove obstacles to health through legally enforceable measures and *company obligations* to comply with Code.**

**The Convention on the Rights of the Child General Comment No 16 on State obligations regarding the impact of the business sector on children’s rights:**

Para 57: States are **also required to implement and enforce** internationally agreed standards concerning children’s rights, health and business, including [...] the International Code of Marketing of Breast-milk Substitutes and relevant subsequent World Health Assembly resolutions.<sup>v</sup> **CRC GC No 15:** “...Among other responsibilities **and in all contexts**, private companies should [...] comply with the International Code of Marketing of Breast-milk Substitutes and the relevant subsequent World Health Assembly resolutions [...]

Failure to frame the Tool in this way will not help MSs properly assess the risk of harm to public health – harm that will be much greater than any risk taken by a company. The tool omits any discussion about the need for proportionate penalties for corporate interference, inappropriate use of engagements, bribery etc etc

WHO considers a baby food industry sponsored creche or nursing room is something to be promoted, rather than focusing on legally enforced, safe and healthy workplace environments.

Because this is such a fundamental issue, we have included analyses and concerns about how WHO addresses Conflicts of Interest and how this issue underpins and influences the direction of the whole document and the GCM model itself. We hope that the time has come to tackle these fundamental internal issues and correct WHO’s COI definition.

## 2 ‘Partnerships’

**WHO’s persistent use of ‘partnership’ terminology blurs the identities and responsibilities of rights holders and duty bearers. This helps corporations and their front organisations assume decision-making positions in public health when they have no democratic accountability.**

2.1 We were pleased that during the consultation, Dr Fones clarified that Partnerships, Public Private Partnerships or similar terms should be seen as at the very far end of the

spectrum in relation to potential interactions with the PS and that they should only be considered when power balances are equal. We wholeheartedly agree! We have appealed to WHO for more clarity on this issue many times as we saw long-held principles being abandoned. For most of its existence WHO's Basic Documents have made it clear that WHO should not establish official relations with non-governmental organizations (NGOs) unless their aims were *"in conformity with ... principles of the WHO Constitution"* and *"free from concerns which are ... of a commercial or profit-making nature."*<sup>vi</sup>

In order to alert MSs, the tool should explain that partnerships are, by definition, arrangements for *'shared governance'* to achieve *'shared goals'* and that shared decision-making is their single most unifying feature. The term 'partner' implies *'respect, trust, shared benefits'* and the *'image transfer'* from UN or NGO 'partners' has strong emotional and financial value.

**2.3 SDGs** Unlike the MDGs, the SDGs adopted in 2015 were substantially influenced by the Private Sector and those advocating a multi-stakeholder approach to governance. As a consequence the reference to multi-stakeholder-partnerships in SDG 17 is frequently over-emphasised and misused. A much safer approach to SDG17 would be to focus on strengthening partnership between governments to implement the 2030 agenda – something urgently needed in the face of not just NCDs and Covid-19, but the Climate emergency - an immensely greater threat.

The frequent use in the draft Tool of promotional and misleading terms such as *'shared desirable outcomes'*, *'values based'*, *'genuinely committing'*, *'mutually reinforcing'* *'partnership'*, *'stakeholder'*, *'common goals'* is problematic. These terms – especially when WHO has such a limited exclusion list of only tobacco and arms – imply that Member States should be helping the certain corporations achieve their objectives and that these objectives genuinely match those of the UN or member states. The terms mask the extent of harm already caused by many industries and the future harm that could be caused by any weakening of government policy as a consequence of inappropriate engagements – all seemingly endorsed by WHO. Although the tool makes several references to conflicts of interest and risks of engagement, such text is hollow and easily undermined by this loaded language in the rest of the document.

**Recommendation:** In order to safeguard national governance and public health policy setting from commercial influence, the tool should replace 'partnership' 'stakeholder' and other problematic terminology with neutral and clearer language (financing, interaction, etc) The Tool should highlight the risks outlined above fully, with illustrations and examples of bad practice for each excluded industry, including the risk of prioritising curative over preventive approaches.

### 3 Prohibited industries:

Despite several references to the need for caution, the Tool, in general, over-emphasises the benefits of private sector engagement – confusing matters by seeking out numerous voluntary activities that companies can and should already be doing (better workplace

facilities etc ). Most importantly, the tool fails in its key task to expand the list of prohibited industries beyond manufacturers of tobacco and arms. This approach is out of date and unacceptable.

If WHO is to use a human rights approach and take environmental factors, as well as physical and mental health fully into account – as it must – there are few, if any, benign corporations that could be said to be ‘risk free.’ Corporations may employ humans, but the corporation itself is not human, nor does it have human rights.<sup>vii</sup> WHO would be taking an unacceptable risk to imply such a thing to its Member States.

**Recommendation:** Given the large disparity in size, resources and power of WHO Member States, and the difficulty of evaluating the impact industries have, WHO should strongly recommend the exclusion of all industries known to have a negative impact on NCDs, Human Rights and Planetary Health. The following are examples of what should be a long list of known risky industries: tobacco, arms, pharma, food, ingredients, beverage, sports, gaming, alcohol, extraction, gambling, sports, betting, social media, technology, advertising, transport, etc. WHO should not provide a positive list or be seen to endorse any commercial industry/entity. The Tool should provide clear examples of the risks each industry poses and how inappropriate engagement can cause harm to public health.

#### 4 The need for sound Conflict of Interest safeguards.

4.1 IBFAN and many other public health actors have expressed numerous concerns over many years about the lack of a sound WHO Conflict of Interest policy.<sup>viii</sup> Prof Marc Rodwin analysed WHO’s Guidance for Nation States: *“Towards preventing and managing conflict of interest in nutrition Policy?”*<sup>ix</sup>

*“...WHO guidance defines conflicts of interest in ways that deviate from standard legal usage which confuses its analysis and facilitates the creation of conflicted public-private partnerships. The guidance suggests that nations can allow engagement with non-state actors when the benefits are greater than risks without separate check due to conflicts of interest. Instead, the WHO should have recommended that nations seek alternative ways to achieve their goals when non-state actors have significant institutional conflicts of interest.”*

*“There are two broad types of conflicts of interest: (1) conflicts between an individual’s obligations and their financial or other self-interest; (2) conflicts resulting from an individual’s divided loyalties, dual roles or conflicting duties, sometimes referred to as conflicts of commitment”*

#### 4.2 Scaling up Nutrition

WHO ‘s Guidance, FENSA and now this Tool, mirror the Ethical Framework used by the *Scaling Up Nutrition*<sup>x</sup> and the Global Alliance for Improved Nutrition (GAIN). Following criticism by civil society organizations of the role played by corporations in SUN and the lack of conflict of interest (COI) safeguards, in 2013/14 the SUN Lead Group called on the Global Social Observatory (GSO), a Geneva-based organization, *“to develop a transparent process to address perceived conflicts of interest and handle credible claims of conflict of interest within*

*the Scaling Up Nutrition Movement in order to achieve delivering better nutritional outcomes”*

The GSO director also brokers business influence in public fora and, using a grant of nearly one million US dollars from the Bill and Melinda Gates Foundation (BMGF), devised a Reference Note and Toolkit for Preventing and Managing Conflicts of Interest (2015). The GSO guidance fundamentally redefines the legal concept of conflicts of interest in a way that fits and legitimizes SUN’s multi-stakeholder governance structure and its Principles of Engagement.

The purpose presented in SUN’s definition of COI is not the protection of independence, integrity and trustworthiness of public actors and institutions, but the protection of the *“objectives of the joint endeavour”*, i.e., whatever has been agreed upon by all members of the initiative, including business. SUN has since been advising Member States to focus on *trust, dialogue* and *collaboration* rather than *caution*, confusing *conflicts of interest* with *disagreements* and *differences in opinions* and confusing COI *within* an institution or person with conflicts *between* actors who have diverging or fiduciary duties.

SUN has also said that addressing *“conflicts of interest should initially start from a positive perspective, not from negative assumptions ...tools to manage conflicts of interest should serve as a mechanism to enable, rather than prevent partnerships”*. This ignores the fact that conflicts of interest represent a risk to be controlled.

In the context of the Tool this redefinition of COI effectively avoids proper identification and oversight of COI and will not help Member States safeguard their processes from undue influence. Without effective COI safeguards health and nutrition governance structures will be fundamentally changed and the building of the Rule of Law undermined. Although this is never said, this seems to be an objective of SUN.<sup>xi</sup>

As said before, the Tool is mirroring SUN’s approach and making unsupported assumptions that food, beverage, agriculture and other NCD problematic industries share ‘common goals’ and even that they would be willing to voluntarily make substantial, profit-reducing long-term changes in their core business plans in the absence of sound and comprehensive legislation. This has been proven to be untrue time and again. These industries and the agro-industrial model bear much of the blame for the climate crisis and NCDs. While some companies are now prepared to admit problems, they claim they can *only* be solved if they have a seat at the table. This is the deal and it’s a dangerous one. Meanwhile they continue to seek ways to reposition themselves as positive agents in society while continuing predatory marketing, promoting short-term treatment models and undermining sustainable changes in food systems. The food industry’s market-led approaches and export-oriented trade of ultra-processed and highly profitable products have certainly led to increased deforestation, land-grabbing, mono-cropping etc.

**Human Rights and Human and Planetary Health are indivisible:** The United Nations Intergovernmental Panel on Climate Change (IPCC) estimates that 21–37% of total greenhouse gas (GHG) emissions are attributable to the food system and that climate change will have important negative impacts on food security.

Rodwin again: WHO's guidance "suggests that potential engagement should be evaluated based on whether it advances public health goals and maintains program integrity. This overlooks the effect of COI. For instance, manufacturers of vitamin supplements and fortified foods claim to share the government's goal of reducing population-wide nutritional deficiencies. However, manufacturers want to prioritize reducing vitamin deficiency over other nutritional problems and to reduce deficiencies by promoting their products, while governments should aim at improving nutrition and diets more broadly and promote healthy foods, not merely vitamin-enriched products. The focus on sharing one goal neglects divergence on other goals.<sup>21,45</sup> Similarly, manufacturers of sugary sodas have sought partnerships to promote exercise as a way to reduce weight gain rather than policies that discourage consumption of soda."<sup>19,21,46,47</sup>

## 5 Comments on the Glossary of terms

### 5.1 The term 'Stakeholder':

The business term 'stakeholder' (and to a lesser extent Non State Actor) is used indiscriminately throughout the document. It places everyone on the same level of importance and blurs the distinction between businesses and public interest NGOs. Most worryingly it implies that we all share the same goals.

Some claim that the term is 'inclusive', forgetting that it excludes those who have no 'stake' or business interest in the matter in hand. A public interest network such as IBFAN stays strictly to its public health remit and has a funding policy that aims to ensure that its members can speak out without restriction and fear of losing funding support.

**Recommendation:** Replace business terms such as 'stakeholder' with more descriptive terms such as constituents, participants, citizens, public interest NGOs/networks, civil society. Member States who take their human rights, conflicts of Interest and transparency obligations seriously and who want to protect their policy setting processes from commercial influence should be alerted to the risks of unclear terminology.

**5.2 'arms length'** This term appears several times in relation to NGOs, academic institutions, philanthropic foundations, etc. In the context of any tool that favours increased PS engagement, it needs to be clarified. As currently cited it implies that organisations that receive funding from private benefactors are not under contractual obligations and will not be worried that current or future funding may be withheld if the funders 'line' is not respected. Unless the commercial sponsor, family and beneficiaries are long dead (as is the case with much older Foundations) the sponsor is likely to maintain undue influence over how the funds are spent, however subtly this is done. The term 'arm's length' in this context implies independence when that cannot be the case.

Philanthropic foundations, such as the Gates Foundation profit from the commercial success of companies that impact on NCDs.<sup>xii</sup> As such they will be affected by the programs, laws and policy advice influenced by this document and must be considered to be not at arm's length and in actual conflicts of interest.

**5.3 Due Diligence:** The definition is full of value judgments and terminology that undermines the attempts to safeguard NCD actions from undue commercial or other influence. The due diligence used by Member States to decide whether an entity is suitable for engagement, interaction or funding is absolutely key to the credibility and effectiveness of any action to prevent or control NCDs. So too is the independence of the monitoring that underpins it. "Due diligence" investigations must be extended to all parties to ensure that important constraints on sound advice are covered.

Multi-stakeholder Platforms attract all manner of participants who see them as opportunities to seek Private Sector funding. The impact this has on decision making has to be acknowledged. Problems can arise not only with the financing of an entity, but also its methodology and mode of working.

There are many examples of compromised monitoring and assessments such as BCorporation Certification and the *Access to Nutrition Index* where companies present themselves as trustworthy partners. (see examples below)

- **Example of commercially-influenced monitoring:** The Access to Nutrition Foundation (ATNF) and its Access to Nutrition Index (ATNI) are initiatives largely funded by the Bill and Melinda Gates Foundation. ATNI tracks the marketing of food and beverage corporations, encourages investments and claims to be *'Driving the private sector's performance on healthy, affordable diets'* It also claims to be *'independent from the companies it assesses'* yet works closely with them on the methodology and presentation of its results as they described in June 2020: *"Like with all ATNI's work, extensive stakeholder consultations were carried out to help guide our methodology. This was done to ensure the perspectives and expertise of companies, CSOs, investors and ATNI's expert group were integrated into this rigorous and comprehensive methodology."* In the context of infant and young child feeding, such collaboration is in direct conflict with WHA Resolution 49.15 that calls for monitoring to be *"...carried out in a transparent, independent manner, free from commercial influence."*<sup>xiii</sup> ATNI's monitoring has revealed a high level of Code violations over the years, but its criteria are weak in key areas, rewarding the promotion of fortified foods, corporate funding of nutrition 'education' and stakeholder engagement in public private partnerships. Nestlé and Danone use ATNI's flattering analyses repeatedly in their claims of Code compliance.<sup>xiv</sup> In response to ATNI's *BMS Call to Action*, baby food companies refused to promise that they would end harmful marketing of baby foods and formulas by 2030. Demonstrating that this particular industry should always be on the list of excluded industries. The global Baby Food Drink Market is forecast to rise by 30% in the next 5 years (from \$68bn in 2020 to \$91.5bn by 2026).<sup>xv</sup>

**4.4 Risk Assessments:** See comments above on Due Diligence. To the full extent possible, the size of the relevant financial interest should be quantified financially

**4.5 Risk Management:** COI can result in advice, programs, policies, or weak laws that are detrimental to public and planetary health or other public interests or sub-optimal protection of public interests which are invariably interlinked. This can, by extension, cause disability and

death. The tool needs to tackle this head on as well as the risk of corruption, bribery of public officials or corporate causes of disability or death.

**4.6 Private Sector Engagement:** We find this paragraph to be illogical and unacceptable. In traditional governance of nations, companies are engaged by governments only in the narrow sense of being obliged to obey public interest. While companies will prefer less government regulation (unless it is in their interest ) the impact of poorly regulated food, alcohol, tobacco, pharmaceutical, and fossil fuel companies can be devastating for human and environmental health and injurious to productivity in all other economic sectors; such companies are huge cost externalizers.

**4.7 Industry Interference:** The examples given are useful but should be expanded with examples that would illustrate their importance. Governments and the UN are the primary actors in global and national health setting and should not be treated as facilitators for multi-stakeholder partnerships, especially when accountability mechanisms and truly independent monitoring and assessments missing. The social capital of IGOs such as WHO and UNICEF are large, but their staff, financial capacities and reach is much smaller than many PS entities.

The tool should highlight the risks of PS influence on intergovernmental organisations such as WHO and Codex that set standards, norms and guidance on public health policy. The risks of such influence is downplayed or absent from the Document. If this section was more powerfully and convincingly written, any one of the examples – undermining science, manipulating public opinion etc would be enough to warn MS of the risks of Multi-Stakeholder ‘engagement.’

***Interference in public health policy: examples of how the baby food industry uses tobacco industry tactics.*** Examples from the Philippines, Vietnam, Laos, Turkey, Ecuador, Hong Kong, Mexico and the United Kingdom show how the baby food industry uses the ‘tobacco playbook.’<sup>xvi</sup> concluding that the baby food industry uses all six tactics: (1) manoeuvring to hijack the political and legislative process; (2) exaggerating economic importance of the industry; (3) manipulating public opinion to gain appearance of respectability; (4) fabricating support through front groups; (5) discrediting proven science; and (6) intimidating governments with litigation. <https://doi.org/10.26596/wn.201782288-310>

**Fabricating support through front groups.** This tactic has been around for many years but now has a name - **Astroturfing** – the practice of masking the **sponsors** of a message or organization to make it appear as though it originates from and is supported by **grassroots** participants. Companies use it to give credibility to their position statements or organizations. The tool must highlight this practice. (**AstroTurf**, is a brand of synthetic carpeting designed to resemble natural grass, as a play on the word “grassroots”).<sup>xvii</sup>

**Infiltrating the food policy space** The **Nutrition for Growth (N4G)** global pledging initiative. N4G describes itself as a “*global effort to bring together country governments, donors and philanthropies, businesses, NGOs and beyond.*” in a “*rare opportunity to accelerate progress on malnutrition.*” However, N4G, again following the SUN principles of engagement, promotes *increased* involvement and influence of food and agri-business in national health policy setting. In the case of infant and young child feeding N4G it is especially dangerous.



The 2020/2021 N4G Commitment Guide elevates National Industry Associations as a *Responsible Party for Policy*.<sup>xviii</sup>

**Recommendation:** The tool must warn that *any* PS engagement risks undue corporate influence on policy-setting.

**4.8 Global Trade** The Tool should warn Member States about Private Sector influence on global trade and the need to protect national delegations from undue influence. Codex has poor COI and Transparency safeguards that urgently need to be improved.

IBFAN has attended Codex nutrition, labelling and other meetings since 1995 in an effort to achieve policy coherence with WHA Resolutions. Despite claims to the contrary, Codex bases its decisions on composition, labelling and safety of foods - not on independent and convincing evidence and science – but on politically and commercially influenced consensus. Indeed, some of the baby food standards still contain nonsensical claims of ‘history of safe use’.

With more online meetings transparency has suffered and participants lists are no longer provide the email addresses that helped identification. In general, Codex Nutrition meetings are 40% food-agri-industry with many present on government delegations and on occasion speaking for governments.

**Ultra-Processing:** The obesity crisis is prompting some governments to take action on the marketing of foods high in salt, sugar and fat. However, the risks of ultra-processing, not only on human health, but on biodiversity and the environment are often overlooked. To be globally traded products need a long shelf-life so non-food ingredients are added to stabilize, emulsify, thicken and regulate acidity. Some are often so highly processed they no longer resemble their plant or animal sources. These unnecessary products (snacks, baby drinks, etc) add to environmental degradation and ill health.

**5 Private Sector Landscape:** See comments on the need for truly independent monitoring – essential for the accuracy of this section.

**6 The risks of Multi-stakeholder Platforms – the User Guide:** This section seems more focussed on normalizing the involvement of the Private Sector than keeping problematic industries at arm's length and out of the policy-setting arena. IBFAN had many years experience with the *EU Platform for Action on Diet, Physical Activity and Health*, an initiative that included leading food, beverage and advertising industries who all failed to make meaningful changes to their harmful marketing strategies. We identified many problems with the multi-stakeholder platform approach. For example:

- consensus cannot be reached on the most effective policies to pursue;
- there is a ‘lowering of the bar’ – small incremental changes, voluntary initiatives, self-regulation and self-monitoring (according to industry’s own criteria) are rewarded;
- industry ‘Codes of Conduct’ with no legal power are promoted as evidence of good ‘governance;’

- ‘lifestyle’ educational activities predominate, blurring the boundaries between marketing and education and providing ‘cover’ for ongoing harmful marketing.
- Civil society members come under pressure to form partnerships and ‘work together’ with the private sector - threatening their independence and watchdog role.

The EU Commission eventually closed down Platform in 2018 after seven leading civil society members announced our resignation. We described the Platform and the voluntary approach it embodies, as being ‘*not fit for purpose*’ and our continued membership not a productive use of resources.<sup>xix</sup>

**Recommendation:** Member States must be warned that MSH schemes can delay rather than speed up essential action; the Tool should encourage Member States to support whistle-blowing,<sup>xx</sup> and ensure that Food Safety systems are independent of commercial influence.

## 7 Section ii (Zero Draft). Principles of PS engagement.

This section is problematic and full of assumptions that mirror those used by SUN.

**Recommendation:** The tool must primarily promote, protect and support Member States in regulating harmful commercial activities and ensuring public provision of essential health and education services, in line with Member States’ Human Rights obligations to protect citizens, especially children, from harm caused by businesses.

## 8 Improve the Best Buys

We assume that the WHO’s Best Buys<sup>xxi</sup> will soon be updated and hope that they will be toughened up substantially. In relation to infant and young child feeding, the current text – *Promote and support exclusive breastfeeding for the first 6 months of life, including promotion of breastfeeding* – is very weak and does nothing to stop the predatory marketing that undermines breastfeeding and healthy bio-diverse, minimally processed complementary feeding. By failing to mention the *International Code of Marketing of Breastmilk Substitutes*, the subsequent relevant WHA Resolutions and the *Global Strategy on Infant and Young Child Feeding*, that outlines the two – and only two – roles for companies in relation to infant feeding – to ensure their products are as safe as possible and that their conduct at every level conforms to the Code and Resolutions.<sup>xxii</sup> Without such safeguards the Tool will certainly open the door to inappropriate commercial involvement and harm.

<sup>i</sup> <https://www.who.int/teams/nutrition-and-food-safety/food-and-nutrition-actions-in-health-systems/netcode/code-and-subsequent-resolutionshttp://apps.who.int/iris/bitstream/handle/10665/42590/9241562218.pdf;jsessionid=1F405F7490A5314D7386274024943269?sequence=1>

<sup>ii</sup> *Breastfeeding is the cornerstone of infant and young child survival, nutrition and development and maternal health. The World Health Organization recommends exclusive breastfeeding for the first 6 months of life, followed by continued breastfeeding with appropriate complementary foods for up to 2 years and beyond. Early and uninterrupted skin-to-skin contact, rooming-in and kangaroo mother care also significantly improve neonatal survival and reduce morbidity and are recommended by WHO.* [https://www.who.int/publications/i/item/WHO-2019-nCoV-Sci\\_Brief-Breastfeeding-2020.1](https://www.who.int/publications/i/item/WHO-2019-nCoV-Sci_Brief-Breastfeeding-2020.1)

<sup>iii</sup> Conflict of Interest Coalition. <http://coicoalition.blogspot.com>

<sup>iv</sup> Baby Milk Action/IBFAN UK comments to WHO’s web-based consultation on the First Draft Report of the WHO Independent High Level Commission on Non Communicable Diseases. [www.babymilkaction.org/wp-content/uploads/2018/05/BMA-NCD-Commission-16.5.18.pdf](http://www.babymilkaction.org/wp-content/uploads/2018/05/BMA-NCD-Commission-16.5.18.pdf)

2004 WHO Res 57.17 Global Strategy on Diet, Physical Activity and Health 5. REQUESTS the Director-General: (6) to cooperate with civil society and with public and private stakeholders committed to reducing the risks of noncommunicable diseases in implementing the Strategy and promoting healthy diet and physical activity, *while ensuring avoidance of potential conflicts of interest*

<sup>v</sup> <http://www.ohchr.org/en/HRBodies/CRC/Pages/CRCIndex.aspx>  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f15&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f15&Lang=en)

<sup>vi</sup> World Health Organization. Principles Governing Relations Between the World Health Organization and Nongovernmental Organizations. <https://apps.who.int/iris/handle/10665/162134>.

<sup>vii</sup> US corporations try to use the 14th amendment of the US Constitution to claim the same rights as citizens, interpreting any attempt to restrict company activity as taking away 'life liberty and property.'

<sup>viii</sup> IBFAN comments on the Draft terms of reference for a global coordination mechanism for the prevention and control of noncommunicable diseases October 2013, *"Creating a multi-stakeholder mechanism which includes the private commercial sector risks driving attention away from WHO's regulatory mandate and takes WHO down the corporate social responsibility path of legally non-binding (and often unaccountable) initiatives. Giving corporations a seat on the table promotes a problematic model for Member States which companies will be sure to use. It provides image enhancement and allows them to position themselves as socially responsible 'corporate citizens' when in reality their products and/or practices are one of the underlying determinants of NCDs. This multi-stakeholder mechanism will move the focus away from underlying determinants and preventive and sustainable approaches to curative ones."* <https://proxy-redirect.netlify.app/nutrition/consultation-doi/ibfan.pdf>

Civil Society Statement Save the World Health Organization from the undue influence of corporations and corporate linked entities Geneva 25th April 2016 <http://www.babymilkaction.org/wp-content/uploads/2016/04/Civil-Society-FENSA-Statement-April-2016-1.pdf>

<sup>ix</sup> Rodwin MA. WHO's attempt to navigate commercial influence and conflicts of interest in nutrition programs while engaging with non-state actors: Reflections on WHO guidance for nation states: Comment on "Towards preventing and managing conflict of interest in nutrition policy? An analysis of submissions to a consultation on a draft WHO tool." *Int J Health Policy Manag.* 2020;x(x):x-x. doi:10.34172/ijhpm.2020.162

<sup>x</sup> *When the SUN casts a shadow – the human rights risks of multi-stakeholder partnerships*<http://www.babymilkaction.org/archives/24042>

<sup>xi</sup> Defending and Reclaiming WHO's Capacity to Fulfill its Mandate. Richter <http://www.peah.it/2021/01/9249/>

<sup>xii</sup> \$24 billion of approximately \$50 billion in assets owned by the Bill & Melinda Gates Foundation Trust (13F Information Table, html version) <https://www.sec.gov/Archives/edgar/data/1166559/000110465921106341/0001104659-21-106341-index.htm> include \$330 million invested in Coca-Cola and \$12 billion in Warren Buffet's Berkshire Hathaway holding company, which owns 9% of Coca-Cola (globally), 27% of Kraft-Heinz, and 99% of Dairy Queen.

<sup>xiii</sup> [WHA Resolution 49.15](#) Preambular para states: *"Concerned that health institutions and ministries may be subject to subtle pressure to accept, inappropriately, financial or other support for professional training in infant and child health"...*urges Member States:...(2) to ensure that the financial support for professionals working in infant and young child health does not create conflicts of interest, especially with regard to the [WHO/UNICEF Baby Friendly Hospital Initiative](#); (3) to ensure that monitoring the application of the International Code and subsequent relevant resolutions is carried out in a *transparent, independent manner, free from commercial influence."*

<sup>xiv</sup> Nestlé's Breastmilk substitute marketing: Compliance record refers to the [ATNF India Index, 2016](#). *"With respect to BMS marketing, Nestlé India demonstrated a high level of compliance with the Indian IMS Act and the Code."* [India ranked Joint 1<sup>st</sup> Nestlé USA Nestle FB page Nestle using ATNF reports as 'Transparency and Accountability' documents Danone -highlighting its top BMS company status Danone using it as an example of external evaluation Danone UK engaging HSG to launch a consumer care line and referring to ATNI as a positive thing for Danone Nestlé welcomes the Call to Action by WHO, UNICEF and civil society organizations "We comply with the Code and relevant resolutions of World Health Assembly \(WHA\) as implemented by national governments everywhere in the world, as a minimum....The Call to Action recognizes that a level playing field for all companies is essential. In the absence of legislation, achieving such a level playing field will require everyone to work together, including us. Nestlé is committed to leading the way and encourages all stakeholders to work together to achieve this important goal](#)

<sup>xv</sup> <https://www.htfmarketreport.com/reports/3598485-worldwide-baby-food-drink-market-1>

<sup>xvi</sup> *Interference in public health policy: examples of how the baby food industry uses tobacco industry tactics.* DOI: <https://doi.org/10.26596/wn.201782288-310>

<sup>xvii</sup> <http://www.babymilkaction.org/archives/25523>

<sup>xviii</sup> <http://www.babymilkaction.org/archives/29638>

<sup>xix</sup> NGOs leave EU Platform on Diet, Physical Activity & Health <http://www.babymilkaction.org/archives/22161>, <https://www.euractiv.com/section/agriculture-food/news/civil-society-abandons-eu-commissions-anti-obesity-forum/>

<sup>xx</sup> Whistleblowing: Food Safety and Fraud, Yasmine Motarjemi, Ph.D. 2014, Food Safety Magazine, [http://www.babymilkaction.org/wp-content/uploads/2018/11/14\\_Press\\_Cuttings\\_Whistleblowing-FSM.pdf](http://www.babymilkaction.org/wp-content/uploads/2018/11/14_Press_Cuttings_Whistleblowing-FSM.pdf)

<sup>xxi</sup> Tackling NCDs WHO Best Buys <https://www.who.int/publications/i/item/WHO-NMH-NVI-17.9>

<sup>xxii</sup> *Global Strategy on Infant and Young Child Feeding* Paragraph 44 Commercial enterprises: *"Manufacturers and distributors of industrially processed foods intended for infants and young children also have a constructive role to play in achieving the aim of this strategy. They should ensure that processed food products for infants and children, when sold, meet applicable Codex Alimentarius standards and the Codex Code of Hygienic Practice for Foods for Infants and Children. In addition, all manufacturers and distributors of products within the scope of the International Code of Marketing of Breast-milk Substitutes, including feeding bottles and teats, are responsible for monitoring their marketing practices according to the principles and aim of the Code. They should ensure that their conduct at every level conforms to the Code, subsequent relevant Health Assembly resolutions, and national measures that have been adopted to give effect to both."*