

# Marketing of breast-milk substitutes

## National implementation of the International Code, status report 2022 – Americas Region

**P**redatory marketing of breast-milk substitutes continues to be highly prevalent worldwide. As documented in a recent multi-country study on the reach and influence of marketing on infant feeding conducted by the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF), marketing of breast-milk substitutes diminishes the perceived value of breastfeeding and undermines women's confidence in their ability to breastfeed. Marketing plays on expectations and anxieties around feeding and positions formula milk as a better alternative to breast milk.

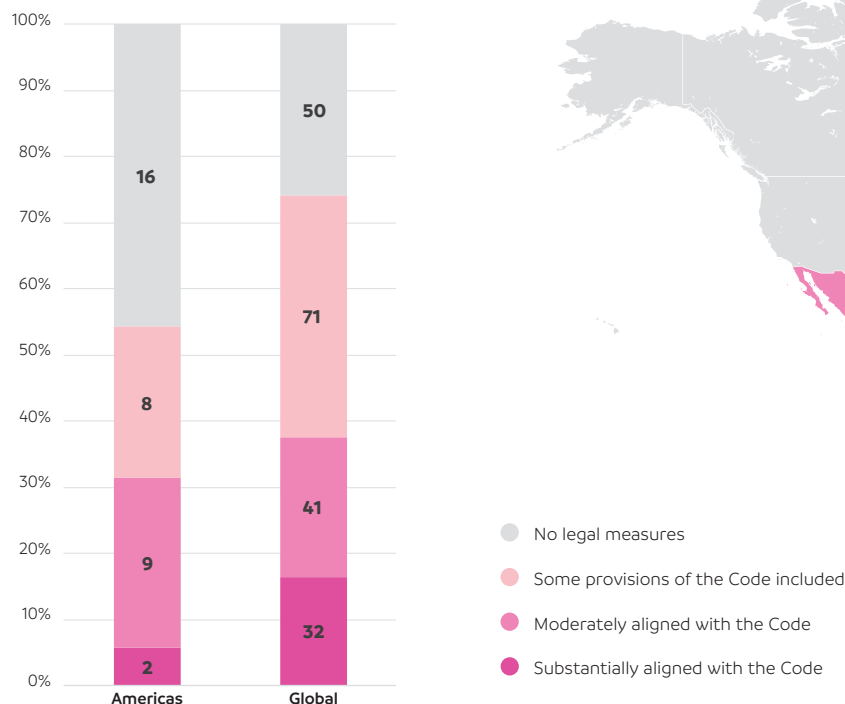
This brief summarizes data for the Americas region\* based on the global Code status report 2022.\*\* The report presents the national legal status of the International Code of Marketing of Breast-milk Substitutes and subsequent relevant World Health Assembly (WHA) resolutions ("the Code"), including the extent to which its provisions have been incorporated in national legal measures.

### Methodology

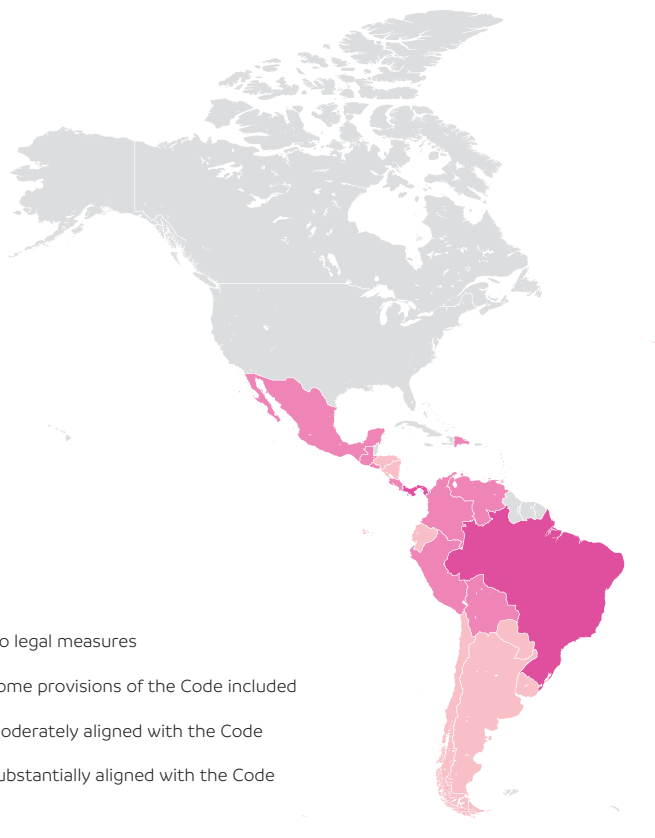
WHO, UNICEF and International Baby Foods Action Network (IBFAN) routinely collect information on legal measures adopted by countries to implement the Code. The legal measures are analysed on scope and content by using a standardized checklist of Code provisions. A scoring algorithm is then applied to classify countries' legislation into categories. The algorithm assigns points values for each Code provision, with a maximum total of 100 points for measures that reflect all provisions in the Code. Countries with legal measures that scored 75 or greater are considered to be "substantially aligned with the Code", those with scores of 50 – < 75 are considered to be "moderately aligned with the Code", and those with scores < 50 are considered to have "some provisions of the Code included". This algorithm facilitates a systematic and objective classification of countries and their legal measures.

\* For this report, the Americas region includes all countries that are part of the WHO Americas region or Pan-American Health Organization or UNICEF Latin America and Caribbean region.

\*\* Marketing of breast-milk substitutes: national implementation of the International Code | Status report 2022. Geneva: World Health Organization; 2022. <https://www.who.int/publications/i/item/9789240048799>.



**Figure 1.** Legal status of the Code as enacted in countries, Americas region (N=35) and Global (N=194)



**Figure 2.** Map showing national legal status of the Code, by Americas region, 2022.

## Findings: legal status of the Code

Over the past two years, none of the American countries strengthen protections against inappropriate marketing of breast-milk substitutes with new legislation or regulations.

Of the 35 countries in the Americas region, 19 countries have adopted legal measures to implement at least some of the provisions in the Code. Of these, only 2 countries<sup>1</sup> have measures in place that are substantially aligned with the Code. Unfortunately, 16 countries<sup>2</sup> have yet to enact legal measures on the Code.

## Findings: characteristics of legal measures

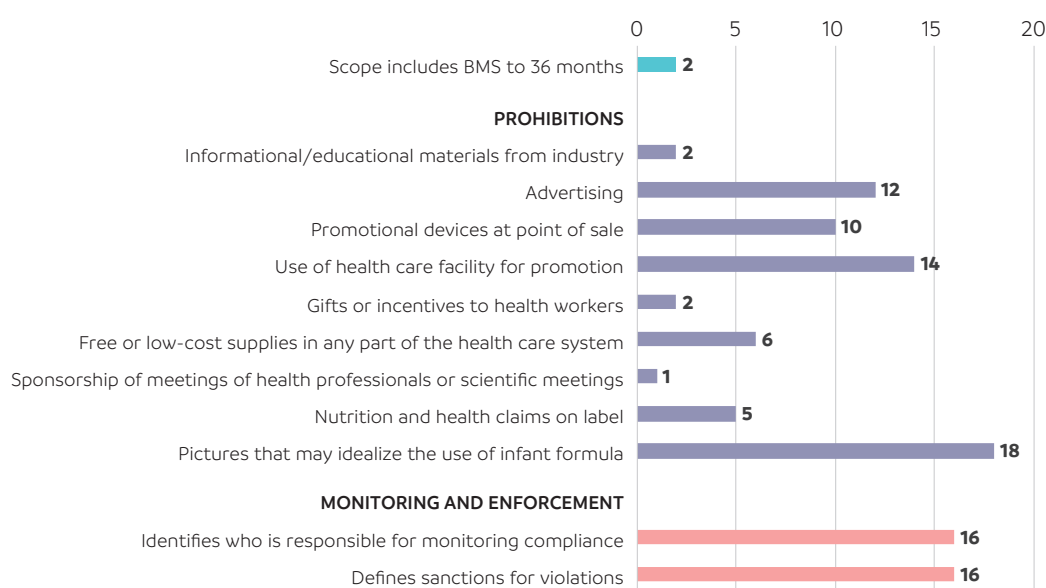
Of the 19 countries with Code laws, only 2<sup>3</sup> have measures clearly covering the full breadth of breast-milk substitutes, which includes milk products targeted for use up to at least 36 months (see Figure 3).

While only a few American countries (2)<sup>4</sup> prohibit the distribution of informational or educational materials from manufacturers or distributors, many more have prohibitions on advertising (12)<sup>5</sup> and the use of promotional devices at points of sale (10)<sup>6</sup>.

The health system has been a traditional conduit for promoting products falling under the scope of the Code, and promotion in health facilities persists in many countries. In spite of this, too few countries have robust measures in place to reduce these promotional practices. While many countries (14)<sup>7</sup> prohibit the use of facilities for promotion, a surprisingly low number of countries (2)<sup>8</sup> prohibit gifts or incentives to health workers and only some (6)<sup>9</sup> have provisions in place that prohibit the distribution of free or low-cost supplies in the health care system. In addition, only one country<sup>10</sup> has legal restrictions on industry sponsorship of meetings of health professionals or scientific groups.

Only a few countries (5)<sup>11</sup> prohibit the inclusion of nutrition and health claims on labels, but more (18)<sup>12</sup> prohibit the use of pictures on labels that may idealize the use of infant formula.

For national Code legislation or regulations to be effective, responsible government agencies must be empowered to monitor compliance with national legal measures, identify Code violations, and take corrective action when violations are identified, through administrative, legal or other sanctions. Therefore, legal measures must include clear provisions which enable and empower authorized agencies to take the corrective action needed. Nearly all



**Figure 3.** Number of countries in the Americas region with key code provisions enumerated in legal measures.

(16)<sup>13</sup> the American countries that have legal measures include measures that clearly spell out who in government is responsible for monitoring compliance, and 16<sup>14</sup> define sanctions for violations.

## Conclusions

While promotion of breast-milk substitutes using unethical marketing practices continues throughout the world, many countries are fighting back. A majority of American countries have legislation prohibiting at least some forms of promotion.

But significant gaps in national legislation remain. Provisions to prevent conflicts of interest are notably lacking and even the most obvious form of promotion, public advertisements, is not adequately covered. High-level political will, constraints on industry lobbying, accountability measures, monitoring and enforcement mechanisms, education on the Code, and investment in human and financial resources are desperately needed across Americas to accelerate progress in protecting the health of mothers and babies through breastfeeding.

## Recommendations

1. Countries that have not revised their laws or regulations on the marketing of breast-milk substitutes in the past few years should use this report to identify gaps in coverage of all Code provisions and take action to update their legal measures. The WHO/EURO model law is a tool to help to strengthen national regulatory frameworks to protect infants and young children from the harmful effects of food marketing.

2. Countries that have not yet enacted legal measures on the Code should recognize their obligations, both under international human rights law and international agreements, to eliminate inappropriate marketing practices through regulatory action.
3. Countries should examine the new promotional techniques being used in digital media and explore how legal channels can be better utilized to stop this type of promotion. While many digital strategies are already covered in existing legal provisions and simply need stronger monitoring and enforcement, some online and social media promotional approaches will require adaptations to existing regulations.
4. Governments must allocate adequate budgets and human resources to ensure that national Code legislation is monitored and fully enforced, guaranteeing that deterrent sanctions are routinely applied in the case of violations.
5. Health professional bodies and health care workers should carry out their responsibilities under the Code and national legislation to avoid conflicts of interest and fully protect, promote and support optimal infant and young child feeding.

## Endnotes

- <sup>1</sup> The countries with legal measures substantially aligned with the Code are Brazil, and Panama.
- <sup>2</sup> The countries with no legal measures on the Code are Antigua and Barbuda, Bahamas, Barbados, Belize, Canada, Cuba, Dominica, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, and United States of America.
- <sup>3</sup> The countries with measures covering the full breadth of breast-milk substitutes are Brazil and Mexico.
- <sup>4</sup> The countries that prohibit the distribution of informational or educational materials from manufacturers or distributors Bolivia (Plurinational State of) and Brazil.
- <sup>5</sup> The countries that have prohibitions on advertising are Bolivia (Plurinational State of), Brazil, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Mexico, Panama, Peru, Uruguay, and Venezuela (Bolivarian Republic of).
- <sup>6</sup> The countries that prohibit promotional devices at points of sale are Bolivia (Plurinational State of), Brazil, Colombia, Dominican Republic, El Salvador, Mexico, Panama, Peru, Uruguay, and Venezuela (Bolivarian Republic of).
- <sup>7</sup> The countries that prohibit the use of health care facilities for promotion are Bolivia (Plurinational State of), Brazil, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Nicaragua, Panama, Peru, Uruguay, and Venezuela (Bolivarian Republic of).
- <sup>8</sup> The countries that prohibit gifts or incentives to health workers or health systems are Panama, and Venezuela (Bolivarian Republic of).
- <sup>9</sup> The countries that prohibit the distribution of free or low-cost supplies in the health care system are Brazil, Colombia, Costa Rica, El Salvador, Panama, and Venezuela (Bolivarian Republic of).
- <sup>10</sup> The country that has legal restrictions on industry sponsorship of meetings of health professionals or scientific groups is Panama.
- <sup>11</sup> The countries that prohibit the inclusion of nutrition and health claims on labels are Argentina, Brazil, Mexico, Peru, and Venezuela (Bolivarian Republic of).
- <sup>12</sup> The countries prohibiting idealizing imagery on labels are Argentina, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Trinidad and Tobago, Uruguay, and Venezuela (Bolivarian Republic of).
- <sup>13</sup> The countries that clearly spell out who in government is responsible for monitoring compliance are Argentina, Bolivia (Plurinational State of), Brazil, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, and Uruguay.
- <sup>14</sup> The countries that define sanctions for violations are Argentina, Bolivia (Plurinational State of), Brazil, Chile, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, and Venezuela (Bolivarian Republic of).

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