



Implementation of EU delegated regulations on food for specific groups consultation:

BFLG-UK consultation responses

Submitted on 18/11/2019 by Victoria Sibson, Secretariat of the BFLG-UK on behalf of the group's 28 member organisations (please see <https://www.bflg-uk.org/about-us/#members>)

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1. Do you agree that the first formal action for breaches of the provisions of Delegated Regulation (EU) 2016/128 on food for special medical purposes for infants would be an Improvement Notice consistent with the enforcement provisions for the Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016 (enforcing EU Regulation 609/2013) and the Food for Specific Groups (Information and Compositional Requirements) (Amendment) (Wales) Regulations 2019 (which includes enforcement of the provisions for FSMP other than FSMP for infants)?

Firstly, compliance should be assessed in relation to all provisions of Delegated Regulation (EU) 2016/128, not just those related to composition and labelling/information requirements as suggested in Figure 1 and paragraph 26; i.e. they should include those related to marketing (presentation, advertising, promotion etc).

Secondly, while we agree that the first (formal) action upon confirming that a suspected violation is a breach of any provision of these regulations should be the issuing of an improvement notice, we do not agree with an informal first step for tackling breaches which do not pose 'an immediate risk to public health' (as stated in paragraph 26). Maintaining an informal first step belittles the purpose of the regulations to protect the health of infants in the short, medium and longer term by protecting breastfeeding and because diets in infancy have life-long health impacts.

With an informal first step, you tell us in paragraph 27 that the majority of breaches will result in informal enforcement action which is not recorded. It will therefore remain impossible to monitor the extent to which the regulations are complied with, or otherwise. Years of voluntary monitoring of the marketing of breastmilk substitutes (including iFSMPs available on supermarket, shop and pharmacy shelves) by Baby Milk Action, highlights that manufacturers and retailers continue to aggressively market their products to maximise sales. To improve compliance with the law, all enforcement measures need to be formal, enabling monitoring and evaluation and this data should be publicly available at a central level.

2. Do you agree that the first formal action for breaches of the provisions of Delegated Regulation (EU) 2016/127 for infant formula and follow-on formula would be an Improvement Notice consistent with the enforcement provisions for the Food for Specific Groups (Information and Compositional Requirements) (Wales) Regulations 2016 and the Food for Specific Groups (Information and Compositional Requirements) (Amendment) (Wales) Regulations 2019?

As above, firstly, compliance should be assessed in relation to all provisions of Delegated Regulation (EU) 2016/127, not just those related to composition and labelling/information requirements as suggested in Figure 1 and paragraph 26; i.e. they should include those related to marketing (presentation, advertising, promotion etc).

Secondly, while we agree that the first (formal) action upon confirming that a suspected violation is a breach of any provision of these regulations should be the issuing of an

improvement notice, we do not agree with an informal first step for tackling breaches which do not pose 'an immediate risk to public health' (as stated in paragraph 26).

Maintaining an informal first step belittles the purpose of the regulations to protect the health of infants in the short, medium and longer term by protecting breastfeeding and because diets in infancy have life-long health impacts.

With an informal first step, you tell us in paragraph 27 that the majority of breaches will result in informal enforcement action which is not recorded. It will therefore remain impossible to monitor the extent to which the regulations are complied with, or otherwise. Years of voluntary monitoring of the marketing of breastmilk substitutes by Baby Milk Action, highlights that manufacturers and retailers continue to aggressively market their products to maximise sales. To improve compliance with the law, all enforcement measures need to be formal, enabling monitoring and evaluation and this data should be publicly available at a central level.