

**Government Response to
Report of the Health Select Committee
on
Petition 2005/127
of
Lisa Ross and 15 others**

**Presented to the House of Representatives
In accordance with Standing Order 248**

GOVERNMENT RESPONSE TO REPORT OF THE HEALTH SELECT COMMITTEE ON PETITION 2005/127 OF LISA ROSS AND 15 OTHERS

Introduction

The government has carefully considered the Health Select Committee (the Committee) report, presented to the House of Representatives (the House) on 8 September 2008, on petition 2005/127 of Lisa Ross and 15 others.

The petition 2005/127 of Lisa Ross and 15 others was presented to the House on 18 April 2007. The petition requested that the House call on the government to adopt, and give regulatory force to, the *International Code of Marketing of Breast-milk Substitutes* and subsequent relevant World Health Assembly resolutions, and recognise that the International Code is the minimum standard that applies to all sectors including, and in particular, the infant and young child feeding industries.

The government responds to the Committee's report in accordance with Standing Order 248.

The Committee made one recommendation, which the government agrees to in principle.

Background

The International Code of Marketing of Breast-milk Substitutes

The World Health Organization's (WHO) *International Code of Marketing of Breast-milk Substitutes* (the International Code) (WHO 1981) aims to ensure safe and adequate nutrition for infants by: protecting and promoting breastfeeding; and ensuring the proper use of breast-milk substitutes (infant formula), when these are necessary, on the basis of adequate information and through appropriate marketing and distribution.

The International Code was adopted and promoted by the World Health Assembly (WHA) as a set of recommendations to Member States for action appropriate to their social and legislative framework. Action may include national legislation, regulations, or other suitable measures, and should involve stakeholder groups in its implementation. The WHA also recommended that compliance with these actions should be monitored.

Since 1981, several relevant WHA resolutions have been adopted which urge Member States to strengthen national measures, and to consider what other measures might be required to give effect to the International Code's principles and aim. These resolutions have the same status as the International Code.

The International Code in New Zealand

As noted by the Committee, the International Code was adopted by the New Zealand government in 1983, through consensus and discussion, not

regulation. All 11 articles of the International Code, and relevant WHA resolutions, have been adopted.

The 1981 WHA resolution adopting the International Code states that the adoption of, and adherence to, the International Code is a minimum requirement, and one of several important actions required in order to promote healthy practices in respect of infant and young child feeding. The government recognises the role of the International Code in the work to provide information and support for breastfeeding in New Zealand; and to ensure the proper use and appropriate marketing of formula.

The New Zealand interpretation of the International Code was reviewed in 2004. The resulting publication, *Implementing and Monitoring the International Code of Marketing of Breast-milk Substitutes in New Zealand: The Code in New Zealand* (Ministry of Health 2007) (the Code in New Zealand), outlines how the International Code is now implemented and monitored under four codes. These four codes cover the 11 articles of the International Code. Sufficient time is required to allow these codes to take effect before an evaluation is conducted.

The Australia New Zealand Food Standards Code 2002 (FSC) is in New Zealand legislation, and is administered by the New Zealand Food Safety Authority. The infant formula standards in the FSC are based on the composition and labelling requirements in the International Code, and, therefore, give effect to parts of the principles and aim of the International Code.

The Ministry of Health's 2007 *Code of Practice for Health Workers* covers health workers' responsibilities under the International Code. The New Zealand Infant Formula Marketers' Association (NZIFMA) 2007 *Code of Practice for the Marketing of Infant Formula* covers the marketing of infant formula. These are both voluntary and self-regulatory codes. The Ministry of Health is responsible for monitoring compliance with these codes. This is achieved under a complaints process, which includes a natural justice step and a non-statutory Compliance Panel, formed in April 2008.

The Advertising Standards Authority (ASA) *Code for the Advertising of Food* covers advertising of infant foods other than infant formula. The ASA Code is voluntary and self-regulatory and is administered by the ASA, using an independent Advertising Standards Complaints Board to deal with complaints.

Recommendation and Government response

Recommendation : that in 2011 the effectiveness of the International Code of Marketing of Breast-milk substitutes in New Zealand: The Code in New Zealand be fully evaluated and that the Ministry of Health National Breastfeeding Advisory Committee consider and recommend the appropriate composition of an evaluation panel at that time.

Response:

The Committee's recommendation refers to the evaluation of the current implementation of the International Code in New Zealand. The Committee's report recognises that the requests of petitioner Lisa Ross and 15 others do not require action, as they are already in place. The petitioners' request to adopt the *International Code of Marketing of Breast-milk Substitutes* has been implemented, as a minimum standard, from 1983, and the request for regulatory force to the International Code has been met where it is appropriate to New Zealand's current legislative framework.

The government agrees in principle with the Committee's recommendation to fully evaluate the effectiveness of *Implementing and Monitoring the International Code of Marketing of Breast-milk Substitutes in New Zealand: The Code in New Zealand* (Ministry of Health 2007) (the Code in New Zealand) and agrees to commence this evaluation in 2011.

The Ministry's National Breastfeeding Advisory Committee has been replaced with the current National Breastfeeding Committee, and that, or any succeeding committee, could be involved in the evaluation as determined at the time.

The government agrees that using a panel may be one way to achieve the evaluation. However, the evaluation process would be best determined by an analysis of the situation in 2011. Key components of the evaluation process will include ensuring that evaluation and analysis expertise is used, and ensuring that the views of key stakeholders are considered.

The government agrees to consider the recommendations of the evaluation of the effectiveness of the implementation of the Code in New Zealand, when it is completed. Implementation of the recommendations would be dependent on the social and economic policy and legislative context relevant at the time. At this stage, commitment remains to the implementation of the four codes described in the background to this response.

The Committee urged the Ministry to advertise widely the document *Implementing and Monitoring the International Code of Marketing of Breast-milk Substitutes in New Zealand: The Code in New Zealand*. A number of actions to raise awareness of this document have been undertaken, and will continue to be undertaken, by the Ministry. The Ministry considers that an opportunity exists for further awareness-raising during the evaluation process.

Conclusion

New Zealand is committed to the aim of the World Health Organization's (WHO) *International Code of Marketing of Breast-milk Substitutes* (the International Code) (WHO 1981), and adopted the 11 articles of the International Code and the relevant World Health Assembly resolutions in 1983. The 11 articles of the International Code are implemented in New Zealand through four codes, one in legislation and three voluntary and self-

regulatory codes, as outlined in the document *Implementing and Monitoring the International Code of Marketing of Breast-milk Substitutes in New Zealand: The Code in New Zealand*.

The government agrees in principle with the recommendation to fully evaluate the effectiveness of *Implementing and Monitoring the International Code of Marketing of Breast-milk Substitutes in New Zealand: The Code in New Zealand*, and agrees to commence this evaluation in 2011. A panel may be one way to achieve this evaluation, however, the evaluation process would be best determined by an analysis of the situation at the time.

The government will consider the recommendations of the evaluation, when completed, within the context of New Zealand's social, economic and legislative frameworks.