

CONFRONTING THE FORMULA FEEDING EPIDEMIC IN A NEW ERA OF TRADE AND INVESTMENT LIBERALISATION

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73 Journal of Australian Political Economy 132 (2014)

Breastfeeding is rarely seen as an economic policy issue. Many view the idea of placing a dollar value on mothers' milk as repugnant. Breastfeeding cannot be framed as simply an economic relationship. It is a complex, physiological, emotional and social relationship between mother and child, intricately related to the nature of the society, community and family in which they live. Furthermore, the 'costs' and 'benefits' of breastfeeding fall both on individuals and on society as a whole. Yet in a world where not valuing something in dollar terms means it is not valued at all, this economic invisibility can have major consequences for the 'market' for mother's milk, for infant and maternal health and wellbeing, and for appropriate public policy. (p. 132)

... We begin by addressing the extent to which policymakers acknowledge and integrate the economic value of breastfeeding into economic policy, and incorporate public health recommendations on IYCF into trade and regulatory policy development. **We then examine the extent to which trade policy may be reducing breastfeeding in both Australasia and China, and how effectively the International Code and related regulation is applied to baby food marketing in these countries. We conclude on the way ahead by urging the public health community to seek greater prominence for IYCF issues in trade negotiations and regulatory policy.** Current deliberations by WHO technical advisors to strengthen the International Code (WHO 2013a) prompts consideration of whether the WHO/UNICEF Global Strategy should be strengthened along the lines of the FCTC. (p. 134)

... Is market liberalisation undermining breastfeeding in Asia Pacific?

In the Asia Pacific region, the recent growth in sales of commercial baby food has been especially rapid – led by booming sales to China (Euromonitor International 2008) – and has had an effect on breastfeeding. The recent rate of expansion in global consumption of formula, facilitated by trade liberalisation especially with China (Correy 2013; Lanigan 2013), is staggering. Global baby food sales were estimated at US\$32 billion a year in 2007, of which \$11 billion of the market was in the Asia Pacific region, with just US\$4.6 billion in China (Euromonitor International 2013). By 2013, this had risen to an estimated global market of \$58 billion a year, of which US\$27 billion is in the Asia Pacific. China is now the largest single market in the world with baby food sales of over \$16 billion a year, forecast to double again within five years. (p. 144)

... Are governments providing effective protection for breastfeeding?

Both China and Australia have national government policies supporting breastfeeding. However, these policies are poorly coordinated with trade and industry policy, which prioritise the baby food industry and exports, and fail to consider human rights regarding breastfeeding or the large economic losses when formula feeding expands at the expense of breastfeeding. (pp. 149-150)

Based on conventional marketing spend of around 10 percent of revenue, more than \$5 billion a year is now spent globally promoting commercial baby food. In contrast, promotion of human breastmilk, a health food, is vastly under

resourced. Here we consider the extent to which governments are adequately protecting breastfeeding and public health, particularly through implementation of the International Code.

In 2014, the national government in China declared a goal of increasing exclusive breastfeeding rates among infants aged less than 6 months to 50 per cent by 2020 (Wu 2014). Tasked with reversing the major declines in breastfeeding in the past decade, the Chinese National Commission on Maternal and Child Health and Family Planning recently urged a ban on advertisements of breastmilk substitutes, more appropriate maternity care, and a focus on enforcing maternity protection for employed mothers (Hou 2014).

However, lack of effective health, labour market and regulatory policies to support this goal remains a major factor in China's low breastfeeding rates (Hou 2014). Despite the evident urgency of protecting breastfeeding since the 2008 melamine crisis, the Chinese government has not directed resources to protecting, promoting, and supporting breastfeeding in accord with the WHO/UNICEF Global Strategy. Instead, it has prioritised repairing the damaged reputation of the formula industry. **Industry subsidies have encouraged increasing production scale, as part of a strategy to promote rationalisation and regulation of the domestic industry, and tighten the regulation of foreign imports (McAloon 2014; Zang 2013).** While improved regulation of local milk formula manufacture was clearly needed, the overall impact of the Chinese government policy response is to protect the viability and expansion of the industry and its ability to promote formula feeding as 'safe', rather than acknowledge and prioritise the economic value of human milk, address the maternity protection needs of mothers with infants, and promote the importance of breastfeeding within the health system. (p. 150)

In Australia and New Zealand policy statements support breastfeeding, with, for example, the Australian National Breastfeeding Strategy (ANBS) agreed by Australian state and federal health ministers in 2010 (AHMC 2009). The ANBS arose from the 2007 'Best Start' federal Parliamentary Inquiry which recommended requiring maternity care services to achieve BFHI accreditation and improving policy support for employed women to breastfeed (House of Representatives Standing Committee on Health and Aging 2007). Concerned at extensive evidence of aggressive marketing of baby foods, and aware of the health system savings from breastfeeding, the 'Best Start' Inquiry also recommended implementing the full International Code and subsequent relevant World Health Assembly (WHA) resolutions, including by legislation and mandatory enforcement. However, the ANBS has no specific commitment of federal or state government funding and four years later, a detailed Implementation Plan has yet to be published. There is no evidence of any significant changes in Australian breastfeeding rates (Mortensen and Tawia 2013), nor are there plans to evaluate the effect of the ANBS on feeding practices.

In New Zealand, domestic policy has successfully centred on BFHI implementation with drastically increased exclusive breastfeeding rates on hospital discharge (Martis and Stufkens 2013). There have also been incremental improvements in maternity protection, such as parental leave duration and eligibility as well as workplace breastfeeding breaks legislation. By contrast, **New Zealand's infant formula trade policy has been developed without reference to breastfeeding and health concerns, other than those relating to food safety.**

Commercial infant food sales and exports are also facilitated by public fiscal support and weak regulation in both Australasian countries... (pp. 150-151)

... As in China, Australian and New Zealand government policy regulatory responses to formula-related public health crises in recent years have mainly aimed to protect the local formula industry's reputation and facilitate continued sales and exports. For example, when informal exports to China were depleting supermarket shelves in Australasia in 2013 and 2014, the regulatory response by **the Australian and New Zealand governments focused on protecting the national 'clean and green' branding from potential fraud and misrepresentation** (Harris 2013).

Although WHA resolutions have strengthened International Code provisions, and called for companies to adhere to it, Australia's implementation has been weakened. **Australia took limited and belated action on the International Code in 1992, through authorising a narrow self-regulatory agreement by industry (MAIF 1992); marketing**

and promotion activities by retailers remained unconstrained, and the agreement covered only infant formula. Despite promotion of ‘toddler’ formula being shown to serve as de-facto brand advertising for infant formula (Berry 2010), the Australian government has allowed industry to promote it, and it is now clear that from 1992 the local industry switched its focus to marketing ‘toddler’ formula (Smith and Blake 2013)... (p. 152)

... Toddler formulas are now central to company marketing strategies for promoting baby food sales in China and other Asia Pacific countries (Euromonitor International 2008). By making health claims as well as marketing ‘convenience’ to time pressed working mothers (Euromonitor International 2012), these products play unethically on mothers’ insecurities and vulnerabilities (Timmons 2014). In 2010, the WHA expressed concern that follow on and toddler formulas are marketed in a way that confuses consumers and reduces breastfeeding, and WHO has recently concluded these products are unnecessary and unsuitable for children due to potential problems of excess nutrients (WHA 2010; WHO 2013b). (p. 153)

... Furthermore, a significant issue in governments’ attempts to regulate the marketing of IYCF products has been the argument of industry that such regulation breaches WTO rules and investment protection provisions of international trade treaties regarding intellectual property rights and trademarks. Such arguments emerged in South America and Africa during the mid-1990s when the world’s largest baby food companies, Gerber and Nestle, challenged national laws on baby food marketing in Guatemala and Zimbabwe (Mokhiber 1996). Similar legal arguments have been raised in the Phillip Morris challenge to Australia’s plain paper tobacco packaging legislation, based on investor protection provisions of a bilateral trade treaty with Hong Kong (McGrady 2012). Such arguments have been contested by legal scholars in the context of tobacco (Davison 2012; Voon and Mitchell). Nevertheless, these same positions underpin a current challenge by the baby food industry to proposed Hong Kong laws implementing the International Code. Moreover, the Hong Kong government has been warned by industry advocates that it ‘may find itself before a WTO tribunal’ if it goes ahead with its Code (Kogan 2013a, b; Timmons 2014). (pp. 153-154)

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