

March 16, 2009

To the ILCA Membership:

The ILCA office has received many inquiries, seeking further explanation of the ILCA Board's decision, announced in the Feb 2009 edition of the eGlobe ("Update: ILCA 2009 Conference Exhibit Hall and Advertising Policy"), that pump manufacturer Medela would *not* be eligible to purchase booth space at the 2009 ILCA Conference, nor to advertise in the *Journal of Human Lactation*.

ILCA instituted in 2008 a new procedure for evaluation of Code-compliance of potential advertisers, to remove the conflict-of-interest in making that determination. ILCA will abide by the evaluation made by an independent, outside expert on the *Code*: the National Alliance for Breastfeeding Advocacy (NABA), the USA-based arm of the International Baby Food Action Network (IBFAN).

The ILCA Board of Directors asked the Director of NABA, Marsha Walker, to draft a fuller explanation of the evaluation of Medela marketing practices vis-a-vis the WHO Code. The following is her thorough reply, drafted with her counterpart in Canada, Elisabeth Sterken of INFACT Canada/IBFAN North America.

On behalf of the Board of Directors -- Angela Smith, RN, RM, IBCLC, BA FILCA, ILCA President (2008-2010)

Protecting Breastfeeding: Making Sense of the Code

Many ILCA members are in a quandary over ILCA's recent actions regarding the removal of the Medela company from the exhibit hall at the ILCA conference and the withdrawal of Medela advertising from ILCA publications. The National Alliance for Breastfeeding Advocacy (NABA) and the Infant Feeding Action Coalition (INFACT) Canada as part of the IBFAN (International Baby Food Action Network) and representing IBFAN North America play a key role in the monitoring and reporting on Code violations for the purpose of assisting WHO, governments, professional bodies and manufacturers and distributors of products to take appropriate actions.

NABA of IBFAN North America was asked by ILCA to act as an independent resource to assist ILCA in evaluating whether potential ILCA Conference Exhibit Hall vendors were marketing in compliance with the WHO Code. An outside expert was sought, because it is an inherent conflict-of-interest for ILCA to make such a decision. This determination had to be made prior to the conference itself. (At the annual conference, ILCA fulfills its WHO Code requirement as an NGO, to advise industries marketing and distributing infant feeding products how to meet their obligations under the Code, by its

"walk-through" prior to the opening of the Exhibit Hall, to have Code-violating marketing removed).

The protection, promotion and support of breastfeeding are the essential principles underlying the lactation consulting profession. These principles have a basis of globally accepted standards by which those working with mothers, infants and young children are guided in how they implement their professional responsibilities both ethically and legally. As such the International Code of Marketing of Breastmilk Substitutes and all subsequent relevant World Health Assembly (WHA) resolutions (the Code) sets the standard for practice of all lactation consultants, helping the profession practice in an ethical manner that does not undermine the unequivocal support of breastfeeding. Both the Global Strategy for Infant and Young Child Feeding (GSIYCF) and the Planning Guide for the implementation of the GSIYCF note the obligations and responsibilities of health professional bodies, "for ensuring the fulfillment of the right of children to the highest attainable standard of health and the right of women to full and unbiased information, and adequate health care and nutrition". Lactation consultants have a key responsibility, "observing, in their entirety, their responsibilities under the International Code of Marketing of Breastmilk Substitutes and subsequent relevant health Assembly resolutions, and national measures adopted to give effect to both".

The Code and resolutions is a set of recommendations developed and adopted by the collective membership of the highest international health body (WHA) for the appropriate marketing of breast milk substitutes, bottles, and artificial nipples. It is a recognition that the use of breast milk substitutes, bottles and nipples have consequences that require special consideration for the marketing of such products and that regular commercial practices are unsuitable for these products. As a tool to protect breastfeeding, the Code and resolutions sets out provisions for the "appropriate marketing and distribution of the products under its consideration. Its provisions curb the unethical marketing practices, false and misleading advertising, and complicity by health care professionals, health care systems, and governments that combine to influence a mother to replace her breast milk with a commercial substitute either completely or partially. The Code does not ban the sale or use of breast milk substitutes but seeks to ensure the proper use of infant formula, bottles and nipples, when necessary, on the basis of adequate information and through appropriate marketing and distribution."

The Code applies to *the marketing* of formula, bottles, teats, and foods meant to be given to babies in lieu of breastmilk (Article 2. Scope of Code). Marketing means "product promotion, distribution, selling, advertising" etc. (Article 3. Definitions). There shall be "no advertising or other form of promotion to the general public of products within the Code" (Article 5. The general public and mothers).

As an internationally *universally* adopted instrument, countries have implemented it in various ways – some have legislated it in its entirety, others have gone beyond its given provisions, some have legislated segments of the Code, while others have designated it as a voluntary measure. ILCA's obligation as an international professional body is to meet the needs of all forms of national implementation, whether voluntary, regulatory or

legislative. Additionally the Code's Annex notes that it "constitutes the *minimum* acceptable requirements concerning the marketing of breastmilk substitutes", and additional marketing restrictions may be needed to ensure the protection of breastfeeding.

ILCA bylaws require that it support the Code:

"Support the world-wide implementation of the International Code of Marketing of Breast-milk Substitutes and other subsequent WHA resolutions which are consistent with the goals and objectives of [ILCA]." By-law 2.1.8, available on-line to ILCA members, at <http://www.associationhome.com/ILCA/web/files/ILCABylawsApril2007.pdf>

Furthermore, ILCA cannot take gifts/money from anyone who is a Code violator:

"1. As an organization, ILCA and its affiliates will not endorse any literature or products, or accept direct funding from industries producing or marketing products that do not comply with the International Code of Marketing of Breast-milk Substitutes and subsequent WHA resolutions." By-law 2.2.1; *ibid*.

Tenet 24 of the IBLCE Code of Ethics states that, "IBCLCs must adhere to those provisions of the International Code of Marketing of Breastmilk Substitutes and subsequent resolutions which pertain to health workers."

When NABA was asked by ILCA if the Medela company was meeting its obligations under the Code the answer was that Medela had violated the International Code in a number of ways.

1. Breast pumps, collection containers, and milk storage containers are not covered by the Code, so Medela was not in violation of the Code until it recently began marketing feeding bottles and artificial nipples to the public. The ad below was seen in the American Baby magazine July 2008. The picture of the feeding bottle and artificial nipple is a violation of the International Code Article 5 .



100% breastmilk
100% BPA-free bottles

Moms are looking for Bisphenol A-free products. Look no further. Medela Breastmilk Bottles are, and always have been, BPA-free. As a matter of fact, all Medela products that come in contact with breastmilk are BPA-free.

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BPA-free
Safe for Baby



medela
#1 CHOICE OF HOSPITALS AND MOTHERS

American Baby July 2008

women now ends up with a surgical delivery. "It's cutting, so to speak, into attendance," Murkoff adds. "Some women are even asking ahead for surgery. It's not surprising, then, that they're questioning why they'd need to study up on nature's birth plan."

■ **Many patients simply prefer to get information closer to home** "They're listening to friends and family members," says Gail Herrine, MD, an ob-gyn at North-east Hospital of the Temple University Health System, in Philadelphia. "Some of them are also using the Internet and magazines, and they feel that's enough." Dr. Herrine nonetheless strongly encourages her patients to attend childbirth classes.

■ **Pop culture often portrays childbirth instructors as hippies indoctrinating their pupils in a philosophy of drug-free, natural childbirth** And sometimes that's not far off. When her ob suggested she take a childbirth class last year, Lucia Smith, of Hopewell, New Jersey, complied, but the educator's anti-epidural rant made Smith tune out. "I don't like pain!" Smith laments. Who can blame her?

■ **Time** No one has it, and childbirth-education classes often demand whole evenings or afternoons. "Some classes we looked into stretched over weeks, requiring us to run to them after work," says Tanya Henry, of Chicago, whose son, Emmett, was born in January. "The only one we could handle was at our hospital—a one-day, eight-hour class on a Saturday. It made for a long day, but it fit our schedule better."

CAN CLASSES WIN US BACK?

Childbirth educators are scrambling to change their teaching tactics. "When people are so busy, we need to find ways to accommodate them," says Chris Just, director of the Childbirth Education Program at Isis Maternity, an agency with three locations in Massachusetts. Besides a four-week course, Isis Maternity offers condensed one- and two-day sessions. Many hospitals and educators going that route have seen their class attendance rise as a result.

There are also alternatives to the group approach, including online classes and private sessions, although you'll lose the camaraderie factor, Murkoff says. Doula—hired labor assistants—are yet another option. They can provide support and insight in the weeks leading up to birth, not just at the birth itself. "But you can have your doula and take classes too," Murkoff adds.

What everyone wants you to avoid is the bad information that's so easily available. "Google 'epidural' and you'll get nearly 3 million hits, more than you can realistically access," Murkoff says. "And because the Internet comes to you unfiltered, there's a lot of misinformation."

For that reason, a class is definitely worth considering. Henry says the one-day class she and her husband took was well worth their time. "We liked spending a day focused on preparing, and having a labor and delivery nurse there to

2. Pictures of feeding bottles and artificial nipples on the packaging of pumps or other equipment is a violation of the International Code Article 5.
3. The feeding bottles and artificial nipples can be included inside the package and can be listed on the packaging in the contents section. This is not a violation of the Code
4. Language in the product description cannot idealize the use of the feeding bottle/nipple. Some of the materials intended for distribution to mothers contains language that idealizes the use of the bottle/nipple for feeding the baby in violation of Article 9.

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Medela's exclusive bottle designs are made from safe, food-grade polypropylene

Polypropylene is a durable plastic ideal for breastmilk collection and storage. It protects breastmilk from moisture and air. Unlike other plastic containers, polypropylene's durable, rugged, long-lasting stand up to the rigors of hospital autoclaving, boiling and dishwasher. Polypropylene resists cracking and scratching, which reduce the risk of bacterial growth.

80 ml (2.7 oz) and 150 ml (5 oz) bottles available

- Safe for the health of mom and baby
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Leak Proof

Pump, store and freeze breastmilk in bags made with an exclusive double layer to protect breastmilk from air and moisture.

Pump & Save Bags are designed to minimize oxygen exposure and protect breastmilk

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- Safe plastic designed to retain breastmilk's beneficial properties

*Unless opened or damaged

The complete system for collecting and feeding breastmilk

Pump - Using your Medela breastpump, express your milk into the bottle. Bottom fit all Medela breastpumps.

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Since Medela is a manufacturer and distributor of products – bottles and nipples – that come under the scope of the Code, they may not seek contact (Article 5.5) direct or indirect with pregnant women or with mothers of infants and young children. Their recent contest involving the giveaway of glass bottles ,and their offer to sign up mothers for more give-aways, violates the Code.



Nursing Mothers

Free bottle offer expired



Thank you for visiting. Unfortunately our free BPA-free bottle offer has expired. We apologize for any inconvenience.

If you are interested in learning more about Medela's BPA-free products please click [here](#) for more information.

Click [here](#) to join the Medela Community and be contacted regarding future promotions.

This following questions and answers will hopefully help provide a better understanding of ILCA's actions as well as how the Code relates to the practice of the IBCLC.

Q. Who determines what are Code violations?

A. The Code can be imprecise at times and is silent on issues related to the Internet, mergers and acquisitions, and some of the finer points of marketing language. NABA's decisions about some of the finer points of the Code, are made in consultation with Betty Sterken at INFACT Canada and Joo Kean and Annalies Allain at the International Code Documentation Center (ICDC) in Penang. ICDC functions as "Code central" and is the repository for all Code documentation and issues. Together we look at each suspected violation and endeavor to carefully interpret the Articles and subsequent resolutions of the Code that may apply. The criteria applied in assessing some of the finer points are how these situations protect or undermine breastfeeding, while recognizing that the International Code is a minimum standard.

Q. Medela states on its website that it supports breastfeeding and the intent of the Code. Isn't this good enough?

A. Statements regarding support of the Code, or breastfeeding, by companies manufacturing or distributing products covered under the Code do not absolve the company from meeting its obligations under the Code. Bottles may be necessary for many mothers in some countries to use, in order to feed their infant pumped breastmilk. The Code does not preclude bottle use nor does it prevent the selling and availability of

bottles. It is concerned that bottles are not marketed in a manner that idealizes or normalizes their use or in any way would influence a mother away from breastfeeding.

We need to be careful not to stray from this issue. We all know that mothers returning to work at 4 weeks postpartum to pay the rent and put food on the table are going to use bottles to have their baby fed expressed breastmilk. That is not the issue. The issue is how the products are promoted, not that they may be a necessity for many women or that a company may profess support for breastfeeding. We need to separate the marketing of the product from the situational scenarios. While companies may state that mothers want a “complete feeding system,” mothers can find bottles and nipples in grocery stores, baby stores, discount stores, etc. The marketing of the product contributes to the notion of breastfeeding as secondary. Medela, as a transnational marketer and distributor of these products, must take into consideration all situations that may put breastfeeding and infant health at risk.

Q. Must I discontinue selling products from a company who does not meet its obligations under the Code. I could go out of business or my shop or store or the hospital’s shop would have to close if they could not sell products from this manufacturer.

A. Business considerations are not the criteria by which to determine if a company is in violation of the International Code. By selling products from a manufacturer of products that come under the scope of the International Code, you become a distributor and have special obligations under the Code. You cannot have those products prominently displayed (marketed) to mothers, although they can be a part of your stock, available for purchase by request. If the manufacturer violates the International Code in the way it markets bottles and teats, then you are also a part of that chain, and become complicit by association. As a lactation consultant you need to take into account these ethical and professional standards implications.

Q. Our coalition has a conference every year. Must we discontinue inviting as a vendor a company that does not meet its obligations under the Code?

A. If your group is an ILCA affiliate then only companies who meet their obligations under the Code should be invited as vendors or funders of your conference. While the Code itself allows non-compliant companies to exhibit, as long as their information is scientific and factual, and as long as it is a professional venue, ILCA’s by-laws go beyond that, and state that affiliates may not do this.

Q. Medela has free breastfeeding information (tear off sheets, booklets, website text) that are given or made available to mothers. Is this a violation of the Code if we give it to our clients?

A. In Article 4, Information 4.3, donations of informational or educational equipment or materials by manufacturers or distributors should be made only at the request and the written approval of the appropriate government authority or within the guidelines given by governments for this purpose. Such materials may bear the donating company's name or logo, but should not refer to a proprietary product that is within the scope of this Code, and should be distributed only through the health care system. If Medela complies with the conditions listed above then they may donate educational materials for distribution to

mothers though LCs. However if they violate the Code in other ways (such as the bottle prizes) then additional considerations come into play. Would giving out their materials even when the above conditions are met, condone Code violations through association? This puts the matter into a professional ethical consideration. Lactation consultants have a unique obligation because of their direct involvement with mothers and infants and infant feeding, thus the ethical concerns are of huge importance. And ILCA has dealt with this in their professional code, which can then be applied.

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March 2, 2009