Synlait Milk Limited Marketing of Breastmilk Substitutes Disclosure

Synlait is a nutrition company based in New Zealand that manufactures three products considered breastmilk substitutes (BMS) that include Infant formula for 0-6 months, Follow-on formula for 6-12 months, and Toddler milk drink for 12-36 months. As a processor and manufacturer, the company's sales are to other businesses that brand and market their products. Synlait does not sell or market any BMS directly to consumers or retailers, nor do they as a result control the marketing or branding of these products.

Synlait operates in China and New Zealand and sells its BMS products to companies who sell it in China, Australia, New Zealand, Hong Kong, South Korea, and the USA (under the FDA temporary enforcement discretion arrangement) with approximately 80-90% of sales going to the Chinese market. In 2022, breastmilk substitute products accounted for 14.8% of Synlait's production volume.

As determined by B Lab's independent Standards Advisory Council, companies involved in the marketing of BMS are eligible for B Corp Certification if they meet specific requirements for the industry, including disclosure of their practices. These requirements vary by type of company, including whether the company's practices related to the marketing of breastmilk substitutes are assessed in the Access to Nutrition Index (ATNI). For more information on B Lab's position on the marketing of breastmilk substitutes, please refer to B Lab's statement on the BMS industry and B Corp Certification here.

Non-ATNI-listed companies are required to meet the immediate expectations of the BMS Call to Action (listed below), at a minimum, at the time of certification, to be eligible to certify and achieve full Code compliance by 2030 to maintain the certification.

The immediate expectations of the BMS Call to Action are as follows:

- Have a policy in place that at a minimum meets the following criteria:
    i. Covers products designed for use 0-12 months after birth
    ii. Is applied globally
    iii. Is upheld in jurisdictions with less stringent or no regulations, and adheres to national law when those laws are more stringent than the policy.

All manufacturers of BMS/CF that meet the above eligibility requirements are required to disclose their marketing practices and areas of non-compliance with the Code. Manufacturers of BMS/CF should additionally disclose their lobbying policies and practices in reference to the *Responsible Lobbying Framework (RLF)*, including industry association affiliations, in the specific context of BMS/CF.

For more information on B Lab's position on the marketing of BMS, please refer to B Lab's statement on the BMS industry and B Corp Certification here.

Synlait's Policies and Practices on Marketing of Breastmilk Substitutes

While Synlait sells its products in the business-to-business market and does not have any customer-facing marketing itself, the company has policies and practices in place relevant to the WHO Code. Synlait has not been assessed by the Access to Nutrition Index.

Synlait is a current member of the Infant Nutrition Council (INC) - Australia & New Zealand. INC members support the aim of the WHO Code and actively work with both the New Zealand and Australian governments and other stakeholders to develop and implement local interpretations of the WHO Code. INC members are signatories to the INC Code of Practice for the Marketing of Infant Formula in New Zealand and the MAIF Agreement in Australia, both of which are based on the WHO Code.

"*The INC Code of Practice supports the aim of the World Health Organization International Code of Marketing of Breast-milk Substitutes (WHO 1981) (WHO Code) which is:*

> *"…to contribute to the provision of safe and adequate nutrition for infants, by the protection and promotion of breastfeeding and by ensuring the proper use of breast milk substitutes, when they are necessary, on the basis of adequate information and through appropriate marketing and distribution."*

The INC Code of Practice is based on the World Health Organization International Code of Marketing of Breast-milk Substitutes (WHO 1981) and is the way in which many of the principles and aims of the WHO Code are implemented within the context of New Zealand's legal and economic environment. The INC Code of Practice is a voluntary self-regulatory code of conduct which applies to the manufacturers and importers of infant formula who are members of INC. It applies to the marketing of infant formula products suitable for infants up to the age of 12 months."

Synlait also has an internal policy applicable to all company's sites that is designed to ensure that the company adheres to the WHO Code: *"SML (*Synlait Milk Ltd) *is a member of INC where all members abide by a Code of Conduct which includes the principles outlined in the World Health Organization (WHO) International Code of Breast-milk Substitutes"*

BMS Call to Action

Synlait is not a signatory to the BMS Call to Action, an initiative that invites all manufacturers of BMS to make a public commitment to and achieve full compliance with the International Code of Marketing of Breast-milk Substitutes and all its subsequent resolutions (the Code) by 2030. As a member of INC shared that, on September 25th, 2020, this council and its members released a statement acknowledging the importance of the BMS Call to Action. According to this document, *"This statement does not preclude any INC member company from responding directly to the Call to Action if they wish to do so.*"

Synlait demonstrated to B Lab that it complies with the immediate expectations of the BMS Call to Action by:

- Having a policy in place that at minimum meets the following criteria:
    i. Covers products designed for use 0-12 months after birth
    ii. Is applied globally

iii. Is upheld in jurisdictions with less stringent or no regulations, and regulations adhere to national law when those laws are more stringent than the policy.

Areas of Non-Alignment with the WHO Code

Synlait has identified and acknowledges the following areas where the company policy may not align with the WHO Code, or where there may be differing interpretations of how the WHO Code and WHA Resolutions should apply:

Definition/Scope of Products Included in WHO Code and Synlait's Policy

Synlait's policy, aligned with the INC Code of Conduct, regarding the marketing of BMS, applies to a scope of products that differ from the complete scope of the WHO Code.

Article 2 of the WHO Code states "The Code applies to the marketing, and practices related thereto, of the following products: breastmilk substitutes, including infant formula; other milk products, food and beverages, including bottle-fed complementary foods, when marketed or otherwise represented to be suitable, with or without modification, for use as a partial or total replacement of breast milk; feeding bottles and teats. It also applies to their quality and availability, and to information concerning their use." Breastmilk substitutes are defined as "Any food being marketed or otherwise presented as a partial or total replacement for breast milk, whether or not suitable for that purpose."

Synlait's policy, and INC Code of Conduct, apply to infant formula for 0 to 6 months and follow-on formulas for 6-12 months. Synlait follows national regulations that are stricter than its policy, in addition to its policy.

Synlait also adheres to the INC Non-binding Guidelines for the Marketing of Toddler Milk Drinks to Consumers for Best practice guidelines for marketing of Toddler Milk products which applies to Stage 3 (12-36 months) products for sale in Australia and New Zealand.

In Synlait's policy, products not included within the scope of the policy, but that are produced or sold by the company, include:

(1) Toddler Milk Drink (12-36 months)

WHA Resolutions Subsequent to the WHO Code:

Since the adoption of the WHO Code, several World Health Assembly resolutions have either added to, revised or clarified the content of the original WHO Code. As Synlait is not a business-to-customer company, its policy does not reference or state support for the recommendations made in the guidance associated with WHA69.9 (2016).

Other Areas of Potential Misalignment:

In addition to the above categories regarding the Scope of Product Definitions and WHA Resolutions, there are other components of Synlait's policy that stakeholders may or may not interpret as aligning

(materially or immaterially) with the letter or intent of the WHO Code, including potential variances in language, level of detail, or exceptions.

Company comments:
As Synlait does not have its customer-facing marketing practices and as it sells its BMS to other companies that brand and market the products separately, Synlait does not control all marketing practices of its clients. Even though the INC Code of Conduct applies to manufacturers based in Australia and New Zealand, Synlait holds partner companies co-responsible for maintaining these same practices in markets outside of Australia and New Zealand where these countries are signatories to the WHO Code.

Synlait only chooses to partner with brands that comply with the following criteria:

- the partner's existing products must comply with New Zealand's Labelling Requirements for Exports of Dairy Based Infant Formula Products and Formulated Supplementary Food for Young Children, which stipulate appropriate labelling requirements including but not limited to the inclusion of a warning statement indicating the superiority of breastmilk;
- the absence of unlawful health claims, pictures that idealize the use of infant formula, and words such as “humanized” or “maternalized”.

Synlait works in partnership with brand owners in developing and approving product labels. Part of Synlait's label approval process is to ensure labels do not contain any element in contravention of the INC Code of Conduct and where appropriate the WHO Code. Partners’ product labels must meet all applicable New Zealand standards, export requirements, and in-market labelling standards. The WHO Code principles as per the company’s internal labelling review and sign-off procedures are built into this process which also involves customer review and sign-off.

100% of Synlait’s brand partners are members of INC and therefore are signatories to the INC Code of Conduct. They must also adhere to all country-of-sale labelling requirements. Often these requirements are very strict and must include warning statements and statements around the importance of breastfeeding, consistent with the WHO Code.

Management Practices of the Company

In accordance with Synlait’s policy on the marketing of BMS, the company has the following management practices in place to manage compliance with their policy globally:

- Synlait has an internal company-wide policy covering its potential communications related to the Code, which applies to infant formula for 0-6 months and follow-on formula for 6-12 months. All applicable communications for external release are sent to the Regulatory team for review and approval. The policy also includes providing training to their clients,
- The company trains applicable staff about what the WHO Code is and why it is important for them to be aware of it in this industry, especially the Sales and Communications roles,
- Synlait must also ensure that labels are compliant with the Australia New Zealand Food Standards Code (FSC), especially the following:
    - Part 1.2 Labelling and Other Information Requirements
    - Standard 2.9.1 Infant Formula Products

- The company also is committed to providing the necessary information about the appropriate use of infant formula and should not discourage breastfeeding (WHO Code Article 9.1),
- Synlait also has an internal compliance process to approve and sign off on labelling requirements that comply with the WHO Code. All Synlait products currently comply with the requirements of WHO Code Article 9.1,
- New Zealand also has a specific regulation, the Animal Products Notice Labelling Requirements for Exports of Dairy Based Infant Formula Products and Formulated Supplementary Food for Young Children. The purpose of this Notice is to specify labelling requirements for all dairy-based infant formula, follow-on formula and formulated supplementary foods for young children in retail-ready packages exported from New Zealand to all markets (except Australia). This Notice acknowledges the significant source of nutrition that infant formula products provide and the importance of clear, unambiguous labelling of products for those intending to use infant formula, follow-on formula, and formulated supplementary foods for young children and refers to several Codex Standards including the Codex Guideline 'Nutrition and Health Claims' (CAC/GL 23-1997). This Guidance recognizes the risk that the use of nutrition and health claims on infant formula products could undermine the global health promotion of breastfeeding,
- Synlait is checked against these export and in-market labelling requirements in regular audits by AsureQuality (AQ), the agency responsible for auditing on behalf of the New Zealand dairy export regulator, the Ministry for Primary Industries (MPI). If any discrepancies against the export standards are identified Synlait would be directed to make appropriate changes that would be dealt with through their corrective action and preventative action (CAPA) process to rectify any labelling non-compliance identified.

Lobbying
Synlait is not involved in any lobbying regarding BMS since it is involved in any direct or indirect marketing of BMS/CF.

Next Steps

As stipulated by the requirements for B Corp Certification, Synlait will remain eligible for B Corp Certification as long as they work towards and achieve full WHO Code compliance, with respect to the elements of the Code that apply to manufacturers, by 2030. B Lab's Risks Standards for Marketing of Breastmilk Substitutes was publicly updated as of April 2022. Therefore, existing B Corps that have been certified based on the previous standards set forth by the Standards Advisory Council, will continue to maintain their certification through their next recertification to allow them sufficient time to meet these more stringent eligibility criteria, which will then be applied in their second recertification.