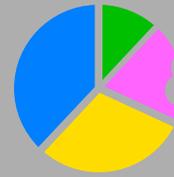


December 2022



ACCESS TO  
**NUTRITION**  
INITIATIVE

# BMS/CF Stakeholder Consultation Report

Project:

Breast-milk Substitutes/Complementary  
Foods Marketing Index 2023

December 2022



# Contents

<b>Abstract</b>	<b>3</b>
<b>Context</b>	<b>4</b>
Breastfeeding: the best start in life	4
What is the BMS Index?	5
<b>The 2022 consultations</b>	<b>7</b>
Process and stakeholders	7
Issues addressed	9
a) Ranking the marketing of BMS and CF within the Index	9
b) Changes to the Index scoring system	10
c) In-Country Assessments	14
d) Other considerations	16
<b>Next steps</b>	<b>17</b>
<b>Annex</b>	<b>18</b>
Stakeholder organizations invited to participate in the consultation	18
The 20 companies that will be assessed in the 2023 Index	19
<b>References</b>	<b>20</b>

## Disclaimer

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## Abstract

The Access to Nutrition Initiative's BMS/CF Marketing Index 2021 was published on the assumption that it would be developed and adapted over time, in consultation with experts and in response both to evolving evidence/standards and to feedback from a wide range of stakeholders.

In the first half of 2022, ATNI held a series of consultations on proposals to refine the methodology for the next iteration of the Index, which is due to be published in 2023. The consultations took the form of roundtables and one-to-one discussions with a range of stakeholders drawn from ATNI's BMS Expert Group, UN agencies, non-governmental organizations, civil society organizations, consultants, business associations and the baby food manufacturers themselves. The process was welcomed by those attending and provided useful and actionable recommendations for ATNI.

This document summarizes the consultation process, the key issues discussed, ATNI's response to these suggestions and concerns, and some potential proposed changes for future Indexes. The views and opinions expressed in this document are those of the participants and/or the organizations that they represent and do not necessarily reflect the official position of ATNI.

The revised methodology will take the consultation into account and will be published early in 2023, ahead of the publication of the forthcoming BMS/CF Marketing Index end of 2023.



# Context

## Breastfeeding: the best start in life

Good nutrition in the first 1,000 days of life – from conception to the age of two – is key to life-long good health. Optimal breastfeeding has significant benefits for babies, providing all the nutrients that they need, protecting against infection, and reducing the risk of malnutrition and infectious diseases: a recent analysis found that children that do not continue to be breastfed beyond 12 months had double the risk of childhood mortality than those who continued to be breastfed.<sup>1</sup>

Breastfeeding is also beneficial in the longer term, protecting against obesity and against non-communicable diseases, such as type 2 diabetes, that develop later in life. Studies have also shown that, compared to mothers who do not breastfeed, mothers who breastfeed have a lower risk of some cancer types (including ovarian and breast cancer<sup>2</sup>), reduced post-partum weight retention<sup>3</sup> and, if continued for a longer period of time, breastfeeding can reduce the mother's risk of type 2 diabetes and cardiovascular disease.<sup>4</sup>

The World Health Organization (WHO) recommends that infants in all parts of the world should be exclusively breastfed for the first six months, and that breastfeeding should continue until the child is at least two years old.<sup>5</sup> From the age of six months, safe complementary food (CF) can be introduced, containing vitamins and minerals to support healthy development,<sup>6</sup> and consumption of appropriate CF from this age has been shown to contribute to the prevention of stunting.<sup>7</sup> However, CF should not be used as a breast-milk substitute (BMS): any food or drink that replaces the consumption of breastmilk before the age of six months is considered by WHO to be a BMS. CF of poor nutritional quality (high in sugar and calories) can also contribute to unhealthy weight gain.<sup>8</sup>

Baby food companies can play a critical role in protecting and supporting breastfeeding, following The International Code of Marketing of Breast-milk Substitutes (established by the WHO in 1981) and subsequent World Health Assembly (WHA) resolutions – known collectively as the Code.<sup>9</sup> However, inappropriate marketing of BMS and CF continues to undermine optimal infant and young child feeding (breastfeeding and appropriate complementary feeding practices). Even where companies have policies covering BMS marketing, none fully cover all Code provisions nor do they apply to all BMS products, and not all policies are universally applied in all markets. In addition, some companies revert to compliance with national legislation, which may be less stringent than their own policies or the Code.

The ready availability of BMS/CF products, coupled with inappropriate and misleading marketing, is contributing to breastfeeding rates that are far below WHO's global target, set in 2014 and updated in 2019, to achieve 70% exclusive breastfeeding in the first six months of life in all countries and regions by 2030.<sup>10</sup> Currently, UNICEF data shows that all six global WHO regions have exclusive breastfeeding rates well below 70%.<sup>11</sup>

On the road to reaching the target by 2030, companies have a critical role to play. They have the opportunity to be part of the change by improving their policies and working towards better Code compliance. Through accountability, performance over time can be monitored to clearly document any progress in achieving full Code compliance.



## What is the BMS Index?

The Access to Nutrition Initiative (ATNI) is an international not-for-profit organization based in the Netherlands. Its vision is a world in which everyone eats a healthy, balanced diet that enables optimal physical and mental development, and where, as a result, deaths and illnesses from diet-related diseases are eradicated. Infant and young child nutrition is central to this vision.

ATNI develops robust, comprehensive, independent analyses and tools to track the contribution of the food and beverage sector in addressing the global nutrition challenges of overweight, obesity, diet-related diseases and undernutrition. This enables companies to be held accountable for their actions and for delivering on their commitments. Assessment of the marketing of breastmilk substitutes has been an integral part of these tools since ATNI was founded, as ATNI believes that moving toward full Code compliance is central to progress in global nutrition.

ATNI's Indexes have shown some improvements over time, such as strengthened company policies that cover more of the requirements of the Code or that are now upheld globally for some BMS products. However, despite these changes, companies remain far from being fully compliant with the Code, both in policy and in practice.

ATNI's monitoring of Code compliance by companies has also been used in a number of initiatives including the FTSE4Good Index: ATNI's data on company marketing practices from in-country studies have been used for [FTSE Russell's BMS Verification Assessments](#). ATNI's findings have also informed the assessments for the [BMS Call to Action](#), to which ATNI also contributes by assessing companies' responses to the Call to Action and associated roadmaps (read more about the 'BMS Call to Action' on the next page).

In 2013, 2016 and 2018, ATNI assessed BMS marketing of the six largest baby food companies: companies' compliance with the Code was included as part of ATNI's regular reporting on the actions of the world's major food and beverage manufacturers in the ATNI Global Index. In 2021, a standalone BMS/CF Marketing Index was published for the first time, assessing the nine largest baby food manufacturers – six of which were also assessed as part of ATNI's Global Index. (See figure 1 for the evolution of the BMS/CF Index.)

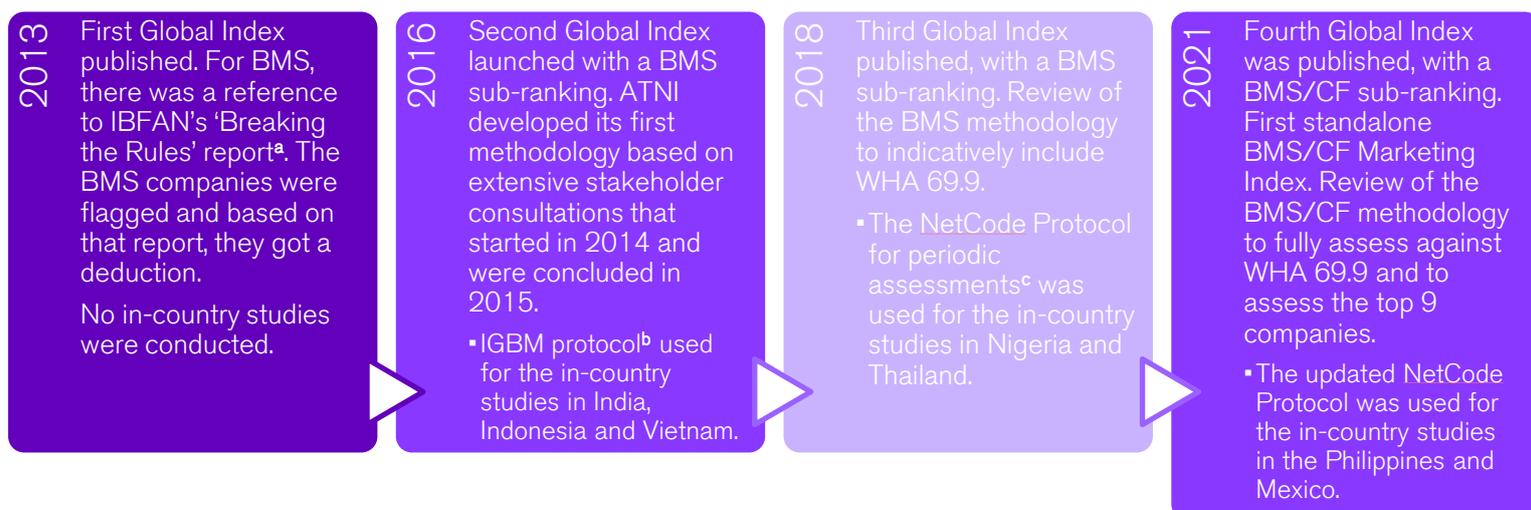
Since 2016, the assessment has been split into two parts, following the development of ATNI's first methodology for BMS marketing assessments:

- 1) *Corporate Profile (BMS/CF 1)*: Indicators based on each aspect of the Code, providing an overall assessment of each company's policy, management systems, disclosure and lobbying.
- 2) *In-Country Assessment (BMS/CF 2)*: A deep-dive into a small number of countries that are of particular concern, given infant and young child health, levels of breastfeeding, the scope of Code legislation and size of the baby food market. The country studies aim to evaluate the on-the-ground implementation of the company policy and procedures identified by the Corporate Profile, assessing how marketing policy is reflected in marketing practice.

The combined results are used to generate an overall score, which leads to a relative adjustment to manufacturers' scores in the Global Index, if applicable.



Figure 1: Index development <sup>i</sup>



The Index is used by stakeholders – including investors and governments – to hold companies accountable. In the years in which ATNI has been assessing BMS/CF marketing, there has been increased company engagement with ATNI, enabling a more complete assessment of policies and practices. Progress has been made across Indexes; however, companies need to do more to achieve full Code compliance. During the COVID-19 pandemic crisis, organizations such as UNICEF expressed particular concern about BMS marketing, with some companies inappropriately donating milk formula and suggesting – erroneously – that breastfeeding was unsafe. This behavior was also evidenced by research from Alive and Thrive and ATNI's studies on companies' responses to COVID-19.<sup>12,13,14</sup>

The Index also underpins another recent tool: the BMS Call to Action.<sup>15</sup> This was published in 2020 by eight civil society organizations and UN agencies, inviting all BMS manufacturers to make a public commitment to the Code and to achieve full compliance by 2030. ATNI's BMS/CF marketing assessments help in monitoring companies' progress towards achieving their commitments.

All ATNI Indexes, including the upcoming BMS/CF Marketing Index 2023, are expected to develop and adapt appropriately over time, in consultation with experts and in response to evolving evidence and standards, to ensure that the Indexes remain fit for purpose while also considering the need to remain comparable over time. ATNI's recently published a BMS Marketing Model Policy for companies<sup>16</sup> that is fully aligned with the Code to date and provides a valuable template for companies – the 2023 Index will be closely aligned with guidance provided by the Model Policy.

The 2022 consultation was part of the evolutionary process of the Index. This document summarizes key areas raised and discussed in the consultation, ATNI's response to suggestions and concerns, and some potential proposed changes for future Indexes, the next iteration of which is due to be published in 2023.

<sup>i</sup> a) IBFAN's *Breaking the Rules 2004: Stretching the Rules – Evidence of Violations of the International Code of Marketing of Breastmilk Substitutes and Subsequent Resolutions* (2004: <http://ibfan.org/art/302-2.pdf>) set out evidence of non-compliance with The Code by major BMS manufacturers.

b) The Interagency Group on Breastfeeding Monitoring (IGBM) had developed a protocol for systematic monitoring of the Code.

c) WHO/UNICEF's *NetCode Toolkit: Monitoring the Marketing of Breast-milk Substitutes: Protocol for Periodic Assessments* (2017: <https://apps.who.int/iris/bitstream/handle/10665/259695/9789241513494-eng.pdf>) covers marketing in the healthcare system (interviews/observation), point-of-sale promotions in retail outlets, advertising and online promotion (media monitoring, including of social media) and product labelling. This assessment is usually undertaken in the largest city in each country.



# The 2022 consultations

ATNI's approach to assessing BMS/CF manufacturers has developed over time through an iterative process of improvement and adaptation. The 2022 stakeholder consultations addressed the suggestions and constructive criticism received from stakeholders following the publication of the BMS/CF Marketing Index 2021, with the aim of making the Index even more relevant, robust and useful for stakeholders. Opposing views were shared throughout the consultations, ATNI maintains an independent position and objectively considers the discussions in constructing a methodology that adopts global standards on infant and young child feeding and supporting optimal health outcomes for this vulnerable age group. ATNI also understands the importance of a level playing field for industry, both in terms of applying the same standards to bigger and smaller companies as well as having appropriate national and international regulations and enforcement mechanisms in place that meet those public health standards. The Index aims to achieve wide adoption of the Code by the industry through continuous and significant step-wise progress.

## Process and stakeholders

Following the launch of the BMS/CF Marketing Index 2021, ATNI sought feedback from a range of stakeholders, including UN agencies, NGOs, civil society organizations and the baby food manufacturers themselves. ATNI took this collective stakeholder feedback on the 2021 Index into account, reflecting on how the Index can best promote change. In consultation with [ATNI's BMS Expert Group](#), a set of proposed alterations were drawn up, for potential application to the methodology for the next Index. These suggested changes were then put out to consultation through roundtables and one-on-one calls with stakeholders, including the manufacturers (see table 2 for an outline of the consultations and refer to the Annex for the full list of invitees<sup>ii</sup>).

Each roundtable began with ATNI reflecting on the 2021 Index and the feedback that had been received from different stakeholder groups following its launch. This was followed by a description of the areas that have been identified by earlier consultation, including with the BMS Expert Group, as requiring particular discussion.

All nine companies that were previously assessed by ATNI in the 2021 Index were engaged in this process. Many of the companies that will be new to the Index in 2023 are headquartered in China or market their baby foods primarily in China, so ATNI co-organized (with the European Union Chamber of Commerce in China) an additional online roundtable consultation with selected companies selling baby foods in China. The roundtable was attended by most of the relevant companies, and other relevant national stakeholders.

Overall, of the 20 manufacturers, only five of the new companies did not attend any of the three company roundtable consultations, nor engage in a one-on-one call or other communication.

The consultations were constructive and the feedback on proposed changes was broadly positive, however there were some differences between public health experts and companies. All welcomed the consultation and the inclusivity of the process, and it was a valuable occasion to share experiences and discuss ways to improve the Index further.

### Note on the companies:

Nine companies were assessed in the BMS/CF Marketing Index 2021, six of which are included in ATNI's Global Index. Of the nine, three companies headquartered in China were assessed for the first time in 2021 on BMS/CF marketing, and two of these companies are also part of the Global

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<sup>ii</sup> Note: not all invitees participated in the consultations



Index. This number will now be expanded to 20 companies, covering an even greater proportion (over 70%) of the BMS and CF market (not all these companies will be included in the Global Index). This will allow for a fairer and more accurate reflection of the global baby food market. The companies will be selected on the basis of baby food revenue using Euromonitor data recorded in December 2022.

**Table 2: The 2022 consultation process**

Stakeholder group	Date	Format of consultation
ATNI's BMS Expert Group	October 2021 and ongoing	The BMS Expert Group is regularly consulted for technical advice on the methodology.
United Nations agencies Non-governmental organizations Civil society organizations	January 2022 – March 2022	Preliminary discussions took place throughout the first quarter of 2022 in preparation for the consultations. These discussions helped shape the proposed changes introduced in the consultations.
Development agencies Other	April 2022 – May 2022	<ul style="list-style-type: none"> <li>• Two online roundtable consultations (14 stakeholders)</li> <li>• One-on-one call (1 stakeholder)</li> <li>• Written feedback (3 stakeholders)</li> </ul>
Baby food companies	May 2022 – June 2022	<ul style="list-style-type: none"> <li>• Two online roundtable consultations (10 companies)</li> <li>• One online roundtable organized by the European Chamber of Commerce for the Chinese market (11 companies)</li> <li>• One-on-one calls (7 companies and an international industry association)</li> <li>• Written feedback (2 companies)</li> </ul>
Investors	May 2022	<ul style="list-style-type: none"> <li>• Roundtable consultation (3 investors)</li> </ul>



## Issues addressed

Summaries of the selection, scoring and scope for the Company Profile and In-Country Assessments are included in the [BMS/CF Marketing Index 2021 report](#) (section 6, pp.33+ and section 7, pp.53+ respectively). The full methodology for the BMS/CF Marketing Index 2021 is available [here](#).

The main areas discussed during the consultation, which were drawn from the initial feedback on the 2021 Index, can be categorized under four main headings and a catch-all 'other':

- a) Ranking the marketing of BMS and CF within the Index
- b) Changes to the Index scoring system
- c) In-Country Assessments
- d) Other considerations

### a) Ranking the marketing of BMS and CF within the Index<sup>iii</sup>

#### Separate sub-rankings for BMS and CF

**The BMS/CF Marketing Index 2021:** The 2021 Index introduced a CF module to the assessment for the first time. This was combined with the BMS module assessment to reach a single final score. This has been challenged on the grounds that it is difficult to compare manufacturers that produce solely BMS with manufacturers that have a mixed portfolio or that largely produce CF, given the differences in marketing requirements (BMS marketing is subject to stricter provisions).

**Discussion:** ATNI's proposal is to introduce two fully separate assessments, splitting BMS and CF into two clear sub-rankings. Companies that have mixed portfolios would therefore receive two separate scores, one on BMS marketing and one on CF marketing – and these will not be combined, as was done in the 2021 Index.<sup>iv</sup> This will better reflect the varied portfolios of the companies and enable much better comparison of BMS marketing and CF marketing. This separate assessment will apply both to the Corporate Profile (BMS 1 and CF 1 instead of BMS/CF 1) and to the In-Country Assessment (BMS 2 and CF 2 instead of BMS/CF 2). (Note that where less than 5% of a company's combined BMS/CF portfolio is CF, the company will be assessed wholly as a BMS manufacturer, and vice versa.)

The move to a greater focus on CF was welcomed by the public health stakeholders as it will enable better comparison. The food companies expressed some concerns (noted below), but broadly welcomed the division into separate assessments as being a fairer way to rank companies.

**Impact on methodology:** ATNI's BMS/CF Marketing Index 2023 will present separate sub-rankings on BMS and CF marketing.

#### The appropriate standard for CF

**The BMS/CF Marketing Index 2021:** The 2021 Index was the first to incorporate the [guidance](#) associated with WHA Resolution 69.9 covering CF marketing. This guidance stresses both the importance of ensuring that CF are nutritionally suitable for consumption and the need for appropriate labelling: together, this will protect optimal infant and young child feeding practices.

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<sup>iii</sup> The main BMS products are infant formula (0–6 months), follow-up formula (6–12 months) and growing-up milk (12–36 months). In addition, any complementary food marketed as being for infants aged 0–6 months is considered as a BMS because its introduction runs contrary to the recommendation for exclusive breastfeeding for the first six months.

<sup>iv</sup> For the companies (with mixed portfolios) that are also assessed on the Global Index, the relative score adjustments from both the BMS and CF assessments will be combined to yield the total score deduction out of a maximum adjustment of -1.5.



This dual approach is also evident in WHO/Europe's draft nutrient profiling model for commercially available CF (the only existing nutrient profile model for CF), which outlines requirements not only for the nutritional composition of CF but also for labelling, packaging and promotion.<sup>17</sup>

The guidance additionally states that foods for infants and young children to which the marketing requirements apply should be promoted only if they meet all relevant national, regional and global standards for composition, safety, quality and nutrient levels. Given limited internal capacity, ATNI could not assess the nutritional quality of CF as part of the Index, so the assessment focused solely on the appropriate marketing of CF. However, ATNI piloted the assessment of the nutritional composition and labelling of CF in the Philippines against [WHO/Europe's draft nutrient profiling model for commercially available CF](#) and published those findings in 2021.<sup>18</sup>

**Discussion:** Industry commented that the formulation of CF is arguably more important than the responsible marketing of CF. Furthermore, industry questioned whether the guidance associated with WHA Resolution 69.9 is an appropriate standard to use, as the guidance was only 'welcomed with appreciation' by WHA, rather than being formally endorsed.

However, [WHA Resolution 69.9](#) urges Member States to implement the recommendations in the guidance, and also calls upon manufacturers and distributors to adhere to the recommendations and end the inappropriate promotion of foods for infants and young children. The guidance is considered to be a universally accepted public health standard.<sup>19</sup>

**Impact on methodology:** On the advice of its Expert Group, ATNI will continue to use WHA Resolution 69.9, as it provides the best existing guidance on the topic and is widely accepted to be the most appropriate standard against which to assess companies. In addition, because the nutritional quality of CF is an important requirement in guidance associated with the Resolution, ATNI will explore the possibility of conducting further nutrient profile assessments of CF and how this might best be incorporated into future iterations of the Index.

## b) Changes to the Index scoring system

**Note:** Since 2016, and including in the 2021 Index, 50% of a company's score has been from the Corporate Profile and 50% from the In-Country Assessment (where in-country assessment is possible). This will continue to be the case in the 2023 Index.

### Changes to scoring of BMS/CF

**The BMS/CF Marketing Index 2021:** In the Corporate Profile, 95% of the weighting was on marketing of BMS (35% of 95% for infant formula; 25% of 95% on CF marketed to infants aged under six months; 20% of 95% for follow-up formula; 20% of 95% for growing-up milk) and 5% on marketing of CF. However, no product weightings were applied to the In-Country Assessments.

**Discussion:** The proposed change to separate sub-rankings to report on BMS and CF marketing (see section a) above) affect the Corporate Profile product weighting from the 2021 methodology, because BMS products (infant formula, follow-up formula and growing-up milk) will be grouped and assessed separately from CF products, including CF marketed to children aged under six months (further details about the proposed changes are provided below).

Some stakeholders questioned whether product weightings could additionally be applied in the scoring of the in-country studies. However, ATNI, with input from its Expert Group, has decided that this is not appropriate, as country findings may include brand promotions of a full line of BMS products, rather than specific product categories.

### BMS product weightings

**Discussion:** ATNI proposed rebalancing the Corporate Profile product weightings to 45% on infant formula, 35% on follow-up formula and 20% on growing-up milk. The reasons for the



changes to the weighting are as follows:

- **Infant formula:** Inappropriate BMS marketing poses the highest risk on the health of the youngest and most vulnerable age group (infants from birth up to six months of age), so it is important that the infant formula product category is the most heavily weighted. This was accepted by all stakeholders consulted, including public health experts and industry representatives.
- **Follow-up formula:** The aim of the BMS/CF Index methodology is to drive industry towards responsibly marketing all products defined by WHO as BMS, so increased weight has been placed on the follow-up formula category. The scoring system of previous methodologies (including that of the 2021 Index) did not credit companies in a sufficiently balanced way, particularly with regards to globally applying responsible marketing commitments for follow-up formula.
- **Growing-up milk:** There has been no change to the weighting of this product category. Industry stakeholders argued that the weighting should be reduced, while public health experts argued that it should be increased, because the marketing of growing-up milk is a concern given its high sugar content and the risk it poses in cross-promoting BMS products (which can lead to confusion among caregivers as to the appropriate products to use).<sup>20</sup> ATNI has not reduced the weighting of this product category because of its importance, but it has also not been possible to increase its weighting without affecting other elements of the scoring.

### CF product weightings

**Discussion:** Despite the fact that CF marketed to infants aged under six months is a de facto breast-milk substitute, ATNI proposes that it is included in the CF assessment to reiterate that CF products should only be intended for older infants and young children aged from 6 to 36 months and not be introduced to infants aged under six months who should be exclusively breastfed. To emphasize this requirement further, companies that sell CF to children aged under six months in any market anywhere in the world can only reach a maximum of 50% of the total CF Corporate Profile score.

It was proposed by some companies that because CF food for infants aged under six months is effectively BMS and affects exclusive breastfeeding in the first six months, it should account for more than the proposed half of the score in the CF sub-ranking. However, since the aim of the CF assessment is additionally to highlight and drive responsible marketing of CF for older infants and young children, ATNI considers that it is important not to reduce the weighting of the category below 50% of the total CF Corporate Profile score.

**Impact on methodology:** The changes to the Corporate Profile product weightings as proposed by ATNI for the BMS and CF sub-rankings will be brought into the BMS/CF Marketing Index 2023.

### **Geographic and regulatory penalty**

**The BMS/CF Marketing Index 2021:** In the 2016, 2018 and 2021 Indexes, companies' BMS marketing commitments relating to each product type were subject to two penalties:

- A geographic penalty (25%) was applied to any company that only followed its BMS marketing commitments for a BMS product in countries classified as 'higher-risk' countries based on FTSE4Good's categorization.<sup>21</sup>
- A regulatory penalty (15%) was applied if a company did not uphold its policy and standards on marketing of BMS products in countries where Code-relevant regulations were absent or less stringent than the company's policy. The regulatory penalty would be applied on top of the geographic penalty, where applicable.

Together, these shed light on where companies apply and uphold their BMS marketing policies.



**Discussion:** As observed throughout ATNI's assessments on industry commitments to BMS marketing, companies may have relatively strong commitments in their policies but do not uphold those commitments for all (or any) BMS products where national regulation is non-existent or is weaker than the company policy. The aim of ATNI's Index is to incentivize action towards achieving full Code compliance, so upholding company-level commitments on Code provisions and product scope in all markets is a key requirement against which every company is assessed.

The suggestion for the 2023 Index is therefore to assess the scope of a company's BMS marketing commitments by the inclusion of a geographic penalty that captures in which countries commitments are upheld in practice, rather than simply capturing in which countries a company's BMS marketing policy may be applied but is not necessarily fully upheld. This is, in effect, combining the regulatory and geographic penalties (as used in previous Indexes) into a single 'geographic' penalty of up to 90%, applicable to both BMS and CF marketing:

- If a company does not uphold its BMS marketing policy and standards in any country where Code-relevant regulations are absent or are weaker than its own policy, a 90% penalty would apply, as this indicates that the company is not taking any additional steps to Code compliance.
- A 45% penalty would apply if the company upheld its policy only in 'higher-risk' countries where national regulations are absent or weaker. This is a higher penalty than in previous iterations of the Index, emphasizing the need for companies to take action in 'higher-risk' countries as a minimum.
- To encourage companies to uphold their commitments in more markets, ATNI also proposed that the 45% penalty could be gradually reduced if the policy is additionally upheld in some 'lower-risk' countries.

This generated considerable discussion about whether it is appropriate to classify countries as 'higher-risk' and 'lower-risk' for the geographic penalty. The definition of 'higher-risk' and 'lower-risk' follows [FTSE4Good's categorization](#), but it was emphasized by NGOs and civil society that vulnerabilities exist across all communities (including in 'lower-risk' countries): all children have the right to protected breastfeeding and the Code applies universally – the higher/lower-risk categorization has been used by companies to follow the Code only in selected countries.

Another suggestion was having a *graduated* geographic penalty instead, with companies receiving a lower penalty if they uphold their BMS/CF marketing commitments in countries that represent higher proportions of their baby food product sales. The latter option was also presented by ATNI throughout the consultations as an alternative method.

An additional suggestion was made that a penalty could be introduced based on practices in the country in which the company is headquartered, as it is in this country where the company will be the most powerful agent for change and could therefore push for stronger regulation in line with the Code.

The companies had particular concerns over the increased penalty and about comparability (for comparability of Indexes, see below). Many also expressed a preference to keep the geographic penalty based on higher/lower-risk country coverage. However, most companies also supported the idea of a graduated geographic penalty based on global BMS/CF product sales, as this was considered to be a fair measure on which to base the scoring.

**Impact on methodology:** A graduated geographic penalty will be introduced in the Corporate Profile for both the BMS and CF sub-ranking. The penalty will range from 0–90%, depending on whether a company upholds its BMS and/or CF marketing commitments in all or none of the countries in which it operates, respectively, where Code regulations are absent or less stringent than the company's policies and standards. The geographic penalty is gradually reduced from 90% if a company fully upholds its BMS/CF marketing policy (in product scope and Code provisions), or goes beyond its policy as stipulated by local Code regulations, in a wider scope of its baby food market in terms of the global sales of the BMS/CF products covered.

## Scoring of In-Country Assessments

**The BMS/CF Marketing Index 2021:** For the companies assessed on ATNI's Index, the In-



Country Assessment score was calculated in each selected country by counting each company's non-compliances with the Code across different areas of marketing as captured by the NetCode Protocol (no differential weighting was applied to the findings). Based on ATNI's methodology, a normalized score is calculated (non-compliances divided by the number of BMS/CF products a company sold in that market) from which a company's level of Code compliance was determined, corresponding to a final percentage score (see section 7.5 in the BMS/CF Marketing Index 2021, p. 55). Scores from each country were then averaged to reach a final score for each company.

**Discussion:** Based on feedback following the BMS/CF Marketing Index 2021 and prior Indexes, ATNI considered and presented during the consultations different scoring options that had been suggested by various stakeholders including industry and public health experts: a) to divide non-compliances by a company's market share or b) to divide non-compliances by its baby food sales in the country studied. However, both these scenarios may mask high incidences of non-compliance where a company is a big player in a market. These suggestions were largely supported by industry, which also proposed dividing non-compliances by consumption data (which is not widely available), whereas public health representatives were in favor of the other option presented, which was to base the scoring solely on the number of non-compliances found. One company also suggested that basing the score solely on counts of non-compliance may be a fairer approach considering that other methods of normalizing the score place smaller companies at a disadvantage.

Industry also proposed applying differential weightings across different types of non-compliances – for example, weighting inappropriate marketing by a retailer or distributor differently from a labelling non-compliance, as the latter is directly attributable to the company. However, Article 11.3 of the Code makes clear that, 'independently of any other measures taken for implementation of the Code, manufacturers and distributors of products within the scope of the Code should regard themselves as responsible for monitoring their marketing practices according to the principles and aim of the Code, and for taking steps to ensure that their conduct at every level conforms to them'.

**Impact on methodology:** In-country scores will be based solely on non-compliances found, as it is more appropriate in the scoring to compare company practices irrespective of company size. ATNI has conducted seven in-country studies since 2016, the findings from which provide a good basis to define this change – i.e. determining respective levels of non-compliance (complete/high/medium/low) and percentage scores based on the number of non-compliances. However, as it is also useful to present findings against the market context, ATNI will report the results alongside information such as the size of the baby food market and its key players in each of the countries studied. Differential weightings for different non-compliances will not, however, be considered for the 2023 Index, as this would require significant additional consultation.

ATNI will continue to consider non-compliances attributed to contractual third parties and exclude findings that have been verified to stem from non-contractual parties. Other ATNI Indexes, such as the UK Retailer Index 2022<sup>22</sup>, further delve into the role of retailers in responsibly marketing BMS/CF products.

## Comparability of Indexes

**The BMS/CF Marketing Index 2021:** The BMS/CF Marketing Index 2021 included an annex to the Index (see Annex 5 pp. 75+) showing what the rankings would have been in 2021, were the 2018 methodology to have been applied. This was needed because the incorporation of WHA Resolution 69.9 within the 2021 methodology had led to a number of changes.

**Discussion:** Concerns were raised by industry that the changes being made (for example, the new geographic penalty) will lead to a loss of direct comparability, potentially leading to actual progress being masked by a fall in scores due to a change in the methodology. Even if the ranking of companies is not affected, lower scores are difficult for companies to explain, both internally and to external stakeholders. However, the scoring system has always evolved between BMS assessments, as standards and tools are developed, and providing an analysis of comparison ensures a more accurate understanding of companies' policies and actions.



**Impact on methodology:** For the companies included in the BMS/CF Marketing Index 2021, a similar like-for-like analysis will present what the scoring would have been for each company, were the previous methodology to have been applied. This will provide direct comparability with the 2021 Index.

## Global Index scoring

**The BMS/CF Marketing Index 2021:** In 2021, the maximum BMS/CF score adjustment for BMS/CF manufacturers in ATNI's Global Index assessed on the BMS/CF Marketing Index was -1.5.<sup>y</sup> This was based on the combined BMS and CF score.

**Discussion:** During the consultations, ATNI presented that the maximum score adjustment will remain at -1.5 (i.e. an absolute reduction of 1.5 points on a final score between 0 and 10). However, as separate sub-rankings for the BMS score and CF score are proposed, ATNI suggested allocating a maximum adjustment up to -1 based on the BMS score, and a direct adjustment of -0.5 if a company markets CF to children aged under six months. Therefore, companies in the Global Index that are assessed on the BMS/CF Marketing Index will receive a maximum adjustment of:

- -1.5 if assessed on both BMS and CF marketing; if the company does not sell CF to children aged under six months, the adjustment is up to -1 based on the BMS score, and no adjustment applies based on the score on marketing CF to children aged over six months;
- -1 if assessed only on BMS marketing; or
- -0.5 if assessed only on CF marketing. The direct adjustment of -0.5 is applied if selling CF to children aged under six months. There is no adjustment dependent on the marketing of CF for older infants and young children aged 6–36 months.

The aim of the adjustment is to highlight the importance of responsibly marketing products that may pose immediate and significant health risks to infants if consumed inappropriately. The Global Index adjustment is therefore focused on BMS (which includes CF marketed to children under six months<sup>vi</sup>) that affect optimal breastfeeding practices, particularly exclusive breastfeeding in the first six months.

There was a general agreement/no objection to the suggested changes, although there was discussion on whether the total -1.5 is a sufficient penalty. A percentage reduction was also considered. One industry representative suggested that it would help comparison in the Global Index to separate out very clearly the scoring for the BMS and CF assessments.

**Impact on methodology:** The changes to the Global Index adjustment as proposed by ATNI will be brought into the BMS/CF Marketing Index 2023 and Global Index 2023, pending final discussions during the Global Index 2023 consultations.

## c) In-Country Assessments

### Increasing the number of countries to improve assessment and comparability

**The BMS/CF Marketing Index 2021:** Two countries were assessed in the 2021 Index and prior Indexes. However, these are not necessarily the major markets for the companies and the small number means that the results may not be representative of companies' actions. The three newly assessed companies in the 2021 Index appeared principally to market baby foods in China; therefore, their presence in other countries could not be considered when selecting the two countries for In-Country Assessment, and their on-the-ground marketing practices could not be

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<sup>y</sup> The maximum adjustment for Mengniu and Yili was -0.75, as these companies were scored only on the Corporate Profile because neither company sold BMS/CF in the countries included in the In-Country Assessment.

<sup>vi</sup> In the 2021 and prior methodologies, CF for children aged under six months represented 25% of the BMS product weighting. The direct adjustment of -0.5 out of a total maximum of -1.5 allocates a 33% weighting to this issue, increasing the emphasis placed on the importance of these products not being sold to this age group.



assessed (see section 7.2 on country selection in the BMS/CF Marketing Index 2021).

**Discussion:** The next iteration of the Index will expand to include the 20 largest BMS/CF manufacturers, and it will be important that every company is assessed on its BMS/CF marketing practices on the ground. ATNI explained that, to ensure this, the number of countries assessed will have to increase to 5–7, which is intended to include the main markets of all the manufacturers. This will result in significant increases in the data that will be collected, processed and analyzed. Each company will be assessed in every one of these countries where it sells its BMS/CF products, which will ensure that every company will be assessed in at least one country, with most assessed in several countries.

The country selection process was discussed during the consultations. Some stakeholders suggested that the countries could, for example, be selected on the basis of current or prospective market growth (either growth of the baby food market or per capita income growth). Others noted that companies also act differently in mature versus newer markets – they may be more 'aggressive' when new to a market, and rapid increases in market share implies more promotion.

The proposal to not assess companies with only a small proportion of the market in a country that also accounts for a relatively small proportion of its global baby food sales was also challenged: what matters is upholding policy that may be more challenging as there may be less focus on controlling a company's activities in its smaller markets. Many companies had concerns over how the scoring may differ according to the characteristics of the specific markets in which they operate.

**Impact on methodology:** The number of countries will be increased to 5–7, up from the current two per Index. Country selection for the 2023 Index will focus on the companies' major markets. Country selection criteria based on market growth may be considered for future iterations of the Index.

## Changes to data collection

**The BMS/CF Marketing Index 2021:** The 2021 methodology (and prior methodologies) for conducting the in-country studies included interviews with mothers and health workers, and observations in health-care facilities as prescribed in the NetCode Protocol. (This provided useful context and corroboration of findings, but the interviews were not incorporated in ATNI scoring, as the information was not verifiable.) In addition, it is clear from ATNI's own findings and WHO reports that BMS/CF marketing increasingly takes place via digital platforms, and ATNI has been considering placing greater emphasis on this element during assessments.

**Discussion:** ATNI proposed that a subset of the modules of the NetCode Protocol be assessed. Getting permission and access to health-care facilities is a challenging process and may not be feasible in all countries. Therefore, excluding interviews and observations in health-care settings from the assessments would ensure that the country studies are conducted in a consistent format across the different markets.

There was considerable disappointment among the public health experts that interviews and observations in health-care facilities would no longer be feasible, as this was felt to have provided valuable insights and because these facilities are an influential marketing channel. The challenges of the expansion of the number of countries, the difficulty ensuring permission to visit health-care facilities in all markets and the limited resources were all, however, acknowledged.

ATNI also proposed expanding digital marketing assessments, which would additionally allow for remote monitoring of company practices. ATNI is going to work with a provider of social listening services, using artificial intelligence to monitor company practices online and on traditional media platforms.<sup>vii</sup>

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<sup>vii</sup> This is similar to the social listening research conducted by WHO: *Scope and Impact of Digital Marketing Strategies for Promoting Breastmilk Substitutes* (2022) <https://www.who.int/publications/i/item/9789240046085>

Strengthening the digital component of the assessment was welcomed as being essential, as online media (particularly social media) are common and increasingly used as platforms for promotion, including helplines, mobile apps, online chat and baby clubs, digital radio, podcasts, webinars and vlogs. There was a comment that the general population's digital access to these online platforms could also be taken into account in the assessments.

**Impact on the methodology:** For the In-Country Assessments, ATNI will expand on monitoring companies' digital marketing practices. However, the assessments will no longer include interviews and observations in health-care facilities.

#### d) Other considerations

Other topics that arose during the discussions included:

**Reporting of findings:** In the past, the higher-ranked companies have used their position in the BMS rankings to show that they are performing relatively well, when in fact they continue to fall short of full Code compliance. This needs to be addressed through careful presentation and use of language. Presenting the findings in ways that could have a more motivating effect were suggested by the public health experts and investors – for example the adoption of a traffic-light system clearly indicating companies' levels of Code compliance, or a classification on companies' alignment with the Code ('substantially aligned'/'moderately aligned') similar to WHO/UNICEF's *National Implementation of the International Code Status Report*,<sup>23</sup> rather than a ranking. The industry also suggested that reporting be linked to market size, which would give a better indication of impact (note, however, that this would be relevant only to reporting, not to the scoring within the Index). ATNI is actively considering ways in which to improve reporting on future Indexes, taking all this feedback into consideration.

**Considerations for Global Index companies:** The use of separate BMS and CF icons to denote relevant companies within the Global Index will be considered by ATNI. In addition, it was noted that products not intended for children aged under three are being eaten by this age group, so all companies in the Global Index – not just those producing CF – have a responsibility to ensure that they make it clear when their products are not intended for consumption by infants and young children.

**Donations:** It was noted that there were many examples of donations of BMS during the COVID-19 pandemic<sup>24</sup> – an action that is not compliant with the Code. ATNI plans to assess company commitments and practices on BMS/CF donations in greater detail in the revised methodology, in line with the [BMS Marketing Model Policy for Companies](#).

**Clarification on public health guidance:** Companies requested clarification on public health guidance on a) criteria and guidelines on avoiding cross-promotion and b) the labelling of BMS/CF products, particularly on appropriate feeding instructions. ATNI will consult with the Expert Group on this when revising the methodology for the next Index.

**Lobbying:** NGO stakeholders noted the importance of capturing in-country lobbying and corporate research funding. An industry representative suggested that the issue is not lobbying per se, but rather how best to ensure that national regulation can be strengthened around the world to ensure that breastfeeding, particularly in the first 12 months, is fully supported – i.e. that there is a level regulatory playing field. ATNI intends to explore these issues further.

**Weighting for the level of engagement with the Index process by the companies:** This idea will not be actioned, because higher engagement already tends to be correlated with higher scores.



## Next steps

The 2022 BMS/CF consultation was a valuable process, welcomed by those taking part. Some major proposed changes were confirmed during the consultation, including the separation of the BMS and CF sections, adjustments to the geographic weighting, and expansion both of the number of companies (to 20) and of the number of countries for the in-country assessment (to around six). The finalization of some other changes has required more work within ATNI, and all the changes will be published in the methodology for the Index, which is due to publish early in 2023.



# Annex

## Stakeholder organizations invited to participate in the consultation

<b>ATNI's BMS Expert Group</b>
Full list of members can be found <a href="#">here</a>
<b>United Nation agencies</b>
United Nations Children's Fund (UNICEF)
World Health Organization (WHO)
<b>Non-governmental organizations</b>
Alive and Thrive
FHI 360
Helen Keller International (HKI)
Save the Children
<b>Civil society organizations</b>
Global Health Advocacy Incubator
JB Consultancy
Meridian Institute
5 public health consultants
<b>Development agencies</b>
Foreign, Commonwealth and Development Office, UK (FCDO)
Irish Aid
USAID
<b>Business/industry associations</b>
Consumer Goods Forum (CGF)
International Food and Beverage Alliance (IFBA)
International Special Dietary Foods Industries (ISDI)
World Business Council for Sustainable Development (WBCSD)
<b>Investors</b>
<a href="#">ATNI's investor signatories</a>
<b>The 20 companies that will be assessed in the 2023 Index</b>
See the table below
<b>Other</b>
Other relevant organizations in China
B-Corp
FTSE Russell
International Food Policy Research Institute (IFPRI)
Westat



## The 20 companies that will be assessed in the 2023 Index

Company	New to 2023 Index	Headquarters
a2 Milk Co. Ltd, The	✓	New Zealand
Abbott Laboratories Inc.		USA
Australia Ausnutria Dairy Pty Ltd	✓	Australia
China Mengniu Dairy Co.		China
Danone, Groupe		France
Feihe International Inc.		China
Hain Celestial Group Inc., The	✓	USA
Hangzhou Beingmate Group Co Ltd	✓	China
Health & Happiness (H&H)	✓	China
Hero Group GmbH	✓	Switzerland
Hipp GmbH & Co Vertrieb KG	✓	Germany
Inner Mongolia Yili Industrial Group Co. Ltd		China
Kraft Heinz Co.		USA
Lactalis	✓	France
Mead Johnson (Guangzhou) Ltd	✓	China
Morinaga Milk Industry Co. Ltd	✓	Japan
Nestlé SA		Switzerland
PepsiCo Inc.	✓	USA
Progress OAO	✓	Russia
Reckitt Benckiser Group plc (RB)		UK
Royal FrieslandCampina NV		Netherlands
Shijiazhuang Junlebao Milk Co. Ltd	✓	China
Vietnam Dairy Products JSC (Vinamilk)	✓	Vietnam

**Note:** The 2021 sales data has been updated in Q4 2022 which led to changes in the final list of companies that will be assessed in the BMS/CF Marketing Index 2023. Based on the latest sales data in December 2022, companies shaded in blue are now part of the 20 largest BMS/CF manufacturers replacing Australia Ausnutria Dairy\*, China Mengniu Dairy\*\* and PepsiCo Inc. (shaded in red) who were considered part of the top 20 companies when the consultations were conducted.

\* Australia Ausnutria Dairy was acquired by Inner Mongolia Yili Industrial Group Co. Ltd (one of the 20 largest global BMS/CF manufacturers) on October 27, 2021.<sup>25</sup>

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