

Campaign for ethical marketing

April 2008



According to the United Nations Children's Fund (UNICEF): "Marketing practices that undermine breastfeeding are potentially hazardous wherever they are pursued: in the developing world, WHO estimates that some 1.5 million children die each year because they are not adequately breastfed. These facts are not in dispute." You can help to stop marketing malpractice.

The International Code of Marketing of Breast-milk Substitutes was adopted as a 'minimum requirement' for all countries by the World Health Assembly (which sets the policy of WHO - the World Health Organisation) in 1981. The International Code aims to protect breastfeeding by restricting company marketing practices and to ensure breastmilk substitutes are used properly when these are necessary. A number of Resolutions address questions of interpretation and changes in marketing practices and scientific knowledge, and have equal weight to the International Code.

Help South Africa to stop Nestlé and others pushing formula

Background: The South African Government is conducting a consultation on new regulations for the marketing of infant and follow-on formula and other baby foods.

The regulations will help to stop aggressive marketing of these products by Nestlé and other companies and have much to commend them. The South African Government needs support to ensure the regulations are not weakened. In the past the industry has argued that it should be allowed to advertise infant formula, claiming 'freedom of commercial speech'. Nestlé is treating current regulations with contempt - with the backing of a UK Member of Parliament (Tom Levitt) - so the new regulations are important to strengthen the action the authorities can take.

Baby Milk Action exposed on the March 2008 Campaign for Ethical Marketing action sheet how Nestlé had promoted infant formula using shelf talkers. These featured new labels claiming that the formula 'protects'. The *International Code of Marketing of Breastmilk Substitutes* prohibits the advertising and promotion to the public of all breastmilk substitutes, including infant formula and follow-on formula. According to the Department of Health, Nestlé has been reminded that shelf talkers come within this prohibition.

Nestlé has told the UK media: "*This allegation is incorrect and the Advertising Standards Authority of South Africa has, in fact, already ruled that this advertising did not contravene any advertising restrictions. Mr Brady's final allegation that the health claims on the Nan labels are non-compliant is also incorrect as the health claims fully comply with the South African regulations that apply to this product.*" [emphasis added].

However, there is no such ruling amongst those published on the ASA website. Nestlé was asked to provide a copy and, though it replied to Baby Milk Action's letter, did not do so. The South African Department of Health says it is usually consulted on such rulings, but has no knowledge of an ASA ruling on the shelf talkers and points out the advertising code states: "Appendix G 1.3.2 There must be no point-of-sale advertising..." It also said: "The Department of Health are extremely concerned about all the health claims that Nestle make on the new NAN 1, 2 and 3 tins. The health claims are a contravention of the current South African Regulations. A meeting was held with representatives of Nestle and Department of Health and it seems they were not aware that they are transgressing the Regulations. However, they are reluctant to change the labels."

Despite this Nestlé told Baby Milk Action in a letter dated 2 April 2008 that the labels are "in accordance with current labelling standards".



Member of the UK Parliament, Tom Levitt, went to South Africa at Nestlé's expense in February 2008 and subsequently praised the company for complying with the marketing requirements and suggests its malpractice is from 30 to 40 years ago. When the shelf talkers were brought to his attention he posted an article on his blog claiming: "Tom accepts the company's explanation as being consistent with what the MPs saw and heard in South Africa." Presumably Mr. Levitt's investigation did not include speaking with the authorities in South Africa or reading Nestlé's own Infant Formula Policy for Developing Countries, which states: "NESTLE DOES NOT advertise or promote infant formula to the public." Baby Milk Action conducted a poll on its website and 100% of respondents agreed Nestlé's shelf talkers are a violation of the Code. While dismissing other evidence out of hand, Mr. Levitt has neither replied directly to Baby Milk Action nor accepted an invitation to meet.

Suggested letter: Director-General of Health (Attention, Director of Nutrition), Private Bag X828, Pretoria, 0001. Email via www.babymilkaction.org

I am writing to congratulate the South African Government for its Regulations relating to Foodstuffs for Infants, Young Children and Children.

I fully support your right to implement the International Code of Marketing of Breastmilk Substitutes and subsequent, relevant Resolutions of the World Health Assembly and would welcome any changes to strengthen your regulations further. It is clear from the recent case of Nestlé advertising infant formula with shelf talkers and its use of claims suggesting that its formula 'Protects' that urgent action is needed to enforce the Code and Resolutions on companies.

For parents that do use formula, for whatever reason, it is important that they are informed that powdered formula is not sterile and the simple steps required to reduce the risks of possible contamination with harmful bacteria. I am pleased this is included in your regulations.

If you are under pressure to weaken the regulations, please be assured your efforts have support from people around the world.

Will UK companies stop breaking the law?

Background: At the end of 2006 the UK Food Standards Agency wrote to baby food companies reminding them that only claims specifically referenced in the UK Infant Formula and Follow-on Formula Regulations may be used on labels.

Claims such as "with prebiotic care" and "closer to breastmilk" are not on the list. Companies issued new labels, but again used claims that are not permitted. Updated regulations were introduced in 2007. The baby food industry took the government to court to delay the deadline for complying with the new labelling requirements. Baby Milk Action submitted evidence to the High Court arguing that delay was a pointless exercise as companies already had to change labels that broke both the old and the new laws.

The industry won the case. We continue to argue that it should remove the labels that break the law and are calling on the authorities to force them to do so. LACORS, the umbrella body for Trading Standards officers, responsible for enforcing the law, has agreed to accept quarterly monitoring reports produced by Baby Milk Action on behalf of the Baby Feeding Law Group, a coalition of 22 health worker and mother support groups, about these and other issues.

At the same time, the government is conducting a review of the new law and Guidance Notes that accompany them. Despite submissions made by Baby Milk Action on behalf of the Baby Feeding Law Group the government is making the remit of the review extremely narrow. Instead of considering the impact of promotion on understanding of infant feeding issues, the proposed remit is : "To assess whether the new controls upon the ways in which follow-on formula are presented and advertised have been effective in making it clear to parents/parents to be and carers that advertisements for follow-on formula are meant only for older babies (6 months +) and are not perceived or confused as infant formula advertising, which is prohibited."

While it is important to stop follow-on formula advertising being used to promote infant formula, the review is far too narrow. The government is consulting on the review and you can ask for it to be broader. At the same time, you can write to the companies calling for them to remove illegal formula labels.



Baby Milk Action coordinates the 20-country international Nestlé boycott which has prompted some improvements to marketing practices and changes in policies.

The boycott focuses on Nestlé because it is responsible for more violations of the marketing requirements than any other company. It also uses its influence to undermine controls on marketing activities. If you are boycotting Nestlé products, such as Nescafé coffee, write and tell Nestlé.

**Suggested message to the Food Standard Agency, to be sent to Clare Lowrie:
clare.lowrie@foodstandards.gsi.gov.uk**

I am contacting you regarding the proposed review of the Infant Formula and Follow-on Formula Regulations 2007 and associated Guidance Notes.

It is extremely disappointing that the government ignored the advice of health experts, including its own Scientific Advisory Committee on Nutrition, in drafting the law. It was hoped the review of the law would examine whether the weaker measures introduced by the government are adequate to protect parents and babies. However, the remit of the proposed review will only address one aspect of concern, that of follow-on formula advertising being used to promote the full range of formulas.

I ask that you change the remit of the review to consider whether parents are receiving objective and accurate information on infant feeding, not just to protect breastfeeding, but also to protect those babies fed on formula.

Suggested letter to baby food companies. See the on-line version of this action sheet in the 'codewatch' section of www.babymilkaction.org to send an electronic message.

Aptamil, Cow & Gate, Milupa (parent company Danone).

Danone UK, PO BOX 4261, Reading, RG8 9ZZ, UK.

Farleys (parent company Heinz).

H.J. Heinz Company Limited, South Building, Hayes Park, Hayes, Middlesex UB4 8AL, UK.

Hipp.

HIPP UK Ltd., 165 Main Street, New Greenham Park, Newbury, Berks, RG19 6HN, UK.

SMA Nutrition (parent company Wyeth).

Wyeth, Huntercombe Lane, South Taplow, Maidenhead, Berkshire, SL6 0PH, UK.

I am contacting you to ask that you immediately make changes to the labels of infant formula and follow-on formula in the UK to remove all text that idealizes these products.

In particular, as you are well aware, health and nutrition claims are only allowed if specifically referred to in the annexes to the Infant Formula and Follow-on Formula Regulations. These do not allow claims such as 'prebiotics', 'inspired by breastmilk', 'new improved protein balance' etc. etc. I also ask that you warn parents that powdered formula is not sterile and give the information on how to reduce risks as set out by the Food Standards Agency.

Images such as teddy bears and babies also idealize the product. Please confirm you will remove these.

Join Baby Milk Action to receive our Update newsletter. 34 Trumpington Street, Cambridge, CB2 1QY. £15 waged, £7 unwaged. Tel: (01223) 464420. Fax (01223) 464417.

E-mail: info@babymilkaction.org Web site: www.babymilkaction.org - includes an on-line shop.

Please send copies of correspondence to Baby Milk Action