

Nestlé and baby milk - undermining infant health and mother's rights

Nestlé should abide by World Health Assembly marketing standards

Aggressive marketing of baby foods undermines breastfeeding and contributes to the needless death and suffering of infants around the world. UNICEF has stated¹:

Improved breastfeeding practices and reduction of artificial feeding could save an estimated 1.5 million children a year.

The World Health Assembly first introduced marketing standards in 1981. Nestlé report on its *Commitment to Africa* (listed as a significant Communication on Progress on the United Nations Global Compact website²) contains a section on 'Infant Food marketing'. In this is included an audit from Bureau Veritas, stating:

Based on a total of five weeks of observation and interview within South Africa, Mozambique, and Nigeria, we found no systematic shortfalls in terms of Nestlé's implementation of its Instruction on the Marketing of Breast-milk Substitutes.

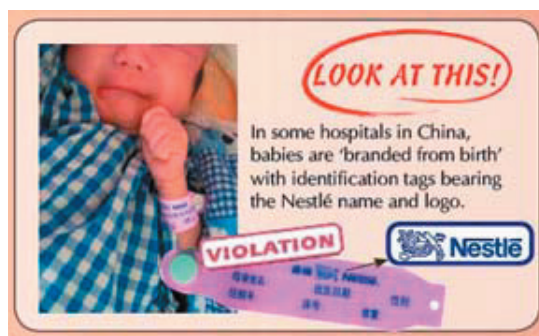
It is a serious flaw that the audit, as in later reports, took place against Nestlé's Instructions which are narrower than the measures relevant to Global Compact principles. Truly independent monitoring, conducted by the International Baby Food Action Network (IBFAN), consisting of more than 200 groups in over 100 countries, finds systematic violations of the relevant measures.



By law Nestlé's formula in the Philippines, shown above, carries text on breastmilk, but this is undermined by the claim that the formula contains 'brain building blocks'. This and other idealizing text and images were defended by Nestlé global HQ in 2007, despite being prohibited by the international standards Nestlé should be following. This shows how such tactics are matters of policy, not local 'mistakes'.

The *International Code of Marketing of Breastmilk Substitutes* was adopted as a minimum standard by the World Health Assembly in 1981, which has adopted further Resolutions since to be read alongside it³. Article 11.3 of the Code calls on companies to abide by its provisions independently of government measures. The Code and Resolutions are referenced by the UN Committee on the Rights of the Child when it reviews compliance with the Convention on the Rights of the Child³.

Hence, under principles 1 and 2 of the Global Compact, Nestlé should abide by the Code and Resolutions in all countries. It refuses to do so, applying its own weaker Nestlé Instructions⁵.



Nestlé baby food marketing malpractice is institutionalised

Nestlé attempts to portray violations of the marketing requirements as isolated. For example, Bureau Veritas reports just three cases, one being: "*related to the activities of a pharmacist that had breached the Instructions through the special display of infant formula.*"

Yet, as the *Breaking the Rules, Stretching the Rules* reports produced by the IBFAN International Code Documentation Centre show, violations are widespread and sanctioned from the centre. For example, Nestlé's Corporate and Healthcare Relations Manager has defended giving of

Nestlé's Corporate and Healthcare Relations Manager admitted to students at Sheffield University in January 2008 that the purpose of gifts such as this⁶ "*is to keep the company name and products in people's mind.*"

The ONLY Nestlé product where the bird logo appears prominently front-of-pack is formula as on the Nestogen formula above.

branded gifts in hospitals, while admitting their intention is to keep the company name and products in people's minds. The identifying wrist bands for newborn infants shown left are an example. Nestlé invests heavily in courting health workers to gain influence, even in countries such as India, where this has been outlawed⁷.

In South Africa Nestlé advertised infant formula and follow-on formula in supermarkets with the edge-of-shelf 'talkers' shown right. These products are labelled with the claim they 'protect', yet children fed on them are more likely to become sick and, in conditions of poverty, to die. The Department of Health stated in 2008:

The Global Compact

As a minimum, business should strive to ensure that its operations are consistent with the legal principles applicable in the country of operation.

The Department of Health is extremely concerned about all the health claims that Nestlé 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 Nestlé 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.

And it was not only the Department of Health that was concerned about the promotion. Nestlé's competitors in the Infant Feeding Association denounced the strategy to the Advertising Standards Authority (ASA), arguing the strategy:

contravenes both the World Health Organisation (WHO) Code and the Code of Advertising Practice, which [prohibits] practices used to induce sales directly to the consumer at retail level.

Nestlé fought the case at the self-regulatory ASA, which is funded by the advertising industry and ruled in Nestlé's favour. This will perhaps force the competitors who viewed the shelf-talkers as a clear breach of the *International Code* to follow suit and advertise formula in supermarkets.

The Global Compact states:

Businesses operating outside their country of origin may have an opportunity to promote and raise standards in countries where support and enforcement of human rights issues is insufficient.

Nestlé boasts it leads other companies, which is true, in this case driving down standards.

Battling against regulations

Nestlé has a long history of opposing implementation of the Code and Resolutions in legislation despite the Global Compact stating:

Businesses should support and respect the protection of internationally proclaimed human rights.

As Bureau Veritas notes in the Africa report Nestlé encourages: "*governments to develop national codes where they did not exist.*" While this is presented in a positive light, in truth it is registering Nestlé's lobbying for voluntary measures. Famously Nestlé threatened to pull out of Zimbabwe if it introduced legislation implementing the Code and Resolutions in 1998. The then Ministry of Health described it as an 'idle threat' and the legislation went ahead⁸.

More recently, in 2007, Nestlé called for the heads of UNICEF and WHO Philippines to be recalled for speaking out in favour of breastfeeding at the time stronger formula marketing regulations were being challenged in the Supreme Court by the pharmaceutical industry⁹.

Note: The examples of violations given here have been selected as they have been raised in depth with Nestlé, with no positive action from the company. For details of these, Nestlé's responses and other violations see the 'codewatch' section of babymilkaction.org and ibfan.org



According to the South African Department of Health the following claims on Nestlé's formula are against the law: "*optimal physical and mental development*", "*activate your baby's immune defences*" and "*strengthen your baby's natural defences*".

They - and the logo shouting 'Protect' - mislead mothers into believing formula protects against infection, when the opposite is the case.

1. unicef.org/sowc01/maps/maps/map1nf.htm
2. Global Compact website tinyurl.com/nestleungccop
3. International Code available to download at: who.int/nutrition/publications/code_english.pdf and online with the Resolutions at: tinyurl.com/codeibfansite
4. Article 24 of the CRC relates to breastfeeding. www2.ohchr.org/english/bodies/crc/index.htm
5. tinyurl.com/nestledoc01ibfan
6. boycottnestle.blogspot.com/2008/04/nestle-uk-strategy.html
7. Nestlé and the Indian Law babymilkaction.org/CEM/cemsept06.html#2
8. Dr. Timothy Stamps on the Mark Thomas Product, Channel 4, 5 October 1999 babymilkaction.org/boycott/boyc26.html#2
9. *Spilled Corporate Milk in the Philippines*, Asia Times, 25 July 2007. atimes.com/atimes/Southeast_Asia/IG25Ae01.html



Nestlé's response to criticism of its baby food marketing

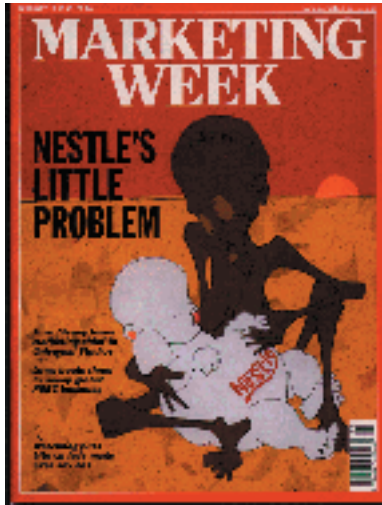
Nestlé has refused to stop most of the aggressive baby food marketing practices exposed in IBFAN's *Breaking the Rules, Stretching the Rules* reports. However, when the *International Code* and Resolutions are implemented in legislation and enforced violations can be stopped, showing it is not impossible to comply¹. It is not as if Nestlé is being asked to do something unreasonable.

According to the company²: "Nestlé firmly believes that breastfeeding is the best way to feed a baby and we are strongly committed to the protection and promotion of breast-feeding." It claims to abide by the Code.

So who is telling the truth about Nestlé's marketing practices? Nestlé refuses to debate with critics and has repeatedly refused an invitation to set out its terms and conditions for participating in an independent expert tribunal. The proposed tribunal would enable in-depth investigation of the claims and counter claims.

When people raise the evidence of systematic violations, Nestlé attempts to discredit its critics. The distortions of the truth it is prepared to use to do so are revealing.

The following arguments come from a Nestlé briefing² provided to George Clooney, the actor known for his humanitarian work. It is intended for use when he is questioned over his willingness to appear in Nestlé advertisements, particularly by people who support the boycott of Nestlé over its baby food marketing practices.



Nestlé branded a 'liar'

In 1999 the UK Advertising Standards Authority upheld all Baby Milk Action's complaints³ against a Nestlé anti-boycott advertisement in which it claimed to market infant formula 'ethically and responsibly'. The marketing press said it had effectively been branded a 'liar'. Above, *Marketing Week* 11 February 1999. Nestlé continues to make similar claims where there is no recourse to authorities.

From Nestlé's briefing - "Ethical Investor Analyst, GES"

Our commitment to the WHO Code was confirmed by GES, Northern Europe's leading analysis house for socially responsible investment in 2006. GES assessed the largest listed manufacturers of infant food and then rated them by on policy, programme, compliance and reporting. They found that Nestlé far out-performs competitors in terms of having the most detailed policies and mechanisms to address the WHO Code.

Nestlé doesn't point out that GES is the only 'ethical investment listing' in the world to include it. GES refuses to look at independent monitoring, instead evaluating reports provided by companies. IBFAN has attempted to persuade it to consider evidence of systematic malpractice without success⁴.

Nestlé is ineligible for other listings, such as the widely respected FTSE4Good because neither its policies⁵ nor practices meet their inclusion criteria⁵.

From Nestlé's briefing - "The Methodist Church"

In June 2006 the Joint Advisory Committee on the Ethics of Investment (JACEI) of the Methodist Church stated that there is "no compelling justification" against investment in Nestlé on the basis of its involvement with breast milk substitutes. Further, the Annual Report of the Central Finance Board of the Methodist Church stated that it had become a shareholder (of Nestlé) in the past year.

This is extremely dishonest. In its 2007 Annual Report⁶ the Central Finance Board says it met with Nestlé management and:

JACEI [the Joint Advisory Committee on Ethics in Investment] reviewed the information gained from this meeting and confirmed its previous conclusion that, although there were still issues of concern in relation to the marketing of breast milk substitutes, there were insufficient reasons to avoid Nestlé on ethical grounds. The CFB has since become a shareholder.



George Clooney has been briefed by Nestlé on how to respond to questions over his links to them (Observer 3 August 2008).

But the arguments it wants the internationally-famous actor to relay to people such as Emma Thompson are simply dishonest.

The Methodist Church CFB statement⁶ on Nestlé explains why it invested:

JACEI acknowledges and respects the work of organisations such as Baby Milk Action in highlighting the scandal of inappropriate marketing of breast milk substitutes. The way in which the CFB responds to such activities is to engage with company managements and seek change from within. These approaches should be seen as complementary strategies working to achieve a common aim.

Prior to the investment, the 2006 Methodist Conference adopted texts⁶ that suggested ‘engagement’ and the ‘boycott’ go hand in hand:

JACEI acknowledges the continuing concern with regard to some aspects of Nestlé’s interpretation of the International Code, the implementation of company guidelines and the transparency of the procedures for monitoring compliance. These concerns may cause some through conscience to maintain a consumer boycott of Nestlé products.

From Nestlé’s briefing - “British Midwives”

British midwives visited Nestlé in 2005 on a fact finding mission and reported a dissonance between their prior perceptions and what they observed in actual Nestlé culture, ethics, policies and hard evidence.

The resulting article published in the British Journal of Midwifery⁷ was so flawed that Baby Milk Action was given a substantial right to reply. Nestlé neglects to include this in the off-prints of the article that it distributes.

Aside from the journal’s peer-review process being called into question as misuse of references was missed, the British Journal of Midwifery gained further notoriety for violating the *International Code* by distributing a free 2009 calendar promoting a brand of formula from a Nestlé competitor.

The ‘fact finding mission’ referred to in the Nestlé briefing was, in truth, an all-expenses-paid trip to Nestlé’s HQ in Vevey, Switzerland. The lead author was Chris Sidgwick and she concluded the article by calling on midwives to accept Nestlé sponsorship. She had earlier worked with Nestlé in launching a video at the Royal College of Midwives Conference. Such materials have to have the authorisation of the Secretary of State for Health, which Nestlé had not obtained. Enforcement authorities had to remind Nestlé in 2008 that it requires this authorisation.

This lead author is funded by Nestlé to run training days targeting health workers. The main speaker at events in 2008 works for Nestlé, but this was not mentioned in the publicity. The links are strong. The speaker, Zelda Wilson, is thanked in the British Journal of Midwifery article for arranging the paid trip to Nestlé Headquarters.

Nestlé presents the article as from ‘British Midwives’, failing to mention this history or the fact that lead author and Zelda Wilson work with Nestlé’s PR firm, Webber Shandwick, in lobbying students to drop their support for the boycott.

1. *Checks and Balances in the Global Economy: Using international tools to stop corporate malpractice - does it work?* IBFAN, 2004. babymilkaction.org/shop/publications01.html#checks
2. *Nestlé’s policy governing the marketing of baby milk.* Nestlé. Undated. Briefing provided to George Clooney by Nestlé.
3. *ASA Adjudication 3586*, 12 May 1999, available via: babymilkaction.org/press/pressasa12may99.html



Baby Milk Action’s annual demonstration at Nestlé (UK) HQ.

The Methodist Church said that some ‘through conscience’ may be moved to boycott the company because of concerns of its marketing of baby foods.

Its investment is presented as a parallel strategy of engagement to try to stop malpractice. Baby Milk Action points out it manages to communicate with Nestlé without becoming an investor.



Baby Milk Action’s right-to-reply in the British Journal of Midwifery. Errors in the pro-Nestlé article include misuse of the primary reference, which had gone undetected: “... a quote is wrongly applied to WHO and UNICEF, important information is excluded and information confused...”

Nestlé continues to distribute the article, written by a member of its anti-boycott lobbying team, but without the response.

4. babymilkaction.org/resources/yqsanswered/yqanestle10.html
5. ftse.com/Indices/FTSE4Good_Index_Series/Downloads/FTSE4Good_Breast_Milk_Substitute_Criteria.pdf
6. Source documents can be downloaded via: babymilkaction.org/resources/yqsanswered/yqanestle08.html
7. Source documents can be obtained via: babymilkaction.org/resources/yqsanswered/yqanestle09.html