

Baby Milk Action Comment on Nestlé's Infant Feeding Policy and Sustainability Review



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Breastfeeding is an essential lifeline for millions of infants, which provides optimal nutrition, confers benefits to women's health, has no adverse effects on the environment and can reduce family poverty, which is a major cause of malnutrition. Breastfeeding saves lives. But breastmilk has to compete in a rapidly growing market for breastmilk substitutes, now worth \$10.9 billion. (*Euromonitor* 2001). The *International Code*, WHA Resolutions, and any policies which seek to protect breastfeeding and ensure breastmilk substitutes are marketed responsibly, challenge and limit this growth and have been opposed by companies since their inception.

Nestlé, the world's largest food company, markets over 11,000 brands of processed foods, and controls approx 40% of the baby food market. Nestlé's 2001 Annual Report states, "*Infant nutrition is a truly global Nestle business and sales grew vigorously in all regions of the world.*"

Nestlé exerts a powerful influence on governments and it affects market trends and company behaviour more than any other single company. Nestle has been dogged by criticism of its baby food marketing policy and practice for over two decades, and more recently about its impact on the environment. Because of this Nestle has curbed some of its more blatant malpractice, removing pictures of babies on infant formula tins and stopping *some* media advertising. However, worldwide independent monitoring consistently shows that the company systematically violates the International Code and Resolutions, promoting its products in many ways which harm infant health and at the same time lobbying for weak legislation and trading standards. The few incidences where Nestle has changed promotional practices are to be welcomed and encouraged. However, this is not in any way an adequate response to the problem.

Nestlé's new *Sustainability Review*, which is being widely distributed, is a welcome move in some respects. But does it stand up to close scrutiny? Does it indicate any real change of policy? If one takes the infant feeding issue as an indicator, the review clearly presents a distorted picture and is an attempt to deflect criticism and present the company in a positive light as responsible company and even a leader in sustainable development and environmental protection. The summary below is not exhaustive, but highlights some key points.

Nestlé's Infant feeding Policy:

The Sustainability Review frequently refers to Nestlé's compliance with the *International Code of Marketing of Breastmilk Substitutes*. It fails to mention that Nestlé's policy, against which all staff behaviour is measured, is substantially weaker than *the International Code* and the subsequent relevant WHA Resolutions on a number of counts. This was made clear at a Public Hearing at the European Parliament in November 2000 by UNICEF's Legal Officer (UNICEF has responsibility under article 11.1 of the Code to advise on its interpretation) as well as in writing to Nestle. Nestle refused to attend the public hearing after numerous attempts to 'influence' the programme.

The *International Code* (passed in 1981) is much more stringent in approach, coverage and universal reach. For example:

1. it applies to **all** nations, not just developing countries. Nestlé's policy applies only to what it calls 'developing countries' so does not cover countries such as Poland, Hungary, Korea or Taiwan (where it even advertises on billboards). For the smallest, most defenceless of consumers, such double standards make no sense at all.
2. it covers many products which Nestlé markets in ways which undermine exclusive and sustained breastfeeding. Nestle's policy applies only to 'infant formula.'¹
3. Hundreds of published violations of the Code from 14 countries were brought to Nestle CEO, Mr Brabeck's personal attention in 2001. He has so far, done very little about them and has

dismissed the vast majority as invalid. (In the report, *Breaking the Rules 2001*, the Code violations by Nestlé were condensed into a table format because the sheer volume of violations reported would take too many pages. See www.ibfan.org for the report.)

4. Nestlé's policy fails to include the nine Resolutions which have been passed at the World Health Assembly since 1981 and have the same status as the Code itself. They are important because they clarify, update and strengthen the Code's provisions in the light of research and current marketing practices. The status of such Resolutions is of major importance in trade terms and is at the core of many concerns about health and sustainable development.
5. Nestle ignores the fact that the International Code was adopted as a *minimum requirement* to be implemented in *its entirety*. Where countries have laws stronger than the Code, companies must abide by those stronger laws. However, where countries have measures which are weaker than the Code, Article 11.3 of the Code requires them to ensure that their conduct at every level conforms to it: to do so *independently* of any measures taken by Governments..
6. Nestlé challenges the sovereign right of Governments to protect health. In 1995, facing criminal charges over its labelling, Nestlé filed a Writ Petition challenging the constitutional validity of the strong Indian Act. This Writ Petition still stands. Before the Zimbabwe Government brought in its strong law in 1998, Nestlé threatened to pull out investment arguing that "*it would not be economically viable for the company to continue operating under such regulations.*"
7. Nestlé's policy refers only to direct consumer advertising of *infant formula*. The *International Code* calls for a ban of promotion of all breastmilk substitutes - either direct to mothers, to health workers or to the public. The aim is to protect health and ensure that parents receive objective information about infant feeding.
8. The Code calls for all information about products to be restricted to scientific and factual matters. One advertisement, cited in *Breaking the Rules 2001* and dismissed by Nestlé's CEO Mr Brabeck, was for Nativa infant formula. Intended for health workers in Cote d'Ivoire, it claimed that Nativa is better than breastmilk: "*Nestle: Meeting the need for certain micronutrients which the human organism cannot produce, but which are needed to orchestrate a gamut of physiological functions essential for optimal development*
9. Nestlé's Sustainability Review states: "*Free infant formula donated over the past 12 months was only for social welfare cases.*" The 1994 Resolution said there should be "*no donations of free or subsidized supplies of breast-milk substitutes...in any part of the health care system.*" *Breaking the Rules 2001* found free or low cost supplies of infant formula in 10 of the 14 countries studied.
10. Nestlé has changed the labels of complementary foods to 6 months in some countries, such as Brazil and Uruguay. But not in countries such as Hong Kong and Malaysia or India, where large adverts for Nestlé's *Cerelac* from 4 months feature in many magazines and newspapers. Nestlé, as a transnational, should conform to uniform global standards regardless of wherever it operates.

The Ombudsman and Audits

The fact that Nestle is instituting what it calls an 'ombudsman' could be sign that it is recognising that it has a problem. But it will mean nothing unless the terms of reference are clear. An internal ombudsman – paid by the company - is totally different than one paid by a Government. There are continuing concerns about the unanswered allegations of Syed Aamir Raza (the whistleblower from Pakistan) who was threatened by the company in 1997 when he challenged the company.

Unless the Ombudsman system is accompanied by a complete change of policy on Nestle's part employees will continue to be placed under intense pressure to maximise sales, as Mr Raza was, and at the same time expected to pay lip service to the Code. To protect someone like Mr Raza an Ombudsman would need to have greater power than the CEO Mr Brabeck, who is the driving force behind the company.

Nestle has refused to provide information about the audits referred to in the review and readers must accept on trust that only 4 problems were uncovered. EME, the Auditors called in to investigate in Pakistan in 2000 were specifically instructed not to look at the evidence of Syed Aamir Raza and were limited to interviewing doctors from a list provided by Nestle.

Water – environmental concerns

Nestle is the largest manufacturer of bottled water in the world and is facing growing criticism from NGOs, (and its shareholders) about the way that it is damaging local eco-systems. There are additional concerns about the way that the promotion of bottled water can mislead consumers and policy makers, and undermine confidence in, and commitment to, the provision of piped water. Water is also used to feed babies and it is vital that claims about 'purity' (or names such as "Pure Life") do not undermine essential safety messages about routine boiling of water for babies. Bottled water is not sterile and can also contain high levels of salt.

Nestle is facing criticisms from unions about the decision to use PET and plastic bottles (often supplied by Coca-Cola) instead of glass. Unions have expressed concerns about job losses, quality and transport costs.² Across its whole range Nestle seems to be moving over to plastic packaging – yet at the same time it makes claims in the Sustainability Review and in materials for school children about being a leader in environmental protection.³ The Sustainability Review minimises the impact of Nestle's water business on the environment, and diverts attention to agriculture. Nestle proposes genetic modification of crops as the answer to this problem. The Review compares Nestle's massive consumption of water with the world's total fresh water consumption.

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Notes:

- 1 Article 2. Scope of the International Code states: *“The Code applies to the marketing, and practices related thereto, of the following products: breastmilk substitutes, including infant formula; other milk products, foods 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.”*
- 2 Transcript of Nestle AGM, April 11 2002
- 3 *Doing Better by the Environment*, A Nestle worksheet for schools in the Times 100 series fails to mention the change to plastic wrapping on individual bars of KitKat *“Between 1991 and 2000 Nestlé UK has been able to reduce its consumption of materials by up to 10%. Major achievements in this area included: Removal of the inner plastic sleeve from Kit Kat Bumper packs saving 160 tonnes of plastic per year.”*

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