

UPDATE

BABY MILK
ACTION



Photo: A Nestlé advertisement from 1935.

Nestlé's new strategy: formula 'protects'

Business attempts to infiltrate the UN

Danone warned to clean up its act

UK formula labelling victory



Baby Milk Action

Baby Milk Action is a non-profit organisation which aims to save infant lives and to end the avoidable suffering caused by inappropriate infant feeding. We work as part of the International Baby Food Action Network (IBFAN) to strengthen independent, transparent and effective controls on the marketing of the baby feeding industry. IBFAN has over 200 member organisations in more than 100 countries.



Baby Feeding Law Group

Baby Milk Action is the Secretariat for the **Baby Feeding Law Group** which is working to bring UK legislation into line with UN Resolutions. BFLG members include consumer and mother-support groups and professional bodies such as the Community Practitioners and Health Visitors' Association, the Royal College of Midwives, the Royal College of Nursing, the Royal College of Paediatrics and Child Health, and UNICEF's Baby Friendly Initiative.



International Code

We work for controls implementing the *International Code of Marketing of Breast-milk Substitutes* (The *International Code*). This Code was adopted in 1981 by the World Health Assembly (WHA), the world's highest policy setting body. The *International Code* bans all promotion of breastmilk substitutes and was adopted as a 'minimum requirement' to be implemented by member states 'in its entirety'. The *International Code* and the subsequent relevant WHA Resolutions, which have clarified or extended certain provisions of the Code, must be considered together in the interpretation and translation into national measures.

Cover: Nestlé advert from 1935. One of a set of three vintage notecards. Available from :

www.babymilkaction.org/shop

Protecting breastfeeding

There is no food more locally produced or sustainable than breastmilk. A breastfed child is less likely to suffer from gastroenteritis, respiratory and ear infections, diabetes, allergies and other illnesses. In areas with unsafe water a bottle-fed child is up to 25 times more likely to die as a result of diarrhoea. Reversing the decline in breastfeeding could save 1.5 million lives around the world every year. Breastfeeding helps fulfill the UN Millennium Development Goals and has the potential to reduce under-5 mortality by 13%. A further 6% of deaths could be saved through appropriate complementary feeding. Breastfeeding also provides health benefits to the mother, such as reduced risk of some cancers.

Protecting babies fed on formula

breastmilk substitutes are legitimate products for when a child is not breastfed and does not have access to expressed or donor breastmilk. Baby Milk Action lobbies for regulations which ensure that their composition and labelling is as safe as possible. Companies should comply with all the *International Code* requirements to reduce risks - independently of government measures. Parents have a right to accurate, independent information.

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Update 42 was written by Mike Brady and Patti Rundall. *Update* is free to members and affiliates. It is available electronically at:

www.babymilkaction.org

Interesting article: *The Perils of Ignoring History: Big Tobacco Played Dirty and Millions Died. How Similar Is Big Food?* K.Brownell + K.Warner Yale University; *The Milbank Quarterly*, Vol. 87, No. 1, 2009 (pp. 259-294)



Much to celebrate, but much to do.

It was 30 years ago that six citizen's groups, including a member of the **Baby Milk Action Coalition**, formed the **International Baby Food Action Network (IBFAN)**. A celebration in Geneva (pg 3) recalled how this came about and honoured the many people who gave pivotal support to its aims.

After celebrating the successes and the many lives the campaign has undoubtedly saved, IBFAN Europe's conference focused on planning and training to meet the latest challenges. As industry analysts have stated: *"The industry is fighting a rearguard action against regulation on a country-by-country basis."* (pg 6) In the UK the industry has been winning. The UK has some of the lowest breastfeeding rates in Europe and, with the help of the **European Commission**, the industry is successfully blocking implementation of the *International Code*, despite every health worker and mother support organisation, the Government's own advisors and enforcement bodies calling for stronger measures. A draft report of an **'Independent Review'** of the 2007 Regulations shows that the **Independent Review Panel** has wasted public money asking the wrong question (*"Are babies under six months being fed follow-on formula by mistake instead of infant formula?"*) rather than examining whether the regulations are fulfilling their stated purpose of protecting breastfeeding. We examine how the Government has got it so wrong and what needs to be done to protect infant health, and ensure that all mothers - those who breastfeed and those who use formula - do so on the basis of truly independent information (pgs 9 - 10).

At an international level we look at the policy changes in the USA that are coming in under the new administration (pg 7). We also examine how **UN Business 'partnerships'** are influencing health policies and threatening food security. Under the banner of *'enlightened self interest'* and *'wellness'* the industry is now on *'a noble cause'* and is fuelling a craze for branded fortified foods with health and nutrition claims - a key marketing strategy for *'adding value.'* (pgs 8 & 17) We examine the weaknesses in European process for authorising claims. Our position on formula is that if an ingredient is necessary to reduce its shortcomings, it should be a requirement for all formula, without claims being made. (pg 12) Through the **Baby Feeding Law Group** we are helping to close loopholes in the marketing regulations in the **Philippines** (pg 15). Worryingly, **Nestlé** launched a new strategy at its AGM, claiming its formula *'protects'* babies (pg 19) - it doesn't, babies fed on it are more likely to become sick than breastfed babies, and in conditions of poverty, they are more likely to die. The boycott is part of our strategy to force Nestlé to respect the marketing standards (pg 19 - 23). We invite you to send a message to Nestlé and help us stop Nestlé's *'protect'* claims. Campaigns like this really work as our latest victory in the UK demonstrates (see box below).

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Safer formula campaign victory

Finally! In 2002 the tragic death of a five-day-old child in Belgium highlighted that powdered formula is not sterile and may contain harmful bacteria, such as *Enterobacter Sakazakii*. Simple steps reduce the risks, but companies refused to warn parents or update their labels - until now. After seven years of campaigning, new warnings that powdered formula is not sterile have started to appear on **SMA**, **Cow & Gate**, **Aptamil**, **Nurture** and **Hipp** branded formula in the UK. The instructions and health claims are still not right - but it's progress!



Celebrating 30 years of protecting infant health

In a letter published in the journal of the **Royal Society of Speech and Language Therapists** in September 2009, Nestlé stated: "In 1981, Nestlé took part in devising the World Health Organisation Code, which recommends to companies how they are allowed to market infant formula."

The statement is wrong in several respects. For a start, it was in 1979 that WHO and UNICEF called a meeting that began the process of drafting the *International Code of Marketing of Breastmilk Substitutes*. Nestlé was present - indeed Nestlé's **Ernest Saunders** was the President of the **International Council of Infant Food Industries** - but it obstructed the process from the start and described the final draft Code as "unacceptable" and "irrelevant and unworkable".

As Nestlé attempts to re-write history, it is important to remember what really happened. Representatives of WHO, UNICEF and civil society organisations gathered in Geneva on 12 October 2009 to celebrate the 30th anniversary of the International Baby Food Action Network (IBFAN) and recall how the Code came about.

Six civil society groups at the first drafting meeting formed IBFAN to coordinate their efforts to protect infant health. Today there are more than 200 groups in over 100 countries. At the celebrations in Geneva representatives came from 24 European countries, plus the Coordinator of IBFAN Africa. A special guest was **Andrew Chetley**, who was working for **War on Want** (part of the Baby Milk Action Coalition) in 1979 and had earlier designed the cover of *The baby killer*, published in 1974. Nestlé sued the Swiss publishers of this exposé of its formula marketing practices when they

translated the title into German as *Nestlé kills babies*. The trial was a Public Relations disaster for Nestlé as experts tramped into court to substantiate the claims in the booklet. Nestlé eventually dropped all challenges, except that against the German title. Token fines were awarded to Nestlé, on the grounds it was not committing deliberate murder, but the judge warned it to change its marketing practices.



30th Anniversary celebration: Andrew Chetley (who broke his leg on the way to the event) and Annelies Allain (both founders of IBFAN) recall the machinations at the Code drafting meetings

The publicity led to the Nestlé boycott in 1977 and a Senate hearing called by **Senator Edward Kennedy** in 1978, where he grilled company executives. Famously Nestlé stated it had no responsibility if people were using its formula in conditions that led to their babies dying.

Following these hearings, Senator Kennedy and others called for an international marketing code, and in 1979 WHO/UNICEF convened the landmark meeting which led to the Code's formation. The Code was adopted in 1981 despite the industry's best efforts and the USA voting against. It took until 1994 for the USA to give its support for the Code, supporting the





Senator Edward Kennedy who passed away on 25 August 2009, challenging Nestlé at the 1978 Senate Hearings.

Resolution in that year that recalled the Code, and other Resolutions since.

IBFAN has grown and works to implement the Code and subsequent, relevant Resolutions in national measures. **Annelies Allain**, Director of IBFAN's International Code Documentation Centre and a founder member of IBFAN, has led efforts to train policy makers on the measures. **Ellen Sokol**, author of *The Code Handbook*, the authoritative text on implementation, was also present at the celebration. Also present was **Dr Halfdan Mahler**, Director General of WHO from 1978 to 1988, who played a hugely important role in the Code's formation.

Annelies launched the latest *State of the Code by Country* report, showing that 63 countries have implemented most or many of the provisions of the Code and Resolutions. This does not include the majority of the European Union countries which have been down graded to having only some provisions in legislation.

Key-note speaker, **Prof. Zulfiqar A. Bhutta** (co-author *Child Survival* series in *The Lancet* and of *The Aga Khan University*, Pakistan) related the latest statistics and the importance of community interventions to support breastfeeding in Pakistan.

"War on Want is proud to have been one of the first organisations to lead the fight against multinational baby food companies. Our 1974 report, 'The Baby Killer', drew attention to the irresponsible promotion of breastmilk substitutes in the developing world, and its devastating impact on child health. War on Want congratulates IBFAN on maintaining the struggle over the past 30 years. May we and all the world's children see many more victories in the years to come." **John Hilary**, Exec Director, War on Want

"IBFAN has done a tremendous job in the promotion and protection of breastfeeding in the last 30 years. Congratulations on your birthday!" **Jasmine Whitbread**, Chief Executive, Save the Children UK

"The CPHVA is proud to have had such a long association with IBFAN, the Baby Feeding Law group and to have endorsed the Nestlé Boycott." **Angela Roberts**, Chair NPC CPHVA/Unite.

European IBFAN groups held their meeting after the celebration, sharing experiences and the latest information on infant feeding. Eastern Europe is, once again, a concern. **Hipp**, the German formula company even appears to sponsor doctors.

Baby Milk Action's Mike Brady wearing a Hipp doctor coat.

Visit the website for a film exposing the Hipp and Nestlé violations reported at the meeting.



IBFAN's experience



The 2004 report *Checks and Balances in the Global Economy: Using international tools to stop corporate malpractice - does it work?* examined 7 case-study countries and found the industry lobbied aggressively against regulations. In some countries the industry lobby won through, but in others civil society organisations succeeded in protecting infant health. Provides useful lessons to others.

(Where industry won, there are still useful lessons to be learned.)



Industry fights rearguard action against regulation

In its latest analysis of the global baby food market, **Euromonitor International** states: *"Government Regulation a Growing Constraint"*. It continues: *"There are significant international variations in the regulations governing the marketing of milk formula, which are reflected in sales differences across countries."*

There could be no clearer indication that restricting marketing protects breastfeeding, so limiting market growth. *"The industry is fighting a rearguard action against regulation on a country-by-country basis,"* Euromonitor reports.

Under-resourced public interest organisations will be encouraged to learn that the transnational baby food companies are on the back foot, but concerned at this confirmation that the industry response to the World Health Assembly marketing requirements is to fight against them being implemented in regulations.

Euromonitor highlights the impact of differing regulatory systems: *"The huge disparity in the retail value of milk formula sales between China and India is mainly due to the significant differences between their official regulatory regimes."* It notes: *"In India, all advertising is prohibited, while in China, TV advertising and the use of celebrity spokespeople are allowed."*

Most growth in the market is in the **Asia-Pacific** region with **China** the 'star performer', with formula sales predicted to have grown by 26% in 2008. Sales of toddler milks, said to be an industry priority because their promotion is less regulated, are predicted to grow by 31%.

In industrialised countries the industry focus is on increasing value growth as well as volumes, through the promotion of added ingredients such as DHA and ARA (Long Chain Polyunsaturated Fatty Acids) and 'probiotics'. Promotion of breastfeeding is a concern to the industry, even in the US where formula advertising is unregulated: *"The rising popularity of breast feeding and a low birth rate will combine to drag North American retail value growth down by a percentage point in 2008, to 5.9%."*

Nestlé's share of the global baby milk and baby food market is given as 26% following its takeover of **Gerber**, with **Danone** in second place on 14% following its takeover of the **NUMICO** brands (**Nutricia**, **Milupa/Aptamil**, **Cow & Gate**).

Organic baby foods are seen as a significant marketing strategy, but Euromonitor acknowledges: *"In Western Europe, most parents are unaware that, as a result of stringent EU regulations on permitted levels of pesticide residues in baby food, there is very little difference between regular and organic baby food."*

The internet is portrayed as a major marketing opportunity for developing countries. IBFAN has recorded how companies attempt to sign parents up to 'Baby Clubs'. We have also highlighted the new strategy of promoting 'good night milk'. As Euromonitor says: *"With an increasing number of mothers returning to work after giving birth, products that help babies sleep better could have a wide appeal."*

The Euromonitor report *Global Packaged Food: Market Opportunities for Baby Food to 2013* is available at: **euromonitor.com**

Datamonitor: Build brand loyalty early

"Mothers are returning to a more traditional parenting technique of breastfeeding their children. This presents problems for the baby drinks industry, with the growth of formulas stunted as a consequence. Manufacturers must find ways of creating appeal without positioning drinks as a direct alternative, which creates ill-feeling among mothers."

"Marketers are becoming more aware of the need to target parents as early as possible. Brand relationships and trust bonds can be formed during pregnancy when the child is not yet even born. This lifestyle targeting will become increasingly important going forwards."

Babies and Toddlers: Emerging Opportunities. **datamonitor.com**

● **What has the Gates Foundation done for global health?** For an audio recording of this interesting **Royal Society of Arts** and **Lancet** debate in May see: www.thersa.org/events/?a=203772
The Lancet, Vol 373, Issue 9675, p1577, 9.5.09



California WIC and the saturated market

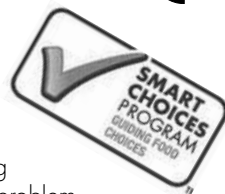
US income differentials are the widest of any industrialised country and the USA ranks 43rd lowest Infant Mortality Rate.¹ The US **Special Supplemental Nutrition Programme for Women Infants and Children (WIC)** launched in 1974, is targeted to improve the nutrition of the poor and serves close to nine million women and children. It is the nation's largest single purchaser of infant formula, buying 60% of all US formula. In the last decade WIC has raised breastfeeding initiation rates among low-income ethnic women, but exclusive breastfeeding and duration rates remain much lower amongst WIC mothers - indeed only 18% of WIC mothers in California are still breastfeeding after the first three months. WIC is trying to change this and from October 1st has stopped routine supply of any formula during Month One, with exclusive breastfeeding becoming the 'default' option and formula offered only after an individual assessment and counselling session. Mothers have a financial incentive to choose exclusive breastfeeding with a much-enhanced food package worth \$62 a month for a full year, plus \$38 a month for her child. Those who choose "mostly breastfeeding" receive \$49 plus \$21 for their child. Those who choose the formula package receive \$38 (for 6 months), and \$21 for infants. Early reports from the field are very positive.

● **Lack of regulation** in the US has resulted in a 'mature' (saturated) market for formula. Manufacturers increase profitability by raising prices and using health claims for 'designer' products, touted as "closer than ever to breast milk." WIC is forced to pay \$100m to \$200m annually for ingredients which have no proven health benefits and many risks. The WIC and breastfeeding community is urging the **Food and Drug Administration** and **Federal Trade Commission** to toughen its approach and clamp down on direct marketing and health claims, and wants Congress to hold hearings on this in 2010.

● **No Maternity legislation** Another problem is that no US federal law requires paid maternity leave; 24 % of the best employers provide four or fewer weeks, 52 % provide six weeks or less - especially low-wage employers. www.calwic.org/docs/federal/2009/1/formulamarketing.pdf

● Patti Rundall, our Policy Director, spoke at the **5th Biennial Childhood Obesity Conference** in Los Angeles in June, invited by California WIC and the **Strategic Alliance for Healthy Food and Activity Environments**. <http://preventioninstitute.org/index.html>

Not so smart



Governments wanting to tackle the obesity problem are wondering whether to regulate the marketing and labelling of junk foods or to trust the many industry self-regulation schemes that are springing up. In the USA, state and federal authorities have put pressure on the food industry to end its voluntary **Smart Choices** labelling scheme which allows a green checkmark on products that meet its very low nutritional criteria. The industry strategy to head off regulation seems to have backfired and the **Food and Drug Administration** is now devising regulations for package-front nutrition labeling (hopefully the much simpler Traffic Light scheme advocated by the UK Food Standards Agency). With no EU-wide regulation on marketing of junk foods to children, EU-based food companies have devised a weak voluntary scheme - the **EU Pledge** - also with low criteria and many loopholes.

Soda and Sin taxes? One way to raise funds for health programmes is through taxation of alcohol or junk foods. In the US a 1 penny per ounce tax on sodas would raise about \$150 bn and save health costs of at least \$50 bn over a decade. The **Thai Sin Tax** on alcohol and tobacco already raises \$100m per year for **ThaiHealth Promotion**. See Page 14 and: latimes.com/news/opinion/la-oe-brownell6-2009oct06_0,4876212.story. <http://en.thaihealth.or.th>

Sudden Infant Death Syndrome

The California SIDS Advisory Council has unanimously recommended that the California Department of Public Health include breastfeeding as a SIDS Risk Reduction recommendation.

¹ The Spirit Level, Wilson R, Pickett K, 2009 Greater equality and better health. www.bmj.com/cgi/content/full/339/nov10_2/b4320nov10_2/b4320



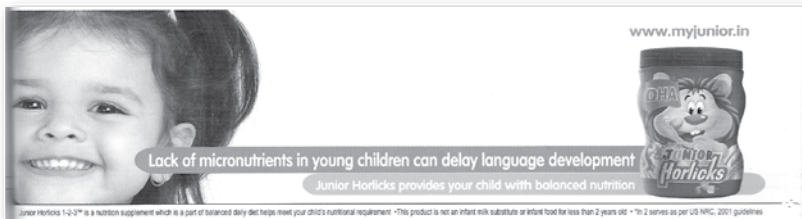
Danone off GAIN Board but risks remain

Our campaign to have **Danone** removed from the Board of the UN Business Partnership, the **Global Fund for Improved Nutrition (GAIN)** (see UD 41) succeeded in July. However, **Danone**, **Pepsico** and other food companies still sit on **GAIN's Business Alliance Global Forum**, benefitting from GAIN's philanthropic image and its UN partners such as UNICEF. Although GAIN claims to promote breastfeeding, its market-led approach is helping food companies fuel a craze for fortified foods and micronutrients. Under the banner of 'enlightened self interest' and 'wellness' many are busily repositioning their products as health foods.¹ Indeed **Nestlé** says in the *Economist* (29.10.09) *"the defensiveness of the past is gone, Now we have a noble cause."* In the absence of strong national regulations in many countries, we wonder how GAIN will **independently monitor** and ensure the safety, quality & delivery of its industry initiatives or prevent attention being diverted from essential interventions like breastfeeding, access to clean, potable water, sanitation & sustainable complementary feeding?

Creating markets at Codex Industry influences national delegations

We are calling for all food industry representatives to come off government delegations to the global food standard setting body, **Codex Alimentarius**. Industry delegates can outnumber government delegates and can even lead delegations. At the **Thai Codex Nutrition meeting** in Nov 2006, of the 200 delegates over 100 were from industry, half of them on government delegations. We are also keeping a watch on **GAIN**, which now has Observer status at Codex - sitting right next to us in Nov 09, where it lobbied, through Ghana, for guidelines to *"lessen impediments to international trade" in 'formulated complementary foods.'* This will include branded fortified foods and supplements allegedly marketed for the *prevention (not the cure)* of malnutrition. In **IRINNews**, **Stéphane Doyon**, **Médecins Sans Frontières** expressed concern about patents: *"The patents are so broad that if you add one micronutrient into a jar of Nutella [a widely distributed brand of nut pastes] it will fall within the patent."*³ A briefing on the new foods will be available as a download ASAP.

GSK PUSHING MICRONUTRIENTS and obesity in India



We spoke at the *Global Conference on Meeting Nutritional Challenges with Sustainability and Equity* in Delhi in August, alongside **Vandana Shiva** and **Marion Nestle** who showed how companies are pushing micronutrients in junk foods. A *Pre-School Guide for Parents*, that we picked up in Delhi, contains 52 pages of adverts with claims such as: *"Lack of micronutrients in young children can delay language development"* (see above). Because the 'right' answers in an accompanying quiz are unattainable, parents will get a low score. Their children will be 'picky eaters' in need of **Glaxo Smith Kline's** very sweet *Junior Horlicks* every day. A web promotion for *Mothers Horlicks* claims that *"DHA is not easily available from average indian Diet."* The DHA is made by **Martek**. For the *People's Charter for Food and Nutrition Security* see: www.ibfanasia.org/gc/Peoples-Charter-for-Food-and-Nutrition-Security.pdf

1 Welfare Inc R.Nagarajan Times Insight Group (Times of India) Crest 24.10.09 <http://m.timesofindia.com/PD/ATOI/articleshow/5156400.cms>

2 The unrepentent chocolatier www.economist.com/displaystory.cfm?story_id=14744982

3 Making peanut butter gets stickier www.irinnews.org/report.aspx?ReportID=86979



Review of the UK law - wrong question, wrong answer

The UK Government appointed an **Independent Review Panel** to investigate the effectiveness of the formula marketing regulations that came into force at the beginning of 2008. After working for a year, commissioning research and requesting submissions, which Baby Milk Action and others supplied, the Panel published its draft report at the end of September. This concludes that the law does not need to be changed on the grounds mothers are not mistakenly feeding follow-on formula to babies instead of infant formula.

"What has that to do with the effectiveness of the regulations?" some may well ask. The purpose of the *Infant Formula and Follow-on Formula Regulations*, according to the **Guidance Notes** that accompany them, is to: *"regulate labelling and restrict advertising and presentation of infant and follow-on formula so as not to discourage breastfeeding."*

The Panel was asked: *"whether the new controls were fulfilling their objective or whether further action was needed, and if so, what future action may be appropriate."* We expected the panel to investigate if and how formula is being promoted through the internet, point-of-sale promotion, baby clubs, carelines, labels, health claims, advertising of follow-on formula and other marketing practices and whether these undermine breastfeeding and endanger babies fed on formula. We were assured that the investigation would be broad, and similar assurances were made in Parliament. The panel also requested an update of our *Hard Sell Formula* briefing paper (see overleaf), outlining company marketing strategies and asked enforcement authorities for their views (see box). The report notes - but does not respond to - the examples provided. Instead it focuses on the mis-feeding of follow-on formula, although these products are now almost the same as infant formulas. The Panel is still working on the report and is due to submit it to the new **Public Health Minister, Gillian Merron**, in the New Year.

Panel ignores views of those who have to enforce the Regulations

The draft report quotes the enforcement authorities, but then ignores the issues raised. For example:

LACORS said that they support the view that the same advertising, marketing and promotional controls that apply to infant formula should apply to follow-on formula. These extended controls should be framed so as to cover generic manufacturer names, logos and other pictorial devices in the same manner as those which currently apply to specific individual product names or logos where the likelihood of consumer read-across will occur.

In summary the ASA [Advertising Standards Authority] stated that common complaints about follow-on formula advertisements are that: they indirectly promote the use of infant formula; build general brand awareness and loyalty; denigrate breast feeding; exaggerate and distort the health and nutritional benefits of formula products.

LACORS was specifically asked *"Are the 2007 Regulations clear and does this have an impact your ability to take action?"* The draft report does not respond to the concerns raised, which include:

Certain websites contain information which would be prohibited if it were on a label or in an advertisement.

Certain claims (e.g. "gentle", easy to digest", "softer stools") can be subjective in nature and it is difficult to draw the line between prohibited compositional claims, prohibited health claims and acceptable factual statement.

One of the major problems for enforcement officers is the use of advertising and promotional material which blurs the distinction between follow-on formula and infant formula. This is the case both in relation to the use of generic company logos and the use of infant imagery where it is difficult to determine the age of the infant. For example: the SMA logo (used in relation to both infant formula and follow-on formula) is closely associated by many consumers with infant formula and the stylised "M" pictorial can be closely associated with a breastfeeding mother.

Hear our questions to the **Food Standard Agency Board** online at www.food.gov.uk (see Q&A sections in July 08, Feb, July and Nov 09 meetings).

The UK law is not working - but will anything be done about it



"I have made a commitment, too, to provide an independently chaired review of the new controls after their first year of operation. As I made absolutely clear to the relevant organisations in our private meetings, the review will play an important role in policy making and in assessing whether the new controls worked as expected. It will assess whether people have found new ways of getting around the rules or whether they are simply not complying with the rules. If the new arrangements are found not to be working, because they have been circumvented or because new methods emerge, the Government will respond proportionately and take the next step of considering further legislative action. We have therefore put robust measures in place.

"Let me make the position absolutely clear: the Government are determined to take tough action to stamp out those practices and to prevent marketing activity that directly or indirectly undermines breastfeeding."

Dawn Primolo MP, Speaking in Parliament as Minister for Public Health, 16 January 2008, Hansard.
www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080116/halltext/80116h0004.htm

As explained on the previous page, given the undertakings made by the Government Minister in meetings with us, we are extremely disappointed by the draft review report. This ignores the marketing strategies shown in the report we submitted (cover on the right). Instead of examining whether breastfeeding is undermined it looked only at whether babies fed on formula are receiving follow-on formula too early. As the **UN Committee on the Rights of the Child** commented when calling for the Government to implement the minimum international marketing standards, *"aggressive marketing of breastmilk substitutes remains common."* (see Box on pg 10)

Here are some examples (all **Danone**) from the report submitted to the **Independent Review Panel** (see pg 11). **Left:** The cover of a **Cow & Gate** gift pack given to parents when they go to register the birth of their babies, containing postcards with the Cow & Gate brand to announce the birth. The Cow & Gate branded website is promoted, where infant formula is advertised. **Right:** This advertisement is for **Aptamil** formula in *Community Practitioner* journal stating that claims about the benefits of prebiotics (a term that is not permitted on labels) are scientifically proven and that Aptamil is the 'Best Infant Formula'. Similar claims were made in an advertisement to the public for **Aptamil** follow-on formula, but the **Advertising Standards Authority** ruled that the claims were not supported by the evidence, nor was it proven that



Aptamil is the 'Best Follow-on Formula'. **The Guidance Notes** for the law say that ASA rulings should apply across all promotional methods, but the ASA says it has no remit to enforce this. The ASA also refuses to investigate advertisements in health worker journals. The review ignores these and other failings with the regulatory system.

● In an article in **EU Food Law**, (21.08.09) Danone queried the expert used by the ASA in its adjudication and said it would not be removing the claims from either its website or its product labels. The Trading Standards body (LACORS) said it may investigate taking enforcement action. The ASA has indicated that it may include websites in the near future.





Just before World Breastfeeding Week a spate of media articles appeared in *The Times* and many papers across the world, quoting renowned scientist and researcher, Prof Michael Kramer, of McGill University as saying that there was "very little evidence" breastfeeding reduces the risk of a range of diseases from leukaemia to heart disease. Alerted by us, Kramer talked to the *Independent on Sunday* (IOS) (2.8.09) in an effort

to set the straight about his views. He said he had been "grossly misrepresented" and had not expected sensationist journalism from *The Atlantic* or *The Times*. Kramer confirmed his view that "The existing evidence suggests that breastfeeding may protect against the risk of leukaemia, lymphoma, inflammatory bowel disease, type 1 diabetes, heart disease and blood pressure. There is an IQ advantage to breastfeeding by as much as three or four points. Its not the difference between Einstein and a mental retard at an individual level, but it means having a smarter population on average, fewer children with school difficulties and more gifted children. I am not aware of any studies that observed any health benefits of formula feeding." But will this one article counter the hundreds of others?



Send for the *Risks of Formula Feeding* by INFAC Canada and the March 09 BFLG Report - *Hard Sell Formula* below



Recommendation of the Committee on the Convention on the Rights of the Child

The Committee, while appreciating the progress made in recent years in the promotion and support of breastfeeding in the State party...is concerned that implementation of the International Code of Marketing of Breastmilk Substitutes continues to be inadequate and that aggressive promotion of breastmilk substitutes remains common.... The Committee recommends that the State party implement fully the International Code of Marketing of Breastmilk Substitutes. [CRC to UK Sept '08]





EFSA and health claims

The European Food Safety Authority (EFSA) is ploughing its way through thousands of dossiers from companies to evaluate if the health and nutrition claims they wish to use are justified. EFSA will not meet its deadline of January 2010 and there are now calls that the companies who submit incomplete dossiers which waste EFSA's time should get penalty fines. Alternatively, charges could be made for assessments, but this could threaten the EFSA's independence.

So far EFSA has issued 540 opinions on adult foods and about 30 on claims for products for infants, young children and mothers. Up until now EFSA has required evidence (but not independent evidence) that a particular ingredient has a particular benefit for a particular population. Because of this approach the vast majority of claims for lipids, galacto-oligosaccharides (prebiotics), probiotics and nucleotides all claiming to help brain, eye, mental and cognitive development or to aid 'serenity' and 'calming,' have been rejected. This has infuriated industry who at a meeting with EFSA in June demanded more time and opportunity for consultation. Since then EFSA has allowed Danone more time to submit extra confidential evidence on a claim - submitted in January 08 - that "Immunofortis naturally strengthens your baby's immune system," This claim has already been rejected by the UK Advertising Standards Authority (see pg 10).

Merk challenged a negative EFSA opinion on its claim that synthetic DHA supplements during pregnancy and lactation can benefit eye and brain development. EFSA has since clarified its opinion and approved a general claim about maternal DHA intake. EFSA also approved Mead Johnson's claim, that its DHA and AHA in *Enfamil* follow-on formula helps visual acuity (see above right) even though the Cochrane Review of research on adding such ingredients to formula did not find any benefit.

Although product specific claims will probably not be allowed, this is not really a safeguard. Breastmilk substitutes compete with breast milk which contains over 100 fatty acids and over 130 prebiotics. And supplements for mothers invariably undermine confidence in breastmilk quality. So a claim of any sort will work. Indeed in 1996, Hambrecht & Quist Spot Report on the Martek Bio-sciences Corporation said: "Even if Formulaide (DHA/AHA)



This image appears on the Mead Johnson website. As you pull the lever across to the right on the graphic (adding more DHA enriched formula) the toy duck comes more into focus. Similar adverts have been used in adverts in China. Such images are powerful and deceptive and very undermining of breastfeeding.

had no benefit we think that it would be widely incorporated into most formulas as a marketing tool and to allow companies to promote their formula as 'closest to human milk'." Martek has cornered the market for its synthetic DHA, which is now added to 90% of US formula. But there also risks. In the US, 98 reports have been made to the Food and Drug Administration of adverse reactions to synthetic DHA enriched formulas - which some call 'diarrhoea formulas' and say should carry warnings rather than claims.¹ Sadly, EFSA looks only at 'efficacy,' leaving risk management to the Committee on Food Chain and Animal Health (SCoFAH), which decides whether and how a claim should be permitted. EC-ratified opinions must be implemented in six months, so by July 2010 claims on the negative list might go.

Follow-on milks

The UK Government position is that follow-on formulas provide no health advantage over breastfeeding or infant formula, (which can only carry claims listed in the *Infant Formula Directive* (141/2006/EC)). So claims on follow-on formulas are not only misleading and deceptive (there is no health advantage) but also contrary to UK policy. (See pg 18)

¹ Replacing mother - Imitating Breast Milk in the Laboratory.
www.cornucopia.org
www.naturalnews.com/027437_DHA_baby_formula_Martek.html



NORWAY BANS NUTRAMIGEN 2

The Norwegian Food Safety Authority has prohibited the sale of Mead Johnson's *Nutramigen 2 LGG* follow-on formula following two scientific opinions from the **Norwegian Scientific Committee for Food Safety (VKM)** and using the precautionary principle.¹ *Nutramigen 2 LGG* is classified as a **food for special medical purposes** so it does not have to have its claims cleared by EFSA. It contains *Lactobacillus rhamnosus GG* - a 'probiotic' strain. VKM is especially concerned about the possible negative long-term effects of using LGG on the micro flora in the gut and on the immune system.

● **Norway** is not a member of the EU but has an agreement to implement EU Directives. The **Convention of the Rights of the Child (CRC)** is **LAW** in Norway and its legislation adopted in August 2008 is stricter than the EU Directive in relation to follow-on formula advertising. (**Luxembourg** bans follow-on milk advertising).

EU Ombudsman decision

After a 20-month investigation, the European Ombudsman has decided not to uphold our complaint of 'maladministration' by the **European Commission**. We alleged that the Commission had failed to protect public health and had ignored Member States' obligations to implement the *International Code*. The Ombudsman's opinion focuses only on whether the Commission carried out "its tasks" adequately. *"No maladministration has been found as regards the complainant's allegation that the Commission failed adequately to carry out its tasks in relation to the functioning of the SCoFAH. Consequently, the complainant's claim relating to the working methods of the SCoFAH and expert committees in general cannot be sustained. This does not, however, preclude the complainant from addressing, if she so wishes, a petition to the European Parliament and proposing changes to the Comitology legislative framework."*

The Ombudsman fails to question the Commission's analysis of the status of the *International Code* or its importance: *"In any case, although the Code was only a recommendation, not an international agreement or convention, and was, therefore, not binding, Directive 2006/141 and other relevant EC legislation have endorsed most of*

its guiding principles." See: www.ombudsman.europa.eu/cases/decision.faces/en/4265/html.bookmark

Time to change the rules?

The Ombudsman decision, although disappointing, does imply that there may be merit in changing the way EU laws are formed. It may also have stirred things up a bit. The Commission seems to be responding a bit better to Member States, and in June agreed with the UK's concerns about bogus claims. It has also started discussions on a revision of the hugely important but invisible **PARNUTS Framework Directive**.^{*} The *Infant Formula and Follow-on Formulae Directive* (141/2006/EC) that governs all EU legislation on formulas came about because during the 1980s the **European Parliament** kept rejecting the Commission's weak proposals and demanded the implementation of the *International Code* as a European Directive. Parliament also questioned the scientific basis for including follow-on formulas in the Directive. In 1989 the Commission changed the rules, and created **PARNUTS** - effectively transferring the power to initiate and finalize legislation on baby foods and specialised foods to the European Commission - an unelected body. Parliament no longer had to be consulted and discussions could take place behind closed doors. **PARNUTS** has been a serious fault line which has run through the policy making process in Europe ever since with the Commission invariably putting the needs of industry before its responsibility to protect public health. We are calling for **PARNUTS** to be scrapped in favour of a more transparent and accountable process. ^{*} Council Directive on Foodstuffs Intended for Particular Nutritional Uses (89/398/EEC)

Optional ingredients

A major problem is the fact that the EU formula Directive allows companies to add 'optional' ingredients, "as the case may be." This is illogical and risky, especially since the **EU Commission** has used **PARNUTS** to argue against pre-authorisation of new ingredients. In our opinion ingredients should only be added when proven to be safe and essential through an independent review of all the evidence (that **MUST** include independently funded research). They should then be mandatory in all formulas of that type - not promoted, as they are, with claims. (For more about the risks see pg 12 and **INFAC** Canada's website: www.infactcanada.ca)

¹ In the absence of a scientific consensus that harm would not ensue, the burden of proof falls on those who would advocate taking the action.



Marketing onslaught on Vietnam

The **Associated Press** reports that it interviewed dozens of mothers, doctors, health officials and shopkeepers in **Vietnam** who said that formula companies pay doctors to peddle their products, promote products for infants under age one and approach mothers and health care workers in health facilities — all of which are against the law. AP continues:

The number of Vietnamese mothers who exclusively breast-feed in the first six months — the most crucial period — stands at just 17 percent, less than half what it was a decade ago, according to UNICEF. Meanwhile, formula sales in Vietnam jumped 39 percent in 2008, according to a study by Nielsen, a market research firm. Another survey found that the industry spent more than \$10 million on advertising last year, placing it among Vietnam's top five advertisers.....Health Ministry officials also announced they had uncovered dozens of violations of formula labeling rules.

*Multinationals break Vietnam law in formula sales 20.9.09
<http://abcnews.go.com/International/wireStory?id=8621684>*

Self-regulation does not work as a way to limit the extent and impact of marketing. Instead, self-regulatory systems promote trust in advertising among consumers and governments, undermining their resolve to bring in the legislation that is needed to protect health. Under these systems the volume of advertising increases.

*Corinna Hawkes, Int.Food Policy Research Institute,
Washington Presentation at the European Platform for
Action on Diet and Physical Activity. Feb 2007*

Industry compromises IPA

The **International Pediatric Association** issued an interesting statement for **World Breastfeeding Week**: “Unfortunately, promotion of breast feeding worldwide continues to be undermined by the unrestrained marketing of formula milks .. IPA has been concerned for years that the prominent public image of manufacturers of infant foods implies a relationship with the profession of pediatrics which compromises the IPA commitment to promotion of breastfeeding. In 2007 at its triennial meeting, the IPA Council of Delegates resolved unanimously that the IPA fully subscribe to the Code and encourage its Member Societies to do the same.”

Not so transparent EU?

The **European Food Safety Authority (EFSA)** has detailed rules and guidance on conflicts of interest such as: “As a general principle, any conflict of interest shall be incompatible with the obligations deriving from the function of the chairperson and vice-chairpersons.” But are these rules followed? Was EFSA's weak opinion on sugar influenced by the Vice Chair of its Carbohydrate Panel, **Andreu Palou**, who chaired a review on sugar funded by the sugar industry? **Albert Flynn**, the chair of the Panel that oversees the health claims, also declares financial links with the food industry.

6 month policies at risk

EFSA has a new **Working Group on Complementary Feeding** due to report by 2010. Some WG members, such as **Carlo Agostini**, **Seppo Salminen** and **Jean-Louis Bresson**, seem to have unacceptable links to the infant

feeding industry and several are co-authors of an ESPGHAN paper on Complementary Feeding which reintroduces the concept of complementary feeding from 4-6 months (rather than from 6 months which is WHO/Codex policy and already in place in the UK and many EU countries). If EFSA is to re-examine the 4-6 months recommendation, surely it should be based on a transparent and independent scientific review of evidence (if it exists) that the present six-month recommendation is harmful. The **UK National Infant Feeding Survey 2005** indicates that the policy has had a good impact so far, delaying the introduction of solids.

Childrens Rights in the EU

The new **Lisbon Treaty** should strengthen child rights in the EU. In addition to Art 24 of the **EU Charter of Fundamental Rights**, the new **Art. 3** of the Lisbon Treaty means that the EU will have to mainstream children's rights, ensuring that the ‘best interests of the child’ are taken into account in all relevant policy areas.



Coping with Typhoon Ondoy

This year's World Breastfeeding Week theme was *Breastfeeding - a vital emergency response* - see back page for details. The messages were heeded at the end of September when Typhoon Ondoy ravaged MetroManila with floods and muds which swept homes and humans away without mercy. The IBFAN group in the Philippines, Arugaan, together with La Leche League, Latch, Peace and Joy Mission Group and the Community Groups of the City of Taguig, helped with wetnursing, relactation and breastfeeding counselling in the evacuation centres. Pasteurized human milk was cupped by volunteer doctors and university students at the evacuation center.



photo: Arugaan

Closing loopholes in the Law

At the Nestlé AGM in April, in response to our question about its bad warnings on labels in the Philippines, Nestlé claimed to be '*confused*' about how to implement the Regulations. The Baby Feeding Law Group wrote to the Philippine Secretary of Health, Francisco T Duque III in May, highlighting how a weakness in the *Guidelines on Labelling* regarding warnings about intrinsic contamination is being exploited.

Our concerns were heard and a new draft law, fixing this and several other loopholes could shortly be adopted. The draft Law, has been discussed for the past two years and despite industry's attempt to water it down, still maintains the important provisions that are needed. It will hopefully do the following: **1** clarify the scope of the law (to include complementary foods and milks for pregnant women); **2** impose a total ban on adverts for products for infant and young children up to two years of age; **3** screen products from two years old and above; **4** ensure that the labels correctly carry the WHO recommended procedure for safe preparation of Infant Formula and that the warning about intrinsic contamination is accurate; **5** empower

the regulatory body with additional powers to enforce administrative sanctions, fast tracking the processing of violations and fines; **6** provide an avenue for citizen action so that complaints can be filed directly with a court instead of through a regulatory agency.

Prof Björkstén's visit

In UD19 and since we have highlighted how, in 1993, Prof Bengt Björkstén of the Karolinska Institute in Sweden was critical of Nestlé and '*hypo-allergenic*' claims. So we were disappointed to find that in the last year Nestlé, and an industry-funded organisation, '*Working for Working Mothers*' (WOW) sponsored him on trips to the Philippines. This prompted a complaint to the Bureau of Food and Drugs that WOW violated the Law in relation to the sponsorship. During his 2008 trip Prof. Björkstén suggested that babies born by caesarian section are immune suppressed. In March 2009, adverts promoting a new Nestlé infant formula for caesarian babies, *Nan Pro Gold*, claiming '*probiotic*' protection, appeared in New Zealand. But in April Björkstén said in an email to us: "*I am not aware of any serious scientist who is recommending probiotics and omega-3 to infant formulae, although they may be of some benefit.*"

Send for the Campaign Pack, which includes a DVD from UNICEF Philippines showing how claims on milks for older babies undermine breastfeeding in the Philippines.

PRODUCT PLACEMENT: stealthy and unhealthy

Media Minister **Ben Bradshaw** has announced a consultation on a proposal to lift the current ban on product placement in UK-made TV programmes from early 2010. As one of the 300 member organisations of the **Children's Food Campaign** we will be opposing this covert form of marketing of junk food to children, who will not be able to differentiate the advertising from the storyline. Bradshaw's predecessor, **Andy Burnham**, said product placement "contaminates our programmes." Like commercially sponsored education materials, it blurs the boundaries between advertising and editorial. Surveys show that 91% of people oppose this form of influencing children. While product placement will not be allowed during "children's programming" 71% of children's viewing is outside 'children's' airtime.

● The showing of Infant formula brands should be banned by the UK regulations, but follow-on milks will not be. As the **City of Joy** example (top right) shows, product placement can change storylines.

● In June 2009 a Dutch national government Senior High school examination for 18-year-olds included a question (forming 25% of the exam) based on a **Nutricia** infant formula, **Nenatal**, complete with registered trademark signs, promotional language irrelevant to the scientific content of the question.

See website for our briefing: *Tackling Obesity, How companies use education to Build Trust* and our education pack, *Seeing through the Spin*. www.babymilkaction.org/spin



In the 1992 film **City of Joy**, **Patrick Swayze** (who sadly died last month) played an american doctor working in a Calcutta slum. In the above scene he hands a mother of a malnourished infant (her hands stunted by leprosy) two cans of **Nestlé Lactogen** infant formula. This scene was not in the original book so we wrote to the Director, **Roland Joffé**, who denied it was product placement. see: www.youtube.com/watch?v=s28SP0lkSfM

When responding to the consultation remember to include all branded baby milks and foods:
www.sustainweb.org/childrensfoodcampaign/product_placement

**ACTION
POINT**

Party Conferences

John Redwood (who, as Secretary of State for Wales, signed the 1995 Infant Formula Regulations and was allegedly responsible for weakening them) spoke at a **Conservative Fringe Meeting, From Brussels to Business: How do we break the Red Tape Stranglehold on UK PLC?** in **October**. He proposed a regulatory 'budget' aiming to cut the costs of regulations by 20% over the lifetime of Parliament. We asked if we could be confident that a Tory Government would respect essential regulation (such as the International Code) which protects child health. He assured us that essential laws would be retained, but warned that every regulation has to be examined for 'side effects.' He couldn't remember his role in the 1995 Regulations.

EU election posters

The European Parliament responded to the many people who complained about posters and cards promoting the May election with the above image by saying:

"I can assure you that your views have been noted and that it is unfortunate that this image has been interpreted by some as encouraging bottle-feeding. This was never the intention."





World Economic Forum - a help or a trojan horse?

Non-Communicable Diseases (NCDs) such as heart disease, diabetes and cancer account for 60% (35m) of total worldwide deaths. Reduction of NCDs should ideally be included in the Millennium Development Goals (MDG). Undernutrition and overweight, which are associated with sub-optimal breastfeeding, contribute significantly to NCDs. Our work with WHO focuses on the control of inappropriate food marketing, so we pay close attention to WHO's interactions with the private sector. Together with public health NGOs we have been concerned about the formation of a new Global NCD Network. The Conceptual Framework for this new body proposes that the World Economic Forum (WEF) be a member of its International Advisory Council (IAC) which would provide 'strategic guidance' to WHO and advice on 'prioritizing possible responses.' Peter Brabeck, Nestlé Chair, (along with Tony Blair) is on the Board of WEF, which has 1,000 member companies, most with turnovers over \$5bn. We believe that allowing WEF to join the IAC would create a potential for undue influence of WHO policy and would send the wrong message to Member States. We have asked WHO to allow only public health bodies alongside Member States on the IAC. Once priorities are agreed, the Private Sector could then be consulted to act as multipliers

and to encourage members to work towards well defined public health goals. At the first NCD Network meeting in October, WEF was described as having no commercial agenda. However, in his presentation for WEF, Dr. Raynaud mirrored Nestlé's approach and language, referring to **Wellness, Respect and Trust**, the 'business case for investing in health' and the need to stimulate new market opportunities through **Public Private Partnerships**. WHO has assured us that it has not yet decided and that our views will be considered seriously. www.who.int/nmh/ncdnet_20090826_en.pdf

UNHCR poised to Bluewash Nestlé

We have had disturbing news that the United Nations High Commission for Refugees (UNHCR) is in discussion to expand a substantial partnership with Nestlé on water, sanitation and livelihood development. Nestlé joined UNHCR's Council of Business Leaders in Jan. 2005. Please write to the UN High Commissioner for Refugees, António Guterres, UNHCR, Case Postale 2500 CH-1211 Genève 2 Dépôt, Switzerland (fleming@unhcr.org) calling for a rethink on account of Nestlé's continued violation of human rights, not only in respect of the International Code, but on the many other issues listed on Page 21. Taking money from a Code violator undermines any work UNHCR or the UN system as a whole strives to do on infant and young child survival. www.innercitypress.com/unhcr1nestle111509.html

**ACTION
POINT**

World Health Assembly One Million Campaign



Representing **Save the Children**, we joined the IBFAN team for the WHA in May. IBFAN's Dr Arun Gupta, presented a petition of 45,000 names to the President of the World Health Assembly, H.E Mr N S de Silva, calling on governments to end the promotion of baby foods aimed at children under age two by 2015. (135,000 people have now signed the petition). See film clip and add your name online: www.onemillioncampaign.org

In an intervention on behalf of **Corporate Accountability International**, Dr Gupta called for an end to partnerships with the baby food industry, and drew delegates attention to the WHO Framework Convention on Tobacco Control

(FCTC).¹ This calls on governments to protect their health policies from interference by the tobacco industry. **Corporate Social Responsibility (CSR)** falls within the FCTC's definition of advertising and sponsorship and a new law in Mauritius bans CSR by the tobacco industry.

Breastfeeding an MDG indicator? At the WHA our call for breastfeeding to be used as an indicator for tracking progress on the MDGs progressed. The 2009 World Health Statistics now include exclusive breastfeeding for the first time. (UNICEF already includes breastfeeding as an indicator for MDGs.) Norway urged "Member States to ensure inclusion of early and exclusive breastfeeding in the list of indicators for tracking progress on MDG 4 and to request the Director General to use her good offices to advocate this inclusion within the UN system."²

¹ www.who.int/fctc/guidelines/article_5_3.pdf

² www.who.int/whosis/whostat/2009/en/index.html



WHO and Follow-on formula

The baby food industry continues to argue that follow-on formulas are not covered by the scope of the *International Code* and that its marketing of these products is not a problem. The World Health Assembly declared in 1986 that follow-on milks are 'not necessary' and the scope of the *International Code* clearly includes "...other milk products...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."

We wrote to WHO about a rather unhelpful paper on its Nutrition website, written by **James Akre**, which was also on **Nestlé's** Q&A webpage. We were pleased when this text appeared on the WHO website: "*The briefing note on 'Follow-Up Formula in the Context of the International Code of Marketing of Breast-milk Substitutes' is presently being considered for revision by the World Health Organization pending review of new and emerging information on the subject. It has therefore been decided by the Organization to withdraw the current version of the briefing note from its website.*" www.who.int/nutrition/publications/infantfeeding/en

Conflicts of interest

A "Critical review of WHO's report on "evidence of the long-term effects of breastfeeding....with respect to obesity" ¹ concluded that a statement that "breastfeeding causally reduces the risk of overweight obesity is unwarranted." In his "Disclosure of Financial Interest" (2005), one of the two authors, **Dr. David B Allison**, reveals grants and payments from over 100 companies including **Coca Cola**, **Gerber**, **M&M Mars**, **Merck**, **Nutricia** and **Pepsi**. In 2008 Allison tried to block a New York City ruling that restaurants list the calories of menu items, by writing an affidavit as a paid consultant on behalf of the restaurant industry. Following criticism from members of the **US Obesity Society** Allison resigned before taking up the position of President of the society. www.who.int/child_adolescent_health/documents/9241595230/en/index.html Obesity Reviews MJB Cope and DB Allison www.nytimes.com/2008/02/16/business/16obese.html?_r=1&scp=1&sq=conflict%20on%20the%20menu&st=cse Menu Fight Over Calories Leads Doctor to Reject Post, **STEPHANIE SAUL**, New York Times, 4.March.08

● The American Academy of Family Physicians has prompted outcry and lost members over its new six-figure alliance with **Coca-Cola** to fund educational materials about soft drinks. www.FamilyDoctor.org

● See our website for more information including a poster: *Infant Feeding and Obesity*

Danone will face boycott if it does not shape up

Nestlé once claimed to control about 40% of the baby milk market, but the latest Euromonitor report (pg 6) gives its share of the global baby milk and baby food market as 26% following its takeover of Gerber. Danone is in second place on 14% following its takeover of the **NUMICO** brands (**Nutricia**, **Milupa/Aptamil**, **Cow & Gate**).

Baby Milk Action contacted Danone after the takeover calling for it to bring marketing practices into line with World Health Assembly standards. In the last global monitoring roundup, *Breaking the Rules, Stretching the Rule 2007*, Danone and NUMICO were responsible for more violations than Nestlé, particularly as NUMICO tries to compete with Nestlé in Asia (we have already documented how Nestlé drives down standards - see Update 41). However, as Danone didn't own NUMICO at that time and has promised a 'root and branch review' of NUMICO's operations, it has been given the benefit of the doubt as far as a consumer campaign is concerned.

But its time is running out. IBFAN groups around the world continue to report violations and Danone shows no sign of bringing its policies and practices into line with the International Code (see pg 10) Examples will be collected for the next *Breaking the Rules* report and if Danone is found to be as bad Nestlé it will surely be time to call a boycott. The Nestlé boycott focuses on Nescafé, its flagship brand, though we list all the products from which it profits. If there is to be a boycott of Danone, which product do you think should be the principal target, not including products that may be essential to health such as infant formula?



Nestlé formula 'protects' strategy unveiled at 2009 AGM



Nestlé continues to mislead parents about its breastmilk substitutes, the latest strategy being unveiled at Nestlé's shareholder meeting in Lausanne in April 2009, showing how these strategies come from the very top of the company. Nestlé is claiming that its formula 'protects' with prominent logos on labels highlighting added **Long Chain Polyunsaturated Fatty Acids** (LCPUFAs) DHA, RHA, Opti-Pro (which implies it has visual benefits) and Bifidus.



Such claims are becoming widespread, including countries such as Malawi, one of

the poorest in the world with under-5 mortality of 140 per 1,000 live births. Campaign supporters will recall that in the past Nestlé refused to translate warnings and instructions in Malawi into the national language, citing 'cost restraints'. After a 3-year campaign, which led to this being exposed by **Mark Thomas** on UK television, Nestlé agreed in 2003 to add **Chichewa**, the national language, to labels. But now the warnings are undermined by the 'Protect' claim. Nestlé's reply to Baby Milk Action raising this ignored our concerns, but it responded on its website **babymilk.nestle.com**:

The functional benefits that are encapsulated in the 'Protect' logo are scientifically substantiated - the result of many years of intensive research on how best to improve the formula composition to stimulate the infant's immune system.

This claim does not stand up to scrutiny. The **Cochrane Library** does systematic reviews and in 2007 concluded that there was insufficient evidence to recommend the addition of probiotics to infant feeds. Cochrane also investigated the impact of adding LCPUFAs to infant formula in relation to vision, cognition and physical growth. It concluded:

It has been suggested that low levels of long chain polyunsaturated fatty acids (LCPUFA) found in formula milk may contribute to lower IQ levels and vision skills in term infants. Some milk formulas with added LCPUFA are commercially available. This review found that feeding term infants with milk formula enriched with LCPUFA had no proven benefit regarding vision, cognition or physical growth.

cochrane.org/reviews/en/ab000376.html

Tins in Malawi were found in a special display in a rural store. Nestlé was asked to investigate and to take action to stop such displays. It did not respond on this point in its reply to Baby Milk Action, but said on its website: "Had we had information about the retail outlet in Malawi that displayed infant formula in this incorrect fashion, we could have taken steps to correct it. Be this as it may, we are trying to identify the store and will definitely renew information to our distributors about marketing practices at shop level, that are in line with the Code recommendations."

Nestlé did not try very hard: the name of the store chain, **People's Cash and Carry**, appears in the photo. We have pointed this out to Nestlé after seeing its public comment. Nestlé simply dismissed Baby Milk Action out of hand when we raised our concerns, but it feels it cannot ignore messages from boycott supporters - and promises action. Clearly public campaigns work and we must keep them up. You can send messages to Nestlé and other companies about specific cases of malpractice by going to the 'codewatch' section of **www.babymilkaction.org**





Methodist Church denies Nestlé's claim of endorsement



Nestlé continues to claim : *"The Methodist Church is now a shareholder in Nestlé after the Church's **Joint Advisory Committee on the Ethics of Investment (JACEI)** said that there was "no compelling justification" against investment in the company on the basis of its involvement with breast milk substitutes."*

As we have reported previously, the **Church Central Finance Board** did invest, but explained why it did so: *"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."* The Methodist Conference responded to the JACEI report by adopting a text stating: *"These concerns may cause some through conscience to maintain a consumer boycott of Nestlé products."*

The Methodist Church required Nestlé to remove its misleading statement from its website, but Nestlé continues to make it in letters and emails to people raising concerns about its marketing practices - Baby Milk Action recently received such an email when we contacted Nestlé about the formula promotion in Malawi shown on page 19. Nestlé did not respond to the issues we raised, but trotted out its line on the Methodist Church. We forwarded this to our contact at the Church who responded:

Thank you for bringing this to my attention. I confirm that, in our meeting with Nestlé, we did raise the issue of the company's reporting of the Methodist Church position on Nestlé. These reports could be read to imply that Methodist Church provides a full endorsement of the company's performance on marketing of breast-milk substitutes which is not the case. Our position is outlined here :-

www.methodist.org.uk/downloads/ei_JACEI_nestle_statement.pdf

www.methodist.org.uk/downloads/ei_nestle_Methodist_Church_press_release_241105.pdf

Methodist Conference have requested that we remain committed to engaging Senior Executives in the company on the issue of breast-milk substitute marketing and other ethical issues.

Baby Milk Action did warn the Central Finance Board at the outset that investing in Nestlé would be used to undermine the campaign and pointed out it was not necessary to be an investor to gain influence over the company - we believe it would have had more impact by refusing to invest while Nestlé violates the *International Code of Marketing of Breastmilk Substitutes* and subsequent, relevant Resolutions of the World Health Assembly. Our suggestion was for the Church to back our call for Nestlé to attend our proposed independent, expert tribunal into its practices, particularly as JACEI had commented *"this was a complex and difficult issue.... highly technical... it would be possible to continue the discussion ad nauseum... the Committee did not have resources to do so."*

While it is welcome that the Church has raised Nestlé's misrepresentation of its investment, it is a concern that Nestlé has continued undermining our work regardless for three years, while paying dividends to the Central Finance Board from the profits it makes while doing so. The £1 million investment to 'seek change from within' has not stopped Nestlé. Nor has it prevented Nestlé launching a global relabelling campaign claiming its formula 'protects' babies. Perhaps it is time for the Central Finance Board to learn from how our public campaigns shaming Nestlé force changes (see pg 19).



Nestlé's Twitter PR disaster fuels the boycott in California



Twitter is a social networking internet site. People can post message with up to 140 characters. These can comment on a particular theme

identified with a 'hashtag', such as **#nestlefamily**.

This hashtag was set up by Nestlé when it invited people who write blogs on parenting to an all-expenses-paid trip to a 5-star hotel in California, complete with celebrity chef. Some turned it down, but 20 agreed to go and began sending 'tweets' to Twitter about their journey.

Other bloggers began to tweet about Nestlé's ethical record, including its baby food marketing. When the Nestlé USA Chief Executive turned up at the hotel to make a presentation, the bloggers were primed to put him on the spot about Nestlé marketing and relay the responses. Baby Milk Action became aware of what was happening because of the traffic coming to our sites from links posted to Twitter and we were able to post some key facts in response to Nestlé's claims.

Nestlé started tweeting for a short time, trying to put out the tweetstorm that had disrupted its PR event and offered to take questions. Baby Milk Action suggested a tweet debate, but this was not taken up.

Nestlé soon stopped engaging, but did respond in detail to a list of questions posted on the **PhD in Parenting** blog (see top right). These have been analysed on the blog and have fuelled rather than damped down anger at Nestlé's practices and attempts to justify them. So much so that **International Nestlé-Free Week**, scheduled for 26 October - 1 November, was taken up as a Halloween boycott in the United States, with articles and boycott lists on blogs and postings on sites such as Facebook and, of course, Twitter.



Call for Nestlé to be expelled from the UN Global Compact

The Nestlé Critics website draws together information from a wide range of experts on Nestlé practices, including exploitation of water resources, trade union busting, child slavery in the cocoa supply chain, treatment of dairy and coffee farmers, spying and so on. The **Nestlé Critics**

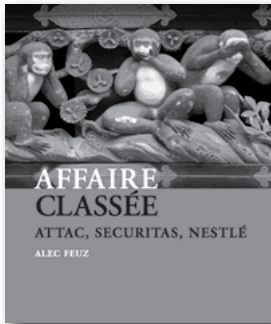
published an exposé of Nestlé's *Creating Shared Value* reports and sent this to the office of the **UN Global Compact** in June 2009. The Global Compact is a voluntary initiative, encouraging businesses to abide by 10 principles and publicising their stated commitment and reports. The reports are not checked nor audited by the Global Compact, even when it participates in launch events, as it has with Nestlé.



Nestlé Critics are arguing that Nestlé's dishonest reports and PR use of the Global Compact bring the initiative into disrepute and have called for Nestlé to be expelled under integrity measures. However, the Global Compact has told us its priority is to promote 'dialogue' before acting - ignoring the fact we have been 'dialoguing' with Nestlé for decades. (see also pg 17)



Nestlé spying case still in court



Campaigners in Switzerland are pursuing Nestlé through the courts in a civil case after it was revealed by Swiss Television that Nestlé had hired Securitas to infiltrate Attac Switzerland, which was producing a book on Nestlé business

practices. The spy, who was run by a former MI6 officer working for Nestlé, gained access to the editorial board and private emails and documents, including from baby milk campaigners and from Colombian trade unionists whose colleagues had been murdered by paramilitaries after organising at Nestlé factories. A book analysing the scandal was published in October. This is available in French at: suisse.attac.org/Un-livre-sur-le-Nestlegate-en

Nescafé promotion

In August Nestlé launched a £43 m Nescafé promotion in the UK. Nescafé is its flagship product and the principal target of the UK boycott, although Baby Milk Action encourages supporters to boycott all products from which Nestlé profits. Nestlé is by far the most boycotted company in the UK according to independent surveys.



You can order credit-card sized cards, Nescafé - No thanks cards and Give Nescafé the boot leaflets from Baby Milk Action.

**ACTION
POINT**

Peter feels the pinch

Peter Brabeck, Nestlé's Chair, has indicated that the company may leave its homebase Switzerland if the federal government imposes a cap on executives' salaries. Although his annual salary is officially *only* about \$5m, at the AGM in April we learned that, with his shareholdings, Brabeck probably earns more like \$16m.

Nestlé warns of possible exit from Switzerland (AFP) Sep 13,09

Nestlé and Cadbury

There has been speculation that Nestlé may try a hostile takeover of the Cadbury confectionery company. When Nestlé moved Rowntree brands overseas after its hostile takeover it cut the workforce. In 2008 the Amicus trade union said: *"Management have made clear that unless our remaining members accept significant cuts they face the same fate as their colleagues who have already lost their jobs. We are making clear to the company that although we will work with them to ensure the plant is viable and, if necessary, cost savings are made, eroding hard won and hard fought for pay and conditions and threatening employees with the sack is not an acceptable way to operate."*

Nestlé and Zimbabwe farmers

Nestlé was criticised in September for buying milk from confiscated farms in Zimbabwe being run by the wife of President Mugabe. Swiss regulations forbid dealing with members of the regime. Nestlé argued that no Swiss person was involved in the deal and suggested Nestlé Zimbabwe needed the supplies to keep operating and would otherwise have to pull out of the country.

We recall that in 1998 when Zimbabwe was planning to introduce laws for the marketing of infant formula, Nestlé also threatened to pull out, stating: *"This would result in job losses for about 200 people and an extremely negative economic impact on local farmers who supply us with milk, wheat, maize and sugar."* The Government went ahead, judging that Nestlé was in Zimbabwe for the good of its profits not Zimbabwe's farmers.

Nestlé has since stopped buying milk from the Grace Mugabe farms, but that hasn't forced it to leave the country. Now its line is it was only buying the milk because the Dairy Board couldn't and it didn't want it to go to waste.



Police monitor Facebook protest

The annual demonstration at Nestlé (UK) HQ in Croydon passed off peacefully on 16 May with protesters handing out leaflets to passers by and listening to the alternative Nestlé Chairman's speech, given by **Mike Brady** of Baby Milk Action. Prior to the event Baby Milk Action was contacted by Croydon Police who had been tipped off by the **Police Intelligence Unit** about the numbers of people signing up to the event on Facebook. We pointed out that people from around the world were giving their *virtual support* in cyberspace and we weren't expecting these people to arrive in Croydon from China and Sri Lanka and other countries, however convenient for Gatwick Airport.

● **Nestlé thanks us at its AGM** Campaigning shareholders, **ACTARES**, held a demonstration outside Nestlé's AGM in **Lausanne** in April 2009, handing out leaflets about the Nestlé spying scandal. Baby Milk Action's **Patti Randall** called on the new CEO, **Paul Bulcke** and the **Board** to rewrite its Annual Report taking into account the independent evidence of its widespread malpractice, to stop using health and nutrition claims, to stop opposing the adoption of strict legislation, to address the obesity problem (which had not yet been discussed at Board level) and to accept our Four Point Plan. **Peter Babeck-Letmathé**, previous CEO and current Chairman, said that since she no longer trusted him **Richard Laube**, CEO Nestlé Nutrition, should answer. Laube said that their internal audits showed a "trend to less, quote, violations of the code," but he denied they are the worst violators. He then gave us a vote of thanks saying: "Because we have found that when the Code is...the most strictly enforced at the national level, Nestlé's market share in business is the healthiest...inadvertently the Code has acted in Nestlé's favour. So we have every interest to uphold it and maintain it and we have absolutely no interest in undermining the code in any of our behaviours." (See pgs 8, 15 & 22)



Sheffield University keeps boycott

In March there was a cross-campus referendum at Sheffield

University asking: "Do you agree that the Union should end its boycott of Nestlé, although not actively promote their products, but engage with Nestlé and other manufacturers on the ethical issues involved in promoting breast-milk substitutes?" Jess Haigh (pictured) campaigned to keep the boycott. The team of five that Nestlé sent to lobby against the boycott could not win the argument over whether malpractice is taking place - it came down to the best method to prompt changes. Fortunately students

appreciated this was a ruse to undermine the campaign and backed the boycott.

Trust and anti-trust

Although Baby Milk Action 'engages' with Nestlé on many occasions, it takes public campaigns, backed by the boycott, to stop its malpractice. We also work for legislation implementing the World Health Assembly marketing requirements to create a level playing field for all companies. Companies oppose legislation in favour of codes of conduct, but also claim they cannot cooperate to end violations voluntarily, because of anti-trust regulations. Interesting then to read in PR Week: "Nestlé Waters, Danone and Highland Spring have joined together to launch a new association to lobby on behalf of the bottled water industry." That would be the same **Nestlé** and **Danone**, the two biggest baby food companies who are driving down standards as they compete.



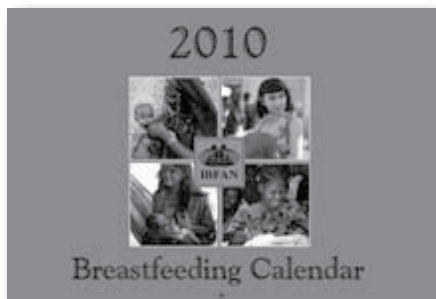
Calendar and book offer

IBFAN's 2010 breastfeeding calendar, with 12 A4-size full colour pictures of breastfeeding mothers from around the world, is now available. A great alternative to corporate calendars. (£7 inc. UK p&p, £6 each orders of 10 or more)



Fit to Bust, a book produced by Alison Blenkinsop, features songs and text in support of breastfeeding and the Nestlé boycott (£11 inc. UK p&p). Alison is donating money raised from sales to us.

Order both items and we'll send you a free set of these vintage notelets.
Pack of 6 for £5



I hear its the closest to breastmilk

This review of discussions about formula feeding on parents websites by Jessica Mitchell of the Food Commission, commissioned by the Caroline Walker Trust. A report on the composition of infant formulas in the UK by Helen Crawley of the CVWT will also be available shortly.

www.cwt.org.uk/publications.html

Breastfeeding - a vital emergency response

Emergencies can happen anywhere - making infants especially vulnerable. World Breastfeeding Week's 2009 Action Folder by the World Alliance for Breastfeeding Action and the Infant Feeding in Emergencies Core Group includes a Guide



for Action in four languages. The ICDC Guide, *The Code and infant feeding in emergencies*, illustrates how the International Code can help stop inappropriate donations and commercial exploitation.
worldbreastfeedingweek.org www.ibfan.org

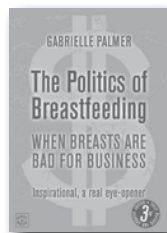
David Morley

Professor David Morley, CBE, MD, FRCP, founder and President of Teaching-aids at Low Cost (TALC), and one of our most valued advisors and friends, died on 2 July 2009 aged 86 years. A tribute from Felicity Savage King:
www.waba.org.my



The politics of breastfeeding - when breasts are bad for business

Gabrielle Palmer
£10 inc UK p&p.
Essential reading.



For more: www.babymilkaction.org/shop

DIARY DATES for 2010

Baby Milk Action AGM : 17th April
Nestlé AGM: 15th April
UCL/Institute of Child Health *Breastfeeding: Practice & Policy Course* 7th-25th June