

19 February 2007

Nestlé Philippines, Inc.
Administrative Office
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Rockwell Center
Makati City 1200
Philippines



Baby Milk Action is a non-profit organisation which aims to save lives and protect infant and young child health through independent controls on babyfood marketing.

We are a member of the International Baby Food Action Network (IBFAN), a network of over 200 citizens groups in more than 100 countries.

www.babymilkaction.org

www.ibfan.org

Dear D. Nandkishore,

Nestlé violations of the World Health Assembly baby food marketing requirements in the Philippines and globally

I am responding to your letter of 14 November 2006 in which you expressed ‘disappointment’ regarding our *Campaign for Ethical Marketing* in support of the Philippines government’s Implementing Rules and Regulations for the Milk Code.

I will go through the points raised in your letter in turn.

Nestlé and the Philippines regulations

You state in your letter that you have supported, in writing, the IRR. Yet I understand that Nestlé has in fact opposed the marketing restrictions on products for children up to two years of age, arguing that these should only apply to products for children up to one year of age. Further, I understand Nestlé is opposing a draft bill passing through Congress that encompasses the IRR provisions, in favour of a bill setting out its own weaker provisions.

Could you confirm that Nestlé has now changed its position and is supporting restrictions on the marketing of baby foods for children up to two years of age and all other provisions in the IRR? Can you further confirm that Nestlé will drop its opposition to the bill encompassing the IRR provisions currently being considered by the legislature? We will gladly publicise your response alongside our *Campaign for Ethical Marketing* action.

Nestlé violations in the Philippines

You claim in your letter that our criticisms of Nestlé marketing in the Philippines are based on allegations that are almost 10 years old. This is simply untrue. For example, we have highlighted the packaging of *Nestogen 1* infant formula, as currently on sale in the Philippines, which has the idealising claim that it contains ‘*Brain Building Blocks*’.

This is a reference to the Long Chain Polyunsaturated Fatty Acids (LCPFAs) in the formula. It states on the reverse of the label:

“*DHA - Experts recognize DHA as essential for brain development and good vision.*”

This is an idealizing claim that is not supported by scientific evidence. The influential Cochrane Library has reviewed studies used to back claims such as this and concluded:

"At present there is little evidence from randomised trials of LCPUFA supplementation to support the hypothesis that LCPUFA supplementation confers a benefit for visual or general development of term infants. Minor effects on VEP [visual evoked potentials] acuity have been suggested but appear unlikely when all studies are reviewed. A beneficial effect on information processing is possible but larger studies over longer periods are required to conclude that LCPUFA supplementation provides a benefit when compared with standard formula. Data from randomised trials do not suggest that LCPUFA supplements influence the growth of term infants."

See <http://www.cochrane.org/reviews/en/ab000376.html>

Article 9.2 of the *International Code* states very clearly: *"Neither the container nor the label should have pictures of infants, nor should they have other pictures or text which may idealise the use of infant formula."*

Nestlé not only uses idealizing text and logo, its health claim does not stand up to scrutiny. We call on Nestlé to stop using health and nutrition claims to promote its products.

Other violations featured included gifts of Nestlé umbrellas given to Barangay health workers in 2006. You are correct that we reminded people that Nestlé has a long history of targeting mothers in the community, but surely it is relevant to demonstrate that although we have repeatedly raised these issues with Nestlé, the company continues with similar practices.

It is not only our allegation that Nestlé aggressively promotes breastmilk substitutes in the Philippines. We referred to a 2003 German Television programme about Nestlé marketing in the Philippines that also found evidence of violations and we linked to the programme so people could view it for themselves.

Nestlé violations in other countries

You state in your letter: *"In the Philippines (as in every developing country), Nestlé complies with the provisions of the WHO Code or with those of the national regulations giving effect to the WHO Code, whatever is stricter."*

It is very disappointing to see Nestlé continues to make claims such as this despite the ruling made against it by the UK Advertising Standards Authority (ASA). Nestlé was warned in a ruling against an anti-boycott advertisement not to repeat claims suggesting it markets infant formula 'ethically and responsibly' or that its policies on infant formula marketing are in accordance with the WHO Code (the World Health Assembly marketing requirements). The ruling came after a two-year investigation, one of the longest ever conducted by the Authority. While this ruling was published by the ASA in 1999, Nestlé has not made the required changes to its policies and practices to justify its claims. It is regrettable that we are unable to call on the ASA to enforce its ruling when Nestlé makes similar claims elsewhere as

its mandate only covers UK advertising, but we ask that you respect the ruling nonetheless and stop making false claims about Nestlé and the WHO Code.

Monitoring conducted by the International Baby Food Action Network (IBFAN) around the world finds Nestlé to be responsible for more violations of the marketing requirements than any other company. Practices documented include: advertising of breastmilk substitutes, free samples and supplies, gifts to health workers and mothers, information materials for health workers not restricted to scientific and factual matters, sponsorship of health workers creating conflicts of interest, promotion of baby clubs to mothers and labelling violations.

The most recent global monitoring report, *Breaking the Rules, Stretching the Rules 2004*, had evidence from 69 countries. Nestlé has not made required changes to policies and practices and we have reported other significant cases of violations since the report. Examples include Nestlé targeting pregnant and lactating women in China in 'nutrition corners' in supermarkets with nutritional supplements and milks for older babies. In India, our partners exposed in 2006 Nestlé organising symposia for health workers and sponsoring cultural events for medical students in breach of Indian Law, as well as distributing leaflets on infant formula to parents in a clinic.

Nestlé is in court in India for failing to put required warnings on infant formula labels in Hindi. While you may correctly point out this case began in 1995, the delay in reaching a conclusion has been caused by Nestlé taking the Indian Government to court in an attempt at striking down regulations implementing the *International Code of Marketing of Breastmilk Substitutes* and subsequent, relevant Resolutions. Nestlé action against the Indian Government has failed enabling the court case on labelling to resume.

Nestlé's refusal to substantiate its claims

Baby Milk Action has invited Nestlé to attend an independent, expert tribunal in the UK where its marketing and IBFAN's evidence of malpractice can be examined in depth, with expert witnesses called by both sides. Nestlé is so far refusing to even set out its terms and conditions for participating. We have held a number of debates with Nestlé (UK) at universities and other fora and the company has lost every vote as its claims do not stand up to scrutiny when exposed by our documentary evidence. We now understand the Nestlé (UK) Head of Corporate Affairs is refusing to participate in future debates.

This refusal to submit its claims to scrutiny occurs not only with regard to events proposed by Baby Milk Action. In November 2000 the European Parliament Committee on Development and Cooperation invited Nestlé to participate in a Public Hearing into its baby food marketing activities in Pakistan, alongside IBFAN and UNICEF's legal officer. Nestlé refused, sending instead a consultant contracted by the company who could not answer questions regarding Nestlé's policies being out of line with the International Code and Resolutions.

We have recently seen that Nestlé has received a poor score in the Global Accountability Report produced by the One World Trust. This rated Nestlé's transparency and accountability in four areas and the company highest score was a little over 50% in just two areas. The quality of Nestlé's information disclosure policy was evaluated with a score of 0% (zero percent).

The fact that Nestlé violates the World Health Assembly marketing requirements in a systematic manner and is found to be the worst of the baby food companies in doing so has led to groups in 20 countries launching boycotts of the company's products as a way to put pressure on it to change. Nestlé is one of the four most boycotted companies on the planet, according to a survey conducted by GMIPoll. In January 2005 Nestlé received a shaming award in a global internet vote coinciding with the World Economic Forum for its irresponsible behaviour.

Given this pattern of behaviour and Nestlé's on-going aggressive marketing in the Philippines, we see no reason to change our *Campaign for Ethical Marketing* action sheet.

However, if you can provide a statement of unequivocal support for the IRR and will drop your opposition to similar provisions in the bills currently being debated, we will certainly report this. At the same time we call on you to stop immediately the violations in the Philippines referred to above and, in particular, give an undertaking to stop using health and nutrition claims to promote formula.

I am copying this letter to the same circulation list as your letter to me as well as Nestlé. S. A. Chief Executive Officer, Peter Brabeck-Latmathé, who claims he investigates any hint of a violation of the marketing requirements.

Yours sincerely,

Mike Brady
Campaigns and Networking Coordinator
Baby Milk Action

CC:

Secretary Francisco F. Duque, M.D., Department of Health of the Philippines, Manila.
Dr Jean-Marc Olivé, WHO Representative in the Philippines, Manila.
World Health Organisation, Geneva.
Peter Brabeck-Letmathé, Chief Executive Officer and Chairman, Nestlé S. A.