

# *How Conflicts of Interest are being redefined and why this matters*

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***Geneva Global Health Hub G2H2***

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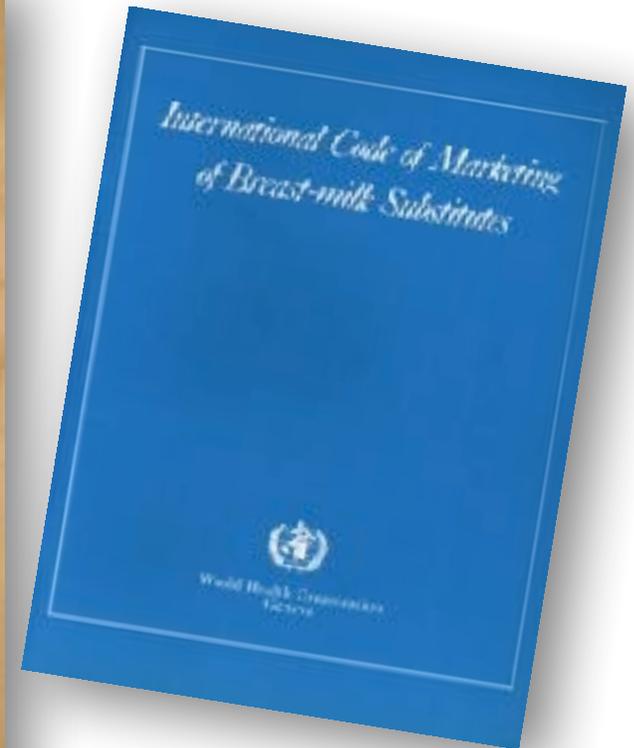
WHO GOVERNANCE AND CIVIL SOCIETY ENGAGEMENT:  
THE CONVERSATION CONTINUE



# Commerciogenic malnutrition



# 1981 – the International Code – the first tool to tackle marketing



# The baby food market was built on 'trust'

*"In less developed countries, the best form of promoting baby food formulas may well be the clinics which the company sponsors"*

Nestlé in Developing countries  
1970



*“The secret of success is sincerity. Once you can fake that you’ve got it made”*

Jean Giraudoux (1882-1944)

# Industry repositions itself

- Since 1981 the US has supported industry, opposing the Code's adoption, especially as a regulation.
- The industry has since tried to convince governments that international codes, legally-binding regulations or conventions are not necessary.
- The aim has been, and still is, to be seen as '**socially responsible**' and willing to **self-regulate** through **voluntary codes**.

# Learning from each other: the tobacco playbook

The screenshot shows the article page on the World Nutrition journal website. The header is dark red with the journal title and WPHNA logo. Navigation links include 'Current', 'Archives', 'Archive (issues 2014-2014)', 'Submissions', and 'About the Journal'. The article title is 'Interference in public health policy: examples of how the baby food industry uses tobacco industry tactics'. The authors listed are Sabrina Lonza Granhem, Kerrie Engelhardt, Patti Rundall, Stella Rinaldi, and Alexandre Bellomo. A central image shows a child in a field. A 'pdf' icon is visible below the image. The publication date is 2017-12-08. On the right, there are social media links for Facebook and Twitter, an 'Archive (issues 2014-2014)' link, an 'Information' section with links for Readers, Authors, and Librarians, a 'Make a Submission' button, and a 'Current Issue' section.

*'the infant formula experience has put back the multinational cause  
by 8-10 years...'*

The International Tobacco Information Center (INFOTAB) 1981

# Conflicts of Interest: one of IBFAN's key concerns



# Safeguarding WHO's Constitutional Core functions – as a norm-setting body

- To act as the directing and coordinating authority in international health work (Art.2a)
- To propose conventions, agreements and regulations.... (Art.2k)
- To assist in developing an informed public opinion among all peoples on matters of health (Art. 2r)

# Conflicts of Interest: a relatively new legal concept

- While some describe Col regulations for the UN system as being still in their **“infancy”** there has been a *«clear, agreed upon, meaning in both law and public policy for a long time »*
- Prof. Marc Rodwin, Journal of Health Law and Policy
- Indeed the ‘spirit’ of Col is known to everybody and the idea behind the Col concept and how to adequately address it has been enshrined in popular sayings, religious parables, stories and fairy tales for centuries!

- **1996: 1st WHA Resolution on COI (WHA 49.15)**



# So what is a conflict of interest?

- The “spirit” of conflicts of interest
- Conceptualisation by lawyers
- **Col and fiduciary law**
- Col relate e.g. to professionals who are, or can be conceptualised, in a ***fiduciary (trust) relationship***: judges; public officials & civil servants; more recently: physicians etc.
- Fides (latin) means trust, faith, confidence...

Ref: J. Richter, ?“Understanding conflicts of interests to safeguard democratic health and nutrition governance,” IBFAN-GIFA 2016

# *Fiduciary (trust) relationship*

- ***Fiduciaries (the trust-takers)*** decide and/or act
- on our (the trust-givers) behalf
- their decisions are important for us but we cannot check well on their decisions
- The **'trust givers' must be able to trust in their decisions**

# *Two broad categories of Col (not mutually exclusive)*

- «Conflicts between an individual's **obligations** and their **financial self-interest** or other self-interest» (e.g. gifts from corporations)
- «Conflicts arising from an individual's **conflicting or divided loyalties**, or dual roles or duties»

*Rodwin, forthcoming 2018*

# Institute of Medicine IoM Definition (2009)

## Institutional Conflicts of Interest

"Institutional conflicts of interest arise when an institution's own financial interests ... pose risks to the integrity of the institution's primary interests and missions."

*e.g. Conflicting loyalty Col  
Peoples' perception*

*«One cannot serve two masters»*



# Framework of Engagement with Non State Actors (FENSA), Global Programme of Work (GPW) Conflicts of Interest in Nutrition

All share the same problematic COI  
definitions, promoting PPPs

See List of IBFAN statements

# WHO's COI definitions do not conform to standard legal practice

- The definitions used by WHO in its approach to Conflicts of Interest mirror the weaknesses in **FENSA** and the understanding of CoI in [SUN's Ethical Framework](#):
- they confuse conflicts of interest **within** an institution or person with conflicts **between** actors who have diverging or fiduciary duties.
- The muddled definitions divert attention away from conflicts that exist **within** public actors, between their mandates and prime functions and their secondary interest to be adequately funded.

See e.g. J. Richter, "Comments on Draft Approach for the prevention and management of conflicts of interest in the policy development and implementation of nutrition programmes at country level", *WHO online consultation*, 29 October 2017, [http://www.who.int/nutrition/consultation-doi/judith\\_richter](http://www.who.int/nutrition/consultation-doi/judith_richter). J. Richter, October 2017, [http://www.who.int/nutrition/consultation-doi/judith\\_richter.pdf](http://www.who.int/nutrition/consultation-doi/judith_richter.pdf)

# 2016: Civil Society statement (60 NGOs) highlighted:

- that *“the entire FENSA fails to address how WHO should appropriately approach public-private hybrid entities that undoubtedly create avenues for undue influence on policy--making”*
- that *OECD Guidelines Managing conflict of interest in the public service* see public-private partnerships, sponsorships and lobbying as particular **“at risk areas”** for conflicts of interest.
- <http://www.oecd.org/gov/ethics/oecdguidelinesformanagingconflictinterestinthepublicservice.htm>

- Why does WHO not refer to the OECD Guidelines Managing conflict of interest in the public service stated already in 2003 that sponsorship and public-private partnerships constitute particular “at risk areas” for conflicts of interest?
- For links to critiques of the Global Programme of Work and COI Tools see:
- <http://www.babymilkaction.org/consultations>

- Excerpts from the problematic WHO documents.

# 1: Safeguarding against possible COI in nutrition programmes (EB 142/23)

- This paragraph **10 and the following paragraph 11,12,13** continue using and building on a definition of conflicts of interest (COI) that is straying from the traditional legal concept of conflict of interest and thus from its original legal meaning.
- *“According to standard legal usage”, explains Rodwin, “ a conflict of interest arises whenever activities or relationships compromise loyalty or independent judgment of and individual who is obligated to serve a party or perform certain roles”.*
- The definitions presented in para 10 and 11 of the draft EB 142/23 are – following on FENSA example - attempting to redefine conflicts of interest.
- Marc A.Rodwin, Professor of Law, Suffolk University law School, Attempts to redefine Conflicts of interest, Legal Studies Research Paper Series, Research paper 17-18, December 7, 2017.
- the Technical Report, **pp. 4-6**,WHO (2016). "Addressing and managing conflicts of interest in the planning and delivery of nutrition programmes at country level." Report of a technical consultation convened in Geneva, on 8-9 October 2015.

## 2 FENSA: how it describes the risks of engagement:

- **FENSA Para 7.** WHO's engagement with non-State actors can involve risks which need to be effectively managed and, where appropriate, avoided. Risks relate inter alia to the occurrence in particular of the following:
  - (a) conflicts of interest;
  - (b) **undue or improper influence exercised by a non-State actor on WHO's work**, especially in, but not limited to, policies, norms and standard setting;<sup>1</sup>
  - (c) a **negative impact on WHO's integrity, independence, credibility and reputation**; and public health mandate;
  - (d) the engagement being primarily used to serve the interests of the non-State actor concerned with limited or no benefits for WHO and public health;
  - (e) the engagement conferring an endorsement of the non-State actor's name, brand, product, views or activity;<sup>2</sup>
  - (f) the whitewashing of a non-State actor's image through an engagement with WHO;
  - (g) a competitive advantage for a non-State actor.

- **2: FENSA Para 4 is open to interpretation:**
- **Does FENSA enable PPPs or safeguard WHO? With a redefined COI then it becomes easier to use FENSA as an ‘enabler’.**
- *Para 4 .. In order to be able to strengthen its engagement with non-State actors for the benefit and interest of global public health, WHO needs simultaneously to strengthen its management of the associated potential risks. This requires a robust framework that **enables engagement and serves also as an instrument to identify the risks, balancing them against the expected benefits, while protecting and preserving WHO’s integrity, reputation and public health mandate.***

# 3 Draft 13th General Programme of Work (GPW)

- The draft GPW changed at the January 2018 Executive Board meeting but still contains a dozen worrying references to the benefits of private sector engagement with only a couple of safeguards against commercial influence that NGOs and others called for, including undoing the freeze on Member States Assessed contributions so that WHO would not have to rely on voluntary funding:
- **Para 111.** WHO can only accomplish the ambitious goals of GPW 13 with partners from all sectors including civil society and the private sector. At the same time, WHO must protect its work from conflict of interest, reputational risks, and undue influence.
- **Para 129.** ... more flexible financing will be critical. **The quality of funds is almost as important as their quantity. The Director-General has asked Member States to un earmark their contributions. This is a sign of trust and enables management to deliver. Increasing assessed contributions would also give WHO greater independence.**

EB142/3 Rev 2 26th January 2018 [http://apps.who.int/gb/ebwha/pdf\\_files/EB142/B142\\_3Rev2-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/EB142/B142_3Rev2-en.pdf)

# Why is the idea of full alignment of WHO GPW with the SDGs problematic?



# We need to ask ...

- Is the Constitution of a UN agency the same as an ‘agenda’?
- Is there anything in the SDGs that justifies turning WHO into just one actor, a “humble catalyst” in an “ecosystem of partnerships.”



SUSTAINABLE DEVELOPMENT GOALS

17 GOALS TO TRANSFORM OUR WORLD

## Goal No 17 *Partnership for Development*

**WHO** refers to SDG No 17 as a ***cross-cutting goal*** on the means of implementation that is relevant to all the others. It covers financing, partnership, technology assessment and data, monitoring and accountability.

[http://apps.who.int/gb/ebwha/pdf\\_files/WHA69/A69\\_15-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/WHA69/A69_15-en.pdf)

*Para 21 Health and the 2030 Agenda for Sustainable Development, WHO A69/15 April 2016:*



# SUSTAINABLE DEVELOPMENT GOALS

17 GOALS TO TRANSFORM OUR WORLD

## Goal No 17 *Partnership for Development*

17.16. Enhance the **global partnership** for sustainable development, complemented by **multi-stakeholder partnerships** that mobilize and share knowledge, expertise... and **financial resources** to support the achievement of sustainable development goals in all countries, in particular developing countries

17.17. Encourage and promote ... **public-private partnerships**...

<https://sustainabledevelopment.un.org/sdg17>



**SDG Action Sheet 2016 tells citizens what actions they can take to promote sustainable development:**

- **Multistakeholder partnerships [MSPs] will be crucial to ... accelerate progress in achieving the Goals**
- Encourage your governments to get partner with businesses for the implementation of the SDGs
- **SDG 2030 Agenda: No real definition of **MSP** and no mention of **COI**.**

# Why this matters

- Without **effective COI safeguards** the SDGs could fundamentally change the global health and nutrition governance structure and threaten WHO's capacity to fulfill its unique constitutional core functions.
- It could affect WHO's role in proposing health conventions and regulations. The building of the international Rule of Law will be fundamentally undermined.

## NCDs and COI - the new challenge

Now overtaking communicable diseases as a global problem: draining family and health care systems.

## Industry needed to change the conversation to get a place at the table

- “We are not like tobacco.”
- “Everyone needs food.”
- “We are not the problem – we are part of the solution...”

# BIG SNACK pretends to be BIG FOOD

- products *not* essential to health
- highly processed snacks eaten between meals or replace meals
- such companies not 'part of the solution'



# Single nutrient fortification – promoting highly processed foods



Stare at a banana all day and you will not see the nutrients it contains.

A quick glance at a package laden with health and nutrition claims immediately inspires confidence – even though many of the important nutrients have been destroyed by the high processing and storage.

- Through multi-stakeholder initiatives such as **NCD Net** and **NCD Alliance**, and more recently the **Global Coordination Mechanism**, the NCD agenda is being moved way from WHO control to the United Nations in New York - ostensibly to attract the attention of Heads of State and sectors other than health.

# March 2011: attempts to set up a multi-stakeholder WHO Global Health Forum in Moscow prevented

World Health Organization

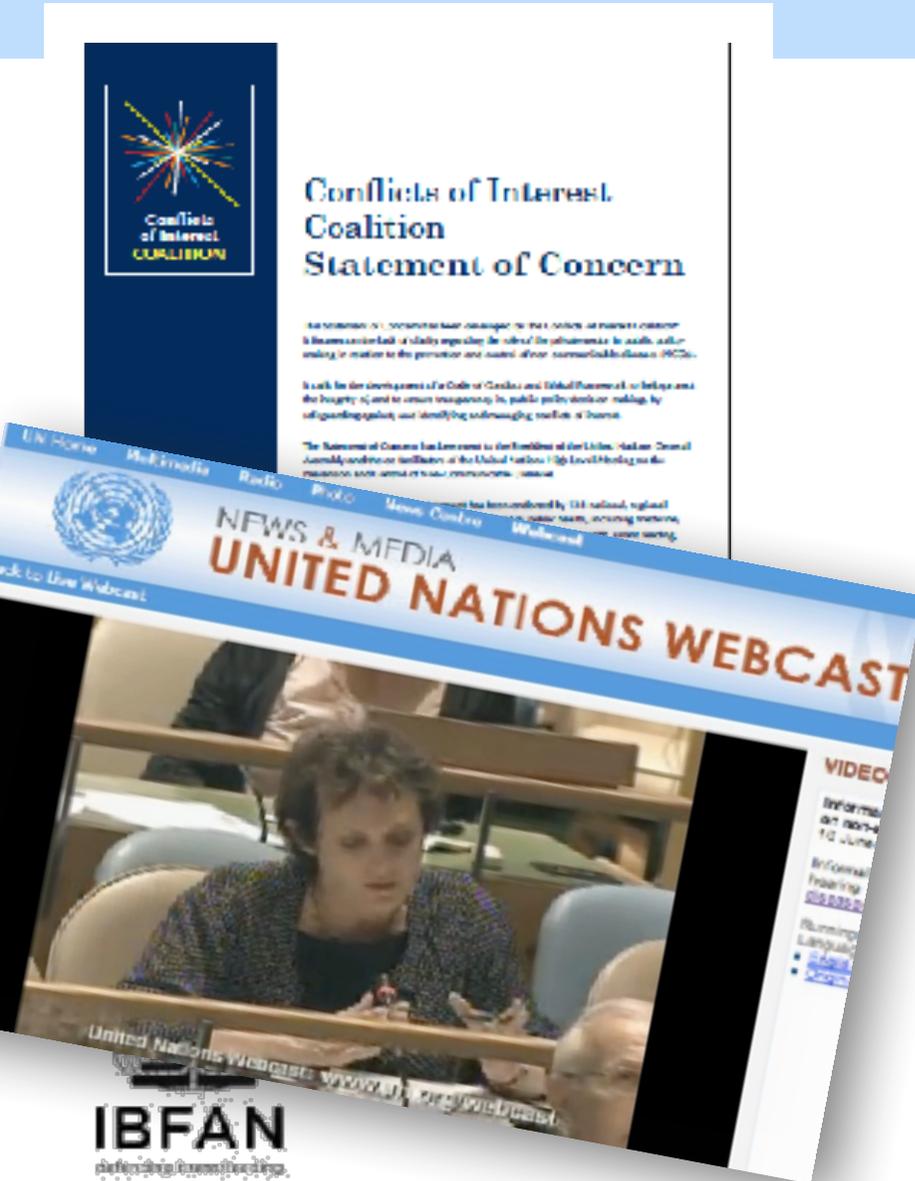
Closing Plenary

In response to a question on COI – Chan sings: “*Getting to know you.....*”



E  
*Civil Society groups working together  
.....  
.....  
challenged and stopped this move*

# UN Political Declaration: COI Coalition



- The Conflict of Interest Coalition was launched at the UN in New York in 2011.
- In a short period of time 161 NGOs, national, regional and global networks (representing some 2,000 NGOs) signed on, including 4 Royal Colleges in the UK.
- The aim of the **COIC** is to safeguard public health policy-making from commercial influence by better identifying, and maximally preventing CoIs in the NCD arena.



## What is the theme of Davos 2016?

By Fon Mathurus  
Nov 16 2015

f 763 t in 609

Over 2,500 leaders from business, government, international organizations, civil society, academia, media and the arts will participate in the 46<sup>th</sup> Annual Meeting of the World Economic Forum in Davos-Klosters, Switzerland, on 20-23 January. The theme of the Meeting is "Mastering the Fourth Industrial Revolution".

*World Economic Forum is a membership organization.*

*Its Members comprise 1,000 of the world's top corporations, global enterprises usually with more than US\$ 5 billion in turnover.*

# The World Economic Forum (WEF) Global Redesign Initiative

- **WEF's** Global Redesign Initiative proposes that issues are taken off the agenda of the UN system and are addressed instead by *'plurilateral, often multi-stakeholder, coalitions of the willing and the able.'*
- WEF envisages a world managed by a coalition of multinational corporations, nation states (including through the UN System) and select civil society organisations.
- **Tedros to speak at WEF next week?**

# Just sit back and trust us....



*“Tying corporations up in regulatory straightjackets is unnecessary when companies such as Nestlé already have sound principles and core values.”*

Peter Brabeck, Nestle Chair and CEO, AGM 2010. Vice-Chairman, Foundation Board, World Economic Forum.

# Self regulation: here today, gone tomorrow

- works only as long as companies want it to
- doesn't reduce the extent and impact of marketing. In fact the volume can increase
- undermines governments' resolve to legislate to protect health.

# Do multi-stakeholder platforms work?

- Consensus on actions that reduce profits are unlikely
- MSPs lead to a ‘lowering of the bar’ - small incremental changes, voluntary/self-regulation and self-monitoring (according to industry’s own criteria);
- ‘Codes of Conduct’ with no legal power are promoted as adequate ‘governance;’
- Corporate-funded ‘lifestyle’ educational activities predominate
- The offers of funding threaten the independence and watchdog role of the civil society organizations.

# Do Multi Stakeholder approaches work - do they speed things up or slow them down?

- There is increasing evidence that multi stakeholder approaches involving industry are not as effective as some claim.
- The findings of the analysis of **WHO's Global Coordinating Mechanism** (Preliminary evaluation EB142/15 add.1): *Despite the overall level of activity, the effectiveness of the activities and outputs in support countries' efforts to accelerate the implementation of the **WHO Global Action Plan 2013-2020** were considered to be **MODEST** ... activities are consistently rated more **useful** than **effective*** ([ADD LINK](#) to IBFAN and CS comments on the GCM)
- The European Commission's **Platform for Action on Diet Physical Activity and Health** has been bringing the major food and advertising industries together with NGOs in an effort to reduce obesity rates through voluntary commitments - after over 10 years there has been no evidence of real effect. For 2018 - the meetings are being reduced from 4 to 2 per year -perhaps signalling a disenchantment with the initiative? Better surely to work with town planners, small farmers and public health experts...

# *Practical examples*



# Capturing the monitoring systems

- The GAIN-sponsored ATNI index rewards actions that are problematic when left to companies whose marketing needs to be controlled:
- promotion of fortified foods
- consumer 'education' about healthy diets and active lifestyle
- engagement with 'stakeholders' in public private partnerships

Fortification: too much of a Good Thing? The Food Chain 5th July 2017  
BBC World Service <http://www.babymilkaction.org/archives/13901>

**ACCESS TO  
NUTRITION  
INDEX**

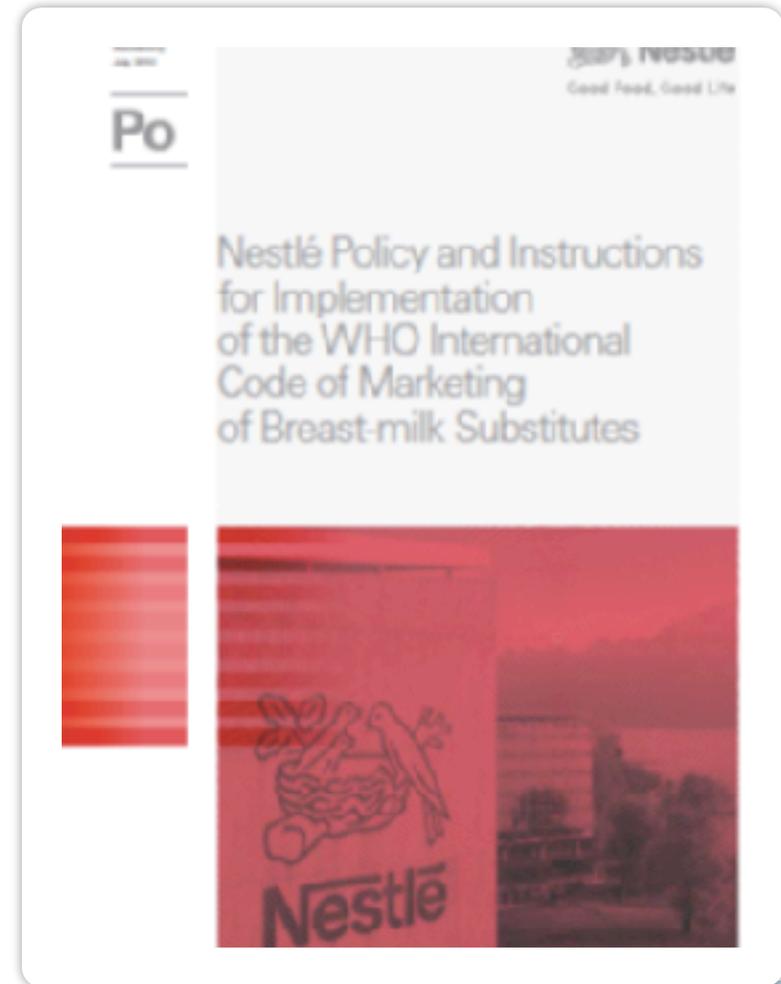
GLOBAL INDEX  
2016



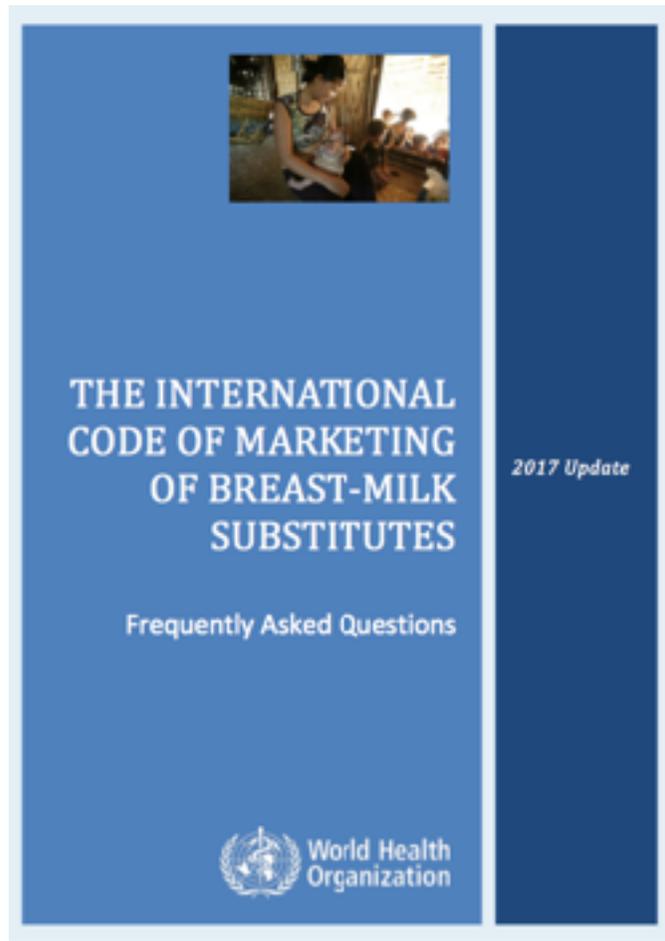
**The safeguards FENSA contains are open to interpretation. For example: what is meant by Para 45 “Engagement where particular caution should be exercised”**

Who decides if policies and activities are “in line”?

90% of violations IBFAN reports comply with Nestle policy!



# Which one is WHO - which one Gates?



**“no one should be a judge in his own cause.”**

The WHO publication [The International Code of Marketing of Breast-Milk Substitutes - 2017 Update Frequently asked questions](#) on the left of the previous slide summarises key WHA Resolutions. It leaves out a key section in [WHA 49.15](#) adopted in 1996, Para 3 of which urged Member States to ensure that: *“monitoring ...is carried out in a transparent and independent manner, free from commercial influence.”*

The publication on the right, [Breast-Milk Substitutes Situation Assessment Report](#), was compiled by the [Meridian Institute](#) and funded by a \$1.6m grant from the Gates Foundation. It proposes a new Global Monitoring Mechanism to be carried out together with the baby food industry. [Click Here](#) for IBFAN comment

**“inviting the fox to build a chicken coop”**

# Waking up in a SUN country



# SUN Business Network

- **99 companies by 2015**
- Chaired by DSM and includes Ajinomoto, Indofoods, PKL, Renata and DSM
- Globally, 164 companies have made commitments..
- SBN's business members will reach **1.3billion** beneficiaries between 2013 and 2020, equivalent to **166million** each year until 2020.

# WHO uses SUN's faulty COI

- SUN hired the corporate-funded [Global Social Observatory](#) (using \$1m Gates funding) to develop a COI process. The GSO has poor understanding of COI concepts.
- For example, they:
- focus on **trust** and **collaboration** rather than **caution** or **arm's length** approaches.
- confuse **conflicts of interest** with **disagreements** and **differences in opinions**.
- promote **inclusiveness** of all **'stakeholders'** (an industry term)
  
- **GSO now presents itself as an expert in COI!**

Richter, J. (2015). "Conflicts of interest and global health and nutrition governance - The illusion of robust principles." BMJ RR, 12 February.



# SUN and GAIN undermining government action

## The Scaling Up Nutrition (SUN) initiative IBFAN's concern about the role of businesses

The INTERNATIONAL BABY FOOD ACTION NETWORK (IBFAN) is a 25 year old global network that works to protect, promote and support breastfeeding and local-based complementary feeding. It is a global network of scientists, public health experts, and advocates who work together to ensure that the world's children have the best start in life. IBFAN is concerned about the role of businesses in undermining government action to improve nutrition and child survival. The issue is that the interests of the business sector are often put ahead of the interests of children and their mothers. This is particularly true in the area of complementary feeding, where the interests of the business sector are often put ahead of the interests of children and their mothers.

**Breastfeeding and child survival** The issue is that the interests of the business sector are often put ahead of the interests of children and their mothers. This is particularly true in the area of complementary feeding, where the interests of the business sector are often put ahead of the interests of children and their mothers.

**1 PROMOTION OF BUSINESS PARTNERSHIP** SUN encourages government, industry, and civil society to work together to improve nutrition. However, this partnership is often dominated by the interests of the business sector, which is not always in the best interests of children and their mothers.

**2 ASSISTING BUSINESS TO STRATEGIC PRIORITY** SUN encourages the business sector to invest in nutrition. However, this investment is often focused on products that are profitable for the business sector, rather than on products that are most beneficial to children and their mothers.

**3 LACK OF CLARITY ON OBJECTS OF INTEREST** SUN's objectives are often unclear, leading to confusion about what the organization is trying to achieve. This lack of clarity can result in the business sector pursuing its own interests, rather than the interests of children and their mothers.

**4 SUN ALLOWS GAIN AND BUSINESSES TO BE MEMBERS OF ITS LEAD GROUP** SUN's lead group includes the business sector, which is not always in the best interests of children and their mothers. This allows the business sector to influence the organization's priorities and actions.



- **2012**: GAIN was found to be lobbying Kenya to weaken their legislation.
- Following the IBFAN critique (published October 2012) SUN started claiming to be **'government led'** and referred to breastfeeding **both before** and **after 6 months**.

# The business of malnutrition is thriving



*'You have achieved 60% of what you want'*

Gerda Verburg, Coordinator of SUN, Nov 2016

Industry's top strategic priority is to change traditional food cultures

Babies are the perfect entry point for market-driven solutions.



# WHO/FAO Codex: where Global Trading standards are set

Codex standards are used as benchmarks in trade disputes.

# Pushing fortification and supplements under the 'malnutrition' banner

- IBFAN has attended Codex Alimentarius Commission meetings since 1995 - in order to bring standards into line with WHA Resolutions.
- On the current Codex agenda: Biofortification and GM, sweet unnecessary formulas for older babies, products targeting malnourished babies.
- 40% of delegates are food and related industries.
- **2017** US and France tried to remove references to WHO Resolutions. (3 of the 4 French Gov delegates were from industry). WHO is very effective and strong in Codex meetings.
- [IBFAN Press Release](#) : French and US Trade delegations put child health at risk
- <http://www.babymilkaction.org/archives/14021> To be trustworthy Codex standards should be protected from commercial influence

# GAIN in Codex: eggs are no use!



# Media capture – framing the debate



*“...the Gates Foundation’s pervasive influence is nonetheless of grave concern both to democratic global health governance and to scientific independence....”*

Anne-Emanuelle Birn, Philanthrocapitalism, past and present: The Rockefeller Foundation, the Gates Foundation, and the setting(s) of the international/ global health agenda. *Hypothesis* 2014, **12**(1): e8, doi:10.5779/hypothesis.v12i1.229.



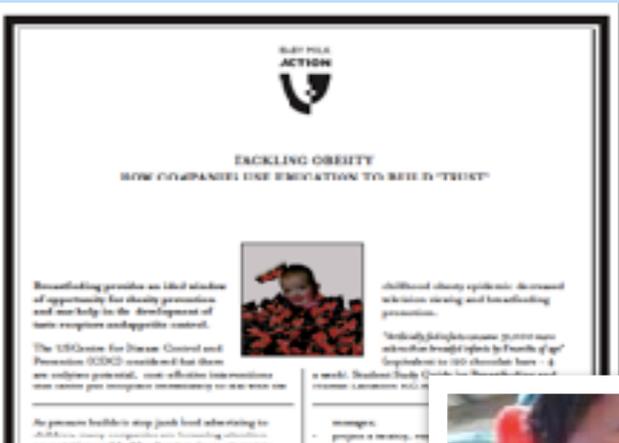
theguardian

Roundtable Discussion

From conception to reception - improving early life nutrition for mothers and infants



# Building 'trust' through education

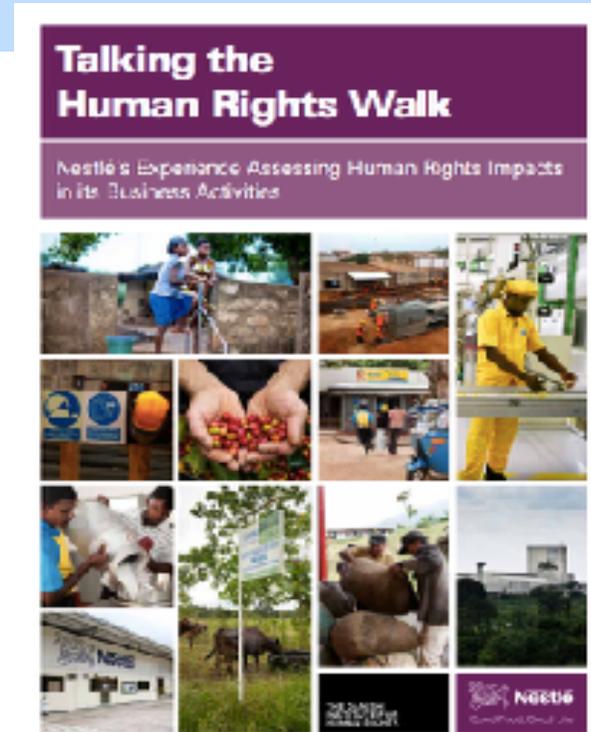


*"All too often the education process is entrusted to people who appear to have no understanding of industry and the path of progress...The provision of education is a market opportunity and should be treated as such"*

European Round Table of Industrialists, 1988

Since 1992 Nestlé has been sponsoring nutrition education programs in schools all over the world

# Using inequalities, child rights as CSR



**Education:** Manufacturers and distributors of breastmilk substitutes should not be involved in education. Their role is outlined in Para 44 of the Global Strategy - to produce safe products marketed according to the Code.

## Kinder® Surprises: the value of playing and safety



Playing and having fun, two activities which have an undoubtedly essential role in the development of a child, and fulfil the fundamental growth needs from a psychological, affective and relational point of view. Play is the lens through which children observe and experiment with their real (and not just possible) world, and it helps them throughout their development.

### Article 31 of the United Nations Convention on the Rights of the Child (November, 1989)

- States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and arts.
- States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

With this in mind, over forty years ago, Kinder® started to solve small surprise toys in some of the product lines designed for its younger audience, aware of the huge value of games in their lives and in their development.

In order to implement this task in the best possible way, Ferrero created the "Kinder Surprise Company" in 2018, a Division of the Ferrero Group dedicated to the creation and production of the small Kinder toys. Its vision revolves around the following objectives in an unshakable way:

#### VISION:

Create the most wonderful play experiences in a surprisingly small format that generates great emotions.

Use superior chocolate taste and selection throughout the whole supply chain for these toys, which I never compromise from their design to the final commercialization.

How Kinder® surprises have always been studied with a team, with the collaboration of psychologists specialized in emotional, relational and motor development during childhood, working on the basis of four principles:

1. Improving a child's abilities
2. Variety
3. A 360° experience
4. Universality

1. Improving a child's abilities  
Kinder® toys are created to encourage the development of specific attitudes of the child. In particular:

#### Cognitive development

The process with which surprise toys are presented stimulates the logical thinking and the reasoning of children, putting in play problem-solving capabilities together with curiosity.

#### Emotional development

The joy deriving from an achievement (successfully unearthing the surprise toy) and from the interaction with small toys conceived to appeal to children and which stimulate creativity.

#### Relational development

The interaction with friends and parents, facilitated by the proposed game experiences, helps the child to establish and create moments of joy in abrim with others.

#### Motor development

Assembling the surprise toy requires good hand coordination and attention: strength, logic and manual skills.

2. Variety: five play categories  
Every year a team of experts develops new ways of playing, aimed at stimulating children's growth in the most holistic way. The surprise toys found in some of the products are divided into five play categories, combining a wide and balanced assortment of toys and materials by surprise made specifically for boys and girls.



Ferrero claims to help fulfil Children's right to play by inclosing a toy inside their chocolates

# *Questions we need to ask*

# Questions

- Where did WHO's wrong COI conception come from? MSs?
- Why was it not corrected when pointed out?
- Is WHO's leadership aware how this is undermining its mandate to create international rule of law?
- What can be done to stop spreading this wrong Col conception (via FENSA, the Guide for staff, field testing of COI tools..)

- Should BIG FOOD be «**partners**» in the solution of food & nutrition related problems?
- Should corporations, venture philanthropies & public-private hybrids be seen as «**stakeholders**»/**non-state actors**
- **Should they** be included in public policy discussions on commerciogenic malnutrition and other health matters in the name of «**inclusive**» **governance**? Is this an appropriate role for corporations?
- Where are the relevant conflict of interest policies?
- Where are discussions about appropriate roles of actors?

# more questions....

- Would a stricter conflict of interest assessment and regulation really lead to the collapse of WHO risking drying up important “voluntary” financial contributions?
- ... surely lifting the freeze on assessed contributions would allow WHO to focus its attention on the most important issues? (for example helping countries build public health systems - free of COI )

***Are we now witnessing and facilitating policy capture of WHO by the food and related industry?***

- 
- 

Thank you!

[prundall@babymilkaction.org](mailto:prundall@babymilkaction.org)

[www.babymilkaction.org](http://www.babymilkaction.org)

<http://www.gifa.org/>

[www.ibfan.org](http://www.ibfan.org)



# For further references, see e.g.

Khayatzadeh-Mahani, Ruckert, Arne; Labonté, Ronald; (2017). "Could the WHO's Framework on Engagement with Non-State Actors (FENSA) be a threat to tackling childhood obesity?" *Global Public Health: An International Journal for Research, Policy and Practice*.

*Part: Discussion of the background paper, and 3.2. Breastfeeding: External Presentation, in* WHO (2016). "Addressing and managing conflicts of interest in the planning and delivery of nutrition programmes at country level." *Technical report*, <http://www.who.int/nutrition/publications/COI-report/en/>, pp. 4-6 & 9-10

Richter, J. (2016). Understanding conflicts of interest to safeguard democratic and evidence-based health and nutrition governance. Slide show (annotated version). Geneva, International Baby Food Action Network/Geneva Infant Feeding Association (IBFAN-GIFA), version May 2016, <http://aaci-india.org/global-consultation.html>

Richter, J. (2015). "Time to debate WHO's understanding of conflicts of interest." *BMJ RR* (22 October) <http://www.bmj.com/content/348/bmj.g3351/rr>.

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IBFAN statement on WHA Agenda item A67/6  
[http://ibfan.org/wbci/Statement-WHA-Reform-A67\\_6-with-reference-Final.pdf](http://ibfan.org/wbci/Statement-WHA-Reform-A67_6-with-reference-Final.pdf)

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Thanks to IBFAN-GIFA and Judith Richter for permission to use their annotated Conflict of Interest slide shows which contain further details and references.



# *Extra Slides*



# The revolving door – the case of Janet Voute

Business consultancy - moves to **World Heart Federation** –increases annual income (including \$\$\$ from **World Economic Forum**) **by 40% for 8 years** and professional endorsements on products

**2008** moves to **WHO** with special responsibility for promoting alliances with industry in particular by means of public-private initiative the UN Global Compact.  
Sets up **NCD Net** – with **World Economic Forum** in an Advisory role.

**2010** No cooling off period: **Nestlé, Vice-President global public affairs**. Chairs Nestlé's Creating Shared Value.

**2011** UN General Assembly – sits as “Civil Society”

Refuses answer the question about Prof Black (see UD46 - next slide. <http://info.babymilkaction.org/update/update46page25>)



# Lack of attention to COI in medical journals

The *Lancet* Child Survival series

In 2003 breastfeeding topped the list of interventions to prevent under-5 deaths. 2013 much more emphasis on micronutrient-based foods and supplements.

8 of the 10 recommended intervention packages involve products of some kind.

The private sector is also called on to generate *'evidence about the positive and negative effects of private sector and market-led approaches to nutrition.'*



## Research, transparency and conflicts of interest



Is transparency a sufficient safeguard against bias? We have asked the *Lancet* to review the effectiveness of its conflicts of interest policy given that two lead authors of *Lancet* on *Maternal and Child Nutrition*, published in June 2013, declared that they are members of Nestlé's Creating Shared Value Advisory Committee. Such advisory roles could depending on the circumstances result in work seen from European Food Safety Authority (EFSA) working groups.

Here is an email correspondence with Janet Youre, Nestlé's Vice President, Global Head of Public Affairs, asking about the triangular remuneration made to CSV Committee members. We have since written to Nestlé's CFO to see if he will answer our simple question.

**1**  
From: Patti Randall  
Sent: 12 February 2014  
From: Janet Youre

Dear Janet... In previous correspondence you say that Nestlé does not pay a salary to CSV Global Council members. However, in the article of transparency can you confirm that they do not receive the financial or financial product compensation of any kind from Nestlé? Thanks very much... On another point I notice that the list and profiles of the CSV Council members seems to have disappeared from the website. Could you explain this? Patti

**2**  
From: Janet Youre  
Sent: 12 February 2014  
To: Patti Randall

Dear Patti, As I said before our CSV Council members do not receive a salary from Nestlé. As we are currently reviewing the charter for the group, once this is done, we will make additional information publicly available. I can't unfortunately give you a specific date as to when the information will be published. We are also in the process of preparing the 2013 Nestlé is Society Creating Shared Value report for release in time for the Annual General Meeting. This document may undergo changes to how it will be shared with the pleasure of your company open? Do you think it might be a way something better for you? Janet

**3**  
From: Patti Randall  
Sent: 13 February 2014  
From: Janet Youre

Dear Janet... Sorry. This might be a language issue but my understanding of the word 'salary' is quite different from my understanding of the word 'fee' 'remuneration' or other financial compensation. Can you could clarify your response on this particular point? It would be very helpful. Many thanks, Patti

**4**  
From: Janet Youre  
Sent: 13 February 2014  
To: Patti Randall

Hi Patti, Our CSV Council members do not receive a salary from Nestlé. One thought for the day...if you used to mean 'incentive' change in an industry then you need to work with the industry leader. I am sure that you fundamentally disagree but I thought it was worth a try... Janet

The *Lancet* Child Survival series has an important influence on health policies. In 2003 it concluded that breastfeeding topped the list of interventions to prevent under-5 deaths. While the 2013 Series still recognises breastfeeding's importance, there is now much more emphasis on micronutrient-based foods and supplements. 8 of the 10 recommended intervention packages involve products of some kind. The private sector is also called on to generate evidence about the positive and negative effects of private sector and market-led approaches to nutrition.

In November Richard Horton, the Editor of the *Lancet*, issued the following questions:

Can anyone out there give me evidence about Nestlé's negative influence on health? Opinions are strong and facts are out there. The power of big food a few corporate conglomerates shape the way you live your life. How do we resist?

Among those who responded was Prof Anthony Costello who asked:

'Maybe one way to resist big food is not to have members of Nestlé's advisory board directing the *Lancet* Nutrition Series'

# Medicine, painting and politics

*The R.C. Maxwell Co. Atlantic City N.J.*

**Keep politics  
out of  
this picture.....**

National Education Campaign - American Medical Association



**THE DOCTOR** by Sir Luke Fildes  
in the National Gallery London

In 1949, this painting by Sir Luke Fildes, *The Doctor*, was *misused* by the American Medical Association (AMA) in their campaign against President Harry S. Truman's proposal for nationalized medical care. 65,000 posters and brochures carried the slogan: *Keep Politics Out of this Picture*. The implication was clear: any involvement of the US Government in medicine would negatively affect the quality of care – the sick child would not get a home visit. The campaign worked and helped raise public skepticism for the reform of health care in the United States. **The AMA has continued to argue that health services should be "provided through private markets, as they are currently."**

*The organised American Medical Profession's Response to Financial Conflicts of Interest: 1890-1992*. Millbank Quarterly, 1992 and *Medicine, Money and Morals: Physicians' Conflicts of Interest*, 1993 Marc.A. Rodwin

# How do you choose a partner?

- The UN 'Roll Back Malaria' initiative is often used as a model partnership model
- But no one suggests partnering with the mosquito (the cause of the problem, hoping they will change) so why partner with a junk food company?

