

# NESTLÉ

Evidence of violations of the International Code of Marketing of Breastmilk Substitutes and subsequent resolutions

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## BRANDS COVERED BY THIS REPORT

### BREASTMILK SUBSTITUTES

Alfaré  
Beba  
FM 85  
Good Start  
Guigoz  
Lactogen  
Nan  
Nativa  
Neslac  
Nestogen  
Nidal  
Nidina  
Nido  
PreNAN  
S-26\*  
SMA\*  
Iluma

### COMPLEMENTARY FOODS

Cerelac  
Nestlé Gerber\*\*  
NaturNes  
Nestum  
Sinlac  
\*Acquired from Pfizer Nutrition  
\*\*Acquired from Gerber

## RELEVANT LOGOS AND ICONS



## GENERAL INFORMATION

Nestlé is a multinational corporation headquartered in Vevey, Switzerland. Since its creation in 1866, it has grown to be the largest food and beverage company in the world as measured by revenue, profits, assets and market value.<sup>1</sup> In 2016, it managed CHF (Swiss Francs) 89.5 billion in sales and achieved a CHF 8.5 billion profit.<sup>2</sup>

Nestlé is fond of telling and re-telling the story of its pharmacist founder, Henri Nestlé who, in 1866, saved a neighbour's baby's life by concocting a flour & sugar-based milk (farine lactée). This mixture was subsequently mass-produced and exported as "Complete food for babies". Shortly after,



the company invented condensed and evaporated milks, which were also widely distributed and used for infants. These first products to be marketed by Nestlé grew into big business. The company now has a vast product portfolio ranging from coffee, chocolate and

confectionery to breakfast cereals, ice cream and pet food. Today, Nestlé has over 2000 brands present in almost every country of the world.

Nestlé markets multiple formula products and complementary food brands. Some are the result of major corporate acquisitions, including Gerber from Novartis (2007) and Wyeth from Pfizer Nutrition. (2012)

The stylised icon of a bird feeding its young features on many Nestlé infant and young child feeding materials and formula labels, and is a 'fatted-up' version of the company trademark. The Nestlé Blue Bear is more commonly seen on complementary food items such as Cerelac.

\*Brands under Wyeth Nutrition can be found under a separate section at the end of this report.

<sup>1</sup> 2017 FORBES Global 2000.

<sup>2</sup> Nestlé's Annual Review 2016.

## Financial performance

Nestlé is the leading company in the global market with annual sales for Nestlé Nutrition totalling CHF 10.3 billion in 2016. (10% of total company sales) Almost half of annual sales for Nestlé Nutrition (44.5%) came from the Asia, Oceania and sub-Saharan Africa (AOA) region, with just over a third (36.3%) from Zone Americas (AMS). South East Asia reported solid growth, but low dairy prices and competition in China negatively impacted on market dynamics. Slow growth was observed in the United States and the **Gerber** brand is being revamped to include a focus on organic offerings. Product innovations in Brazil and Mexico helped achieve positive growth in Latin America.

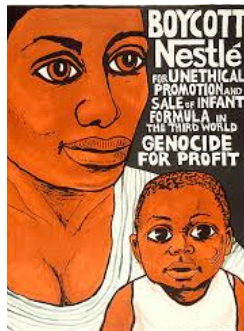
## Company ethos and the Nestlé Boycott

Nestlé does business according to its 'Creating Shared Value' (CSV) strategy. It aims to link business benefits with social impact, and is described as its "way of delivering a long-term positive impact for shareholders and for society, through everything we do as a company."

Nestlé states the principles behind CSV have always been with them, even though the strategy was only introduced within the past decade. However, it was the antithesis of CSV principles that led to the biggest consumer boycott ever launched against a company.

The Nestlé Boycott began in 1977 as a result of the negative social impact of its aggressive promotion of formula and other baby foods. Nestlé was accused of undermining breastfeeding mothers, targeting them directly through advertising campaigns, free samples, misled doctors and nurses who claimed formula was as healthy or even better than breastmilk.

The "baby-killer" Boycott was so effective, well publicised and widely followed that in 1981 the World Health Assembly (WHA) adopted the International Code of Marketing of Breastmilk Substitutes.



Campaign posters from the Nestlé Boycott.



## Marketing approach

Nestlé unifies its global marketing strategy for baby foods under its "Start Healthy Stay Healthy" (SHSH) slogan and positions it as part of CSV corporate responsibility. This worldwide education programme is introduced in over 40 markets and has reached 55 million people according to the CSV 2016 annual report.

Nestlé's global marketing slogan for baby food is 'Start Healthy, Stay Healthy'. It is also used for an 'education' programme in over 40 markets. The stylised bird icon that features on Nestlé formula products is part of the slogan.

The aim of the Start Healthy, Stay Healthy programme is to "educate parents on the importance of nutrition in the first 1000 days of life, from conception to a child's second birthday". Under this programme, Nestlé exploits the 'first 1000 days' concept, first established by the Lancet and then adopted by UN agencies and non-profits to improve maternal and child nutrition in public health programmes. Perhaps unsurprisingly, the attractive round number of the 'first 1000 days' was seized as a marketing opportunity by Nestlé (and others) and now is integral to their marketing approach. There is a '1000 days nutrition programme' and a 'My First 1000 Days Club', featuring on the Start Healthy website .

Materials on the 'Start Healthy' programme compete with those provided by public health care systems, and give the public perception that Nestlé is a health partner. Under the guise of the Creating Shared Value ethos, Nestlé passes itself off as an active public health advocate. Instead it has hijacked global health campaigns to strengthen its brand and ultimately increase profits. The programme blurs and crosses lines of conflicts of interest.

## Commitment to responsible marketing?

“We are committed to market BMS responsibly by complying with the WHO Code **as implemented by national governments** throughout the world as a minimum.”

- Nestlé CSV 2016, emphasis added.

The above commitment represents a distinct shift from Nestlé's marketing policy (see discussion below under **Policy**). It also contradicts Code Article 11.3 which states that *independently of any other measures taken for implementation of this Code, companies should regard themselves as responsible...for ensuring that their conduct at every level conforms to them.*

Nestlé also states that it will continuously strive to improve its practices. Indeed, one of its 42 commitments in its CSV 2016 report is to “*support breastfeeding and protect it by continuing to implement an "industry-leading policy" to market breastmilk substitutes responsibly.*”<sup>4</sup> It outlines its compliance to this commitment in three ways:

- its policy
- audits and monitoring and
- performance in global indices.

### • Policy

This “*industry-leading policy*” that Nestlé describes was drawn up in 2010 (‘**Nestlé Policy and Instructions for Implementation of the WHO International Code of Marketing of Breastmilk Substitutes**’), and has not been updated since, despite several WHA resolutions and recommendations being passed in the interim. The Policy is Nestlé's own interpretation of the International Code, and the blueprint for how it markets breastmilk substitutes. Unfortunately, it differs in quite a number of ways from the Code and subsequent resolutions. (see Table 1 “Where Do They Differ?” for analysis).

### • Audits and monitoring

Besides its Policy, Nestlé verifies its so-called compliance to responsible marketing of BMS with routine internal monitoring, internal audits and external verifications by the agency Bureau Veritas. It publishes an annual external report which summarises the results of its compliance record according to these verifications.

Critically, these audits and monitoring only measure compliance against Nestlé's own Policy and any relevant national legislation, not against the International Code. This is significant, because certain countries do not have sufficient legislation to implement the Code in full, and the Nestlé policy is weak when compared to the Code.

“It is so much easier for Nestlé to claim success by measuring itself against its own flawed Policy. If Nestlé wants to meaningfully measure its compliance, it must bring its Policy in line with the Code and measure itself against the Code and resolutions as global minimum standard rather than against weak national legislation or a flawed Policy”

Nestlé lays it on thick...

*"Our nutrition performance is independently audited and verified annually. We participate voluntarily in a number of third-party reporting initiatives...our leadership has been recognised in several rankings and indices."*

- Nestlé CSV 2016 (p33)

### • Performance in global indices

To gain positive public relation from its much vaunted “leadership”, Nestlé often highlights its performance in two global indices, the **FTSE4Good** and the **Access to Nutrition Index (ATNI)**. However, the inclusion criteria is fundamentally flawed for FTSE4Good, while Nestlé's performance within the ATNI index remains shameful. (see previous pages)

<sup>4</sup> Nestlé 2015 Annual External Report. Compliance with the Nestlé Policy and Instructions for Implementation of the WHO Code and local legislations on the marketing of breastmilk substitutes. Available from [http://www.Nestlé.com/asset-library/documents/r\\_and\\_d/compliance/2015-external-report-code-compliance.pdf](http://www.Nestlé.com/asset-library/documents/r_and_d/compliance/2015-external-report-code-compliance.pdf)

## FTSE4Good

FTSE4Good is an ethical investment index that aims to provide investors with means of measuring the performance of companies in meeting their environmental and social responsibility. It encourages improved practices by setting standards based a set of fixed criteria.



When the index was first launched, all companies that marketed breastmilk substitutes were excluded from the infant food sector as they were all breaching the Code and relevant resolutions. Consequently, the inclusion criteria were lowered as FTSE4Good believed they could not engage with any companies if none were included in the index.<sup>7</sup>

After the FTSE4Good BMS marketing inclusion criteria were revised in 2010, Nestlé became the first BMS company to be included into the FTSE4Good index in 2011. This achievement is widely used by Nestlé as a performance indicator for their commitment to responsible marketing. However, UNICEF and various NGOs including Save the Children and IBFAN have underlined serious flaws in the FTSE4Good inclusion criteria and have recommended it be changed in this regard.

### Box 1

FTSE4Good made several concessions in order for Nestlé to qualify into the index. They are -

1. Companies do not have to demonstrate Code compliance to qualify for entry into FTSE4Good.
2. Company activities are assessed against the company's own policies, rather than the Code and relevant resolutions.
3. FTSE4Good assessment criteria only applies to higher-risk countries (distinguished by rates of child malnutrition and mortality). The Code is a universal minimum and does not distinguish between high-risk and low-risk countries. The distinction comes from Nestlé. (FTSE4Good states that it aims to eventually align requirements for all countries, as more companies move to meet the entry criteria).

The proposed gradual alignment of FTSE4Good criteria with the Code if more companies participate leaves much to be desired as much damage would have been done in the interim to undermine the efforts of national governments and civil society groups to hold companies to account.

It must be reiterated that although FTSE4Good criteria state it requires company policies to align with the Code, two separate analyses have shown that the Nestlé policy does not.

(see ATNI's analysis in Box 3: for IBFAN's analysis see Table 1 under "Where Do They Differ?").

### Mischief resulting from FTSE4Good

Since being included in FTSE4Good there has been a subtle but significant change in focus in Nestlé's official reports and PR materials. The company now takes its inclusion as an opportunity to glorify its commitments to responsible marketing.

In parallel, the inclusion is used to undermine the Code. In fact, Nestlé has abandoned its previous commitment to "*adhere to the WHO Code as a minimum requirement in these countries [those at higher risk in the developing world]*". Instead, it gives off an air of corporate responsibility by lauding its FTSE4Good achievements at every opportunity. There is even a specific CSV 2016 objective to "*ensure that the practices of the Nestlé Nutrition business consistently meet the FTSE4Good Index BMS criteria*". The language and phrasing often give the impression that FTSE4Good is the gold standard for responsible marketing, rather than the Code. The superficial inclusion criteria of FTSE4Good and Nestlé's weak Policy are ignored.

### Nestlé lays it on thick...again

“We were the first breastmilk substitute manufacturer to be included in the FTSE4Good Responsible Investment Index, and have maintained our inclusion for five years. In 2016, we achieved the highest score in two of the three Environmental, Social and Governance themes.”

-Nestlé CSV 2016 (p33)

<sup>7</sup> FTSE Russell. Providing Context to the FTSE4Good BMS Verification Process.

## ACCESS TO NUTRITION INDEX (ATNI)

The Access to Nutrition Index (ATNI), established in 2013, is the second index in which Nestlé performs highly.



ATNI, which aims to “*measure companies’ contributions to good nutrition against international norms and standards*”<sup>8</sup>, has a specific methodology which focuses on assessing the marketing of BMS. The assessment comprises two sections; a corporate profile analysis (BMS1) examining policy commitments, management systems and level of transparency, and an in-country assessment (BMS2) measuring compliance with the Code and national regulations.

In averaged results, Nestlé ranked 1st out of all 6 companies assessed by ATNI in 2016 (see Box 2). It topped the chart with a final score of 36%, with those of competitors ranging from 31% (Danone) to 5% (Mead Johnson). Albeit a number one ranking, this is a significantly low score and should not be a source of pride. Instead, it strengthens the argument that a significant improvement in BMS marketing policy and practice is needed.

### Box 2. Nestlé’s performance in ATNI BMS scoring

#### Corporate Profile score (BMS1):

Ranked #1...with an absolute score of 55%

#### In-country practices (BMS2):

Ranked #2... with an absolute score of 17%

“While in relative terms, Nestlé has the highest overall score...in absolute terms its aggregate score was low at 36%...”

-ATNI Global Index BMS report



36% is not a praiseworthy score

Of all company policies assessed, they found that none fully align with the International Code or subsequent resolutions, and in-country research revealed widespread failings of marketing practices in major growing BMS markets. In fact, the results of the BMS assessments were so poor that ATNI included it as one of nine ‘key findings’ from the whole of the Global Index.

“Marketing practices of major BMS manufacturers fall short of international standards”

-ATNI 2016 Key Finding (website)

For Nestlé in particular, ATNI highlight specific points of weakness in its marketing policy and in-country compliance (see box 3). The fact that Nestlé are ‘*the best of a bad bunch*’ should not be cited as a measure of success, rather, it should be used to push forward the agenda for improvements in BMS marketing across the whole corporate landscape. This report continues to highlight improper marketing practices that are taking place around the world under Nestlé’s name, evidence of which is shown in the ensuing pages.

### Box 3. ATNI analysis of Nestlé’s policy.

1. Products covered by the scope of Nestlé’s policy are limited, and growing-up milks are not included.
2. Nestlé policy does not apply globally.
3. Policy makes no commitment to WHA resolution 58.32 around providing information and labelling products with warnings about pathogenic micro-organisms.
4. Nestlé had the highest number of incidences of non-compliance with the Code during in-country assessments, out of all companies assessed.



<sup>8</sup> ATNI Global Index 2016. Available from <https://www.accesstonutrition.org/sites/in16.atnindex.org/files/resources/atni-global-index-2016.pdf>

## Where do they differ?

### *Comparative analysis of the International Code of Marketing of Breastmilk Substitutes and Nestlé's Policy and Instructions for implementation of the Code.*

In 'Breaking the Rules, Stretching the Rules 2014', the 'Where Do They Differ?' section in the Nestlé chapter compared the company's marketing policy with the International Code and relevant resolutions (the Code). It listed a dozen ways in which Nestlé misinterprets the Code and creates opportunities for continued promotion of breastmilk substitutes. Since then, the **2016 Guidance on Ending the Inappropriate Promotion of Foods for Infants and Young Children (A 69/7 Add.1)** has been issued by WHO, and it has several implications on the Code. The 2016 Guidance confirms that follow-up milks and growing-up milks are definitely covered by the Code. It also recommends that there should be no cross-promotion of breastmilk substitutes via the promotion of foods for infants and young children.

The Nestlé **Policy** (pictured right) **has remained unchanged since 2010**. Evidence shows that company violations of the International Code still occur around the globe. What follows is an updated comparison of the Nestlé marketing policy with the Code, as clarified and extended by subsequent resolutions and the 2016 Guidance. Discrepancies between the Nestlé Policy and the Code are described by theme, and areas requiring specific attention, particularly around the topic of conflicts of interest, are underlined.

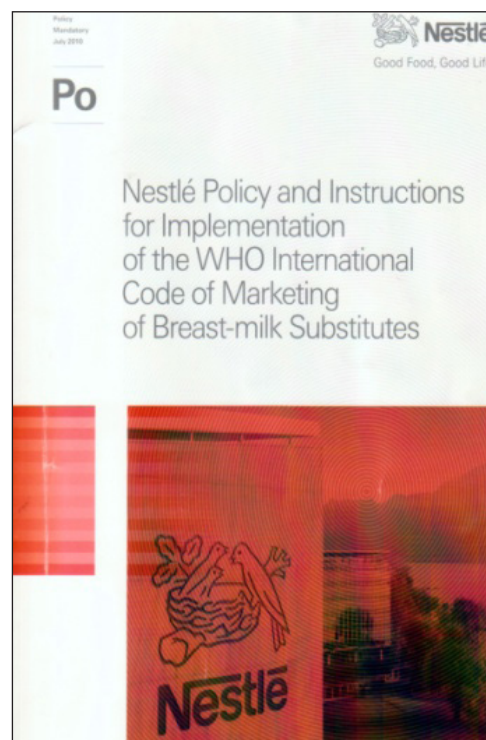



Table 1

International Code and relevant resolutions	Nestlé Policy and Instructions
<b>1. GEOGRAPHICAL SCOPE</b>	
Code applies to ALL countries as a minimum. Countries are not grouped according to any specific criteria in terms of applicability of the Code, no distinction is made between high or low-risk countries.  (Art. 11.3; WHA 34.22 [1981])	Policy applicability depends on the mortality, morbidity and nutritional status of children in a country. The Policy applies in “high-risk” countries, defined as those having under-five mortality rates of >10 per 1000, or >2% under-five acute malnutrition. All other countries are “low-risk”, and therein Nestlé applies national or regional legislation and norms.  (Page 3)  <b>NOTE :</b> Text in the right-hand column sets out Nestlé's interpretation of different Code articles in “high-risk” countries.

*Nestlé in Society, Creating Shared Value 2016. In this report, Nestlé claims the definitions of high-risk and low-risk countries come from the FTSE4Good Inclusion Criteria. In earlier years, Nestlé categorised countries according to UNICEF statistics.*

2. PRODUCT SCOPE	
<p>As clarified in the 2016 Guidance, the Code applies to:</p> <ul style="list-style-type: none"> <li>All breastmilk substitutes (BMS), including infant formula, follow-up formula and growing-up milk. A BMS is any milk specifically marketed for feeding infants and young children <b>up to the age of 36 months</b>;</li> <li>Any other food or liquid marketed for infants under 6 months of age;</li> <li>Feeding bottles and teats.</li> </ul> <p>(Art. 2; A 69/7 Add.1, Rec. 2)</p>	<p>Nestlé Policy covers:</p> <ul style="list-style-type: none"> <li><b>INFANT FORMULAS</b>, defined as all infant formulas and follow-up formulas for healthy* infants <b>up to the age of 12 months</b>.</li> <li>Feeding bottles and teats.</li> </ul> <p>Unless specifically required by national legislation, Nestlé Policy <b>does not</b> apply to:</p> <ul style="list-style-type: none"> <li>*Products designed for infants of any age with special medical needs or needing physician supervision.</li> <li>Growing up milks, as Nestlé does not consider/market these as BMS.</li> </ul> <p>(Pgs. 3 &amp; 9)</p>
3. INFORMATION & EDUCATION	
<p><u>To avoid conflicts of interest in infant and young child health programmes, materials on infant and young child feeding should not be sponsored by the baby food industry.</u></p> <p>(WHA 58.32 [2005], read in conjunction with Art 4.3)</p>	<p>Materials that are related to maternal and child health are allowed and can be made available to health care institutions/professionals upon their request, in accordance with applicable government requirements and guidelines. They must include the information required by Code Art. 4.2 and may bear the corporate name and logo.</p> <p>(Pgs. 10 &amp; 11)</p>
<p>Messages about commercial products for infants and young children must:</p> <ul style="list-style-type: none"> <li>Have a statement on the importance of continued breastfeeding for <b>up to two years or beyond</b> and the importance of not introducing complementary feeding before 6 months of age;</li> <li>Not include any representation suggesting use for infants under the age of 6 months, (including milestones and stages).</li> </ul> <p>(A 69/7 Add.1, Recs. 1 &amp; 4)</p>	<p>No messaging requirements regarding the importance of continued breastfeeding or warning against early initiation of complementary feeding.</p> <p>No restraint against the inclusion of any image, text or other representation that might suggest use for infants under the age of six months (including references to milestones and stages).</p>
4. GENERAL PUBLIC AND MOTHERS	
<p>Marketing personnel cannot seek <b>direct or indirect</b> contact with pregnant women or mothers of infants and young children. Companies should refrain from establishing relationships with parents, such as through baby clubs, social media groups, etc.</p> <p>(Art.5.5; A 69/7 Add.1, Rec.5)</p>	<p>Only solicitation of <b>direct</b> contact with pregnant women and mothers of infants below six months of age is prohibited. Contacts to provide information or samples for the promotion of food supplements for expectant/nursing mothers are only restricted if such contacts are aimed at indirectly promoting products covered by the Code.</p> <p>(Pg. 13)</p>

<p>There should be no cross promotion for BMS indirectly via promotion of foods for infants and young children. Packaging design, labelling and materials used for the promotion of complementary foods must be different from those used for BMS</p> <p>(A 69/7 Add.1, Rec.5)</p>	<p>No reference to cross promotion for BMS via promotion of complementary foods.</p>
<b>5. HEALTH CARE SYSTEMS</b>	
<p>Promotion of products, the display of products, placards or posters concerning such products, or the distribution of company materials in health care facilities is prohibited. </p> <p>(Art 6.2 &amp; 6.3)</p>	<p>The distribution to health care facilities of educational materials bearing corporate identification, subject to the requirements of Code Art. 4.2, is permitted.</p> <p>(Pg. 14)</p>
<p>Feeding with infant formula should be demonstrated only by health workers and only to the mothers or family members who need to use it. The information given should include a clear explanation of the hazards of improper use.</p> <p><u>The baby food industry should not provide education on infant and young child feeding in health facilities.</u></p> <p>(Art 6.5; A 69/7 Add.1, Rec.6: see <sup>a</sup> in underlined text below)</p>	<p>Company personnel may provide relevant educational/instruction material to assist health workers in guiding mothers. Information materials used by health workers may bear corporate and product brands as well as packshots of the specific INFANT FORMULA. Baby pictures may be used “to enhance educational value of information.”</p> <p>(Pgs. 10 &amp; 14)</p>
<p>To avoid conflict of interest, equipment and services should not be donated to health care facilities.</p> <p>(A 69/7 Add.1, Rec.6, building on Art 6.8: see <sup>b</sup> in underlined text below)</p>	<p>Equipment such as incubators, audiovisuals and low-cost service items bearing company name and logo can be given to institutions and health workers.</p> <p>(Pg. 16)</p>
<p><u>The baby food industry should not:</u></p> <ul style="list-style-type: none"> <li>• <u><sup>a</sup> Directly or indirectly provide education to parents and other caregivers on infant and young child feeding in health facilities;</u></li> <li>• <u><sup>b</sup> Donate or distribute equipment or services to health facilities;</u></li> <li>• <u>Provide free products, samples or reduced-price foods for infants or young children to families through health facilities;</u></li> <li>• <u>Use health facilities to host events, contests or campaigns;</u></li> <li>• <u>Give any gifts or coupons to parents, caregivers and families.</u></li> </ul> <p>(A 69/7 Add.1, Rec. 6)</p>	<p><b>NOTE :</b> The 2016 WHA Guidance applies to private enterprises such as Nestlé. It is required to change its policy so as not to create conflicts of interest within healthcare systems.</p>

6. HEALTH WORKERS	
<p>No financial or material inducements to promote products should be offered to healthcare workers.</p> <p>(Art. 7.3; A 69/7 Add.1, Rec. 6; see<sup>c</sup> in underlined text below)</p>	<p>Low-cost items of professional utility or token gifts may be given to health workers on an occasional basis, if and as culturally appropriate. Items may bear the corporate logo.</p> <p>(Pg. 17)</p>
<p>Samples allowed only if necessary for professional evaluation and research.</p> <p>(Art. 7.4)</p>	<p>One or two cans of INFANT FORMULA may be given to introduce (i) a new INFANT FORMULA, (ii) a new formulation of an existing product or (iii) a new INFANT FORMULA range to a newly qualified health professional.</p> <p>(Pgs. 17 &amp; 18)</p>
<p><u>Sponsorship of meetings of health professionals and scientific meetings by the baby food industries should not be allowed.</u></p> <p>(A 69/7 Add.1, Rec. 6, building on Art. 7.5: see <sup>d</sup> in underlined text below; WHA 49.15[1996] &amp; 58.32[2005])</p>	<p>The decision to support scientific activities is taken on a case by case basis by a member of the management committee of the local Nestlé company.</p> <p>(Pg 18)</p>
<p><u>The baby food industry should not:</u></p> <ul style="list-style-type: none"> <li>• <sup>c</sup> <u>Give gifts or incentives to health care staff;</u></li> <li>• <u>Directly or indirectly provide education to parents and other caregivers on infant and young child feeding in health facilities;</u></li> <li>• <u>Provide any information for health workers other than that which is scientific and factual;</u></li> <li>• <sup>d</sup> <u>Sponsor meetings of health professionals and scientific meetings.</u></li> </ul> <p>(WHA 69.7 [2016] Add.1, Rec. 6)</p>	<p><b>NOTE :</b> Nestlé is required to change its Policy so as not to create conflicts of interest among health workers.</p>
7. LABELLING	
<p>Labels must follow pre-set standards and no nutrition and health claims are allowed for BMS or foods for infants and young children.</p> <p>(Arts. 9.1 &amp; 9.2; WHA 58.32 [2005] &amp; 63.23[2010])</p>	<p>Company labelling guidelines allow for claims and promotional devices on labels.</p> <p>(Pg. 20)</p>
8. IMPLEMENTATION	
<p>Governments should implement national measures to give effect to the Code as appropriate to social and legislative framework, including legislation and regulation, and take all necessary measures in the interest of public health to end inappropriate promotion of foods for infants and young children.</p> <p>(Art. 11.1; WHA 69.9 [2016])</p>	<p>Nestlé marketing managers should “encourage” introduction of national codes. (Pg. 22)</p> <p>(In reality, this means lobbying for unenforceable voluntary agreements rather than laws.)</p> <p><b>NOTE :</b></p> <p>At the time of analysis(2017), there are <b>no instructions</b> on how Nestlé intends to give effect to the 2016 Guidance.</p>

## Nestlé fined in Ecuador

In June 2017, the regulatory body on free markets in Ecuador imposed a fine of more than USD 157,000 on Nestlé. The company had used the name and emblem of the Ministry of Health of Ecuador on a leaflet promoting its marketing practises.



The leaflet, “Nestlé - Principios y Responsabilidad” was distributed in October 2012 to hospitals and other health centres to show health professionals that Nestlé is an ethical company and Code compliant. By also displaying the name and emblems of WHO and the Ministry of Health, Nestlé made it look like it was a health partner of both institutions and had their endorsements.

The unauthorised use of the name and logo of WHO led to warnings from its country office and from headquarters in Geneva for Nestlé to immediately cease all use of the institution's logos.

In his letter to Nestlé dated 2 August 2013, Gian Luca Buci, Legal Counsel from WHO said:

***“... the document gives the impression that WHO is in agreement with Nestlé’s business approaches. WHO does not support the business approaches or products of any individual company, including Nestlé ...we do not wish to see our name used in a manner that implies WHO’s endorsement of your company’s business approaches.”***

ICDC already reported this case in *Breaking The Rules 2014*. The new development is that the Ecuadorian Government decided to fine Nestlé.

So, Nestlé was rebuked by WHO, but the Ecuador Regulators viewed the wrongful use of the Ministry of Health emblem to be a sales strategy for breastmilk substitutes in violation of Article 27, para 2, of the Basic Law on Market Freedom Regulation and Control.

***“This act of deception induces health professionals, consumers and the general public into error and leads to the perception there is approval, authorisation, trust, accreditation or endorsement by the public health authorities.”***

-Ecuadorian Office of Investigation of Unfair Practices

The Office of Investigation also said the case

***“undermines general welfare and breaches the rights of consumers or users, distorts competition and diminishes economic efficiency”.***

In addition to the fine, Nestlé Ecuador is ordered to carry out corrective measures.

Nestlé expressed disagreement with the sanction and has announced its intention to appeal.



Putting the wrong foot forward with certification from FTSE4Good.

In the meantime, the company is probably regretting its selfish desire to publicise its FTSE4Good certification and other ways to improve its image.