

Feature

40 years of the Code for breastmilk substitutes marketing

Tra My Nguyen will soon give birth to her first child. Working as consumer care staff at a parenting counselling service centre in Ho Chi Minh City, Viet Nam, the 29-year-old feels sure she will breastfeed her son, just as she was breastfed by her mother. But then she thinks of her younger sister. Soon after Nguyen's mother gave birth to her sister, hospital staff transferred the infant to the neonatal intensive care unit for 2 days. "After that, my mother didn't produce enough milk, and the doctors told her that formula milk was better than breastmilk", Nguyen remembered. "She thought she needed to provide the best thing for her child", and she was working, so she nursed her with formula milk.

Millions of mothers worldwide breastfeed their babies. But companies that manufacture breastmilk substitutes target a sizeable number of pregnant women or new mothers—like Nguyen's mother—to switch to mass-produced breastmilk substitutes. The firms reach them directly through telemarketing calls, media commercials, or promotional materials at hospitals; or indirectly through doctors and other health-care personnel. This kind of private-sector practice is not new in the child nutrition sphere.

In 1973, *New Internationalist* magazine exposed what they described as Nestlé's aggressive, unethical breastmilk substitute marketing in low-income and middle-income countries (LMICs). The following year, the British anti-poverty non-governmental organisation (NGO), War on Want, published *The Baby Killer*, a booklet discussing marketing strategies. These initiatives helped the breastfeeding community to launch the 1977 Nestlé boycott in Minneapolis, USA, which spread worldwide.

WHO and UNICEF then convened a meeting in a small apartment

in Geneva, Switzerland, in October, 1979. NGOs, spokespeople for the breastfeeding community, and a group of researchers convinced the UN bodies that marketing of infant formula milk was a major public health problem. The groups agreed to draft a code of conduct of global marketing to curb unethical promotion of infant food products, and at the 34th World Health Assembly in 1981, WHO and UNICEF adopted The International Code of Marketing of Breastmilk Substitutes.

The Code results from a scientific consensus that the health benefits of breastfeeding outweigh those of commercial formula milk, which has been shown to compromise the health of infants and young children. The Code helps governments to promote breastfeeding by implementing laws to regulate the marketing of infant and child food products, such as infant formulas, toddler milks, bottles, and teats. It also guides governments to set labelling standards for and control the quality of these products.

On May 21, 2021, WHO and UNICEF released a joint statement commemorating the 40th anniversary of the Code, stating that there has been a nearly 50% increase in the prevalence of exclusive breastfeeding, with an estimated 900 million infants globally benefitting from exclusive breastfeeding over the past four decades. "Obviously, WHO and UNICEF have common commitments towards the promotion, support, and protection of breastfeeding", said Grainne Moloney, senior nutrition advisor at UNICEF, New York City, NY, USA. "[The Code] is a major public health policy framework that continues to be updated through various resolutions, but we felt that the 40th anniversary was an important time for reflection of the successes so far, but also recognising

the continuing risks", she told *The Lancet Child & Adolescent Health*. As well as making recommendations for governments, the recent WHO and UNICEF statement calls for health-care workers not to accept formula milk promotions and industry to abide by the Code.

UNICEF, WHO, and the International Baby Food Action Network (IBFAN) biennially analyse regional and national data on the legal status of the Code's implementation. According to the 2020 report, only 25 countries have passed laws that substantially align with the Code; 42 had moderately aligned laws; 69 included only some laws; and 58 countries had no legal measures.

Despite 40 years of the Code, companies worldwide continue to violate this public health policy document, argues Laurence Grummer-Strawn from WHO (Geneva, Switzerland), who co-authored the 2020 report. "While countries have largely implemented some legislation around it, they've not fully adopted all the provisions that were there in the Code, and so with an additional call to action, we're reminding people that after 40 years, we really need to ramp up our efforts to address this [legislative gap]", he told *The Lancet Child & Adolescent Health*.

According to the report, LMICs often have better legislation than high-income countries. Afghanistan, Bangladesh, Ghana, India, Nigeria, the Philippines, Tanzania, and Zimbabwe were among the 25 countries that scored well. "But even in those countries, where there are sometimes better rules on the books, they're not very well enforced, and so we have a problem really throughout the world", said Grummer-Strawn.

In India, for example, stringent laws prohibit companies from broadcasting formula milk commercials, displaying



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For the 1973 piece in *New Internationalist* magazine see <https://newint.org/features/1973/08/01/baby-food-action-editorial>

For the booklet *The Baby Killer* see <https://waronwant.org/resources/baby-killer>

For the *International Code of Marketing of Breastmilk Substitutes* see <https://apps.who.int/nutrition/netcode/resolutions/en/index.html>

On the *beneficial effects of breastfeeding* see *Articles Lancet* 2016; **387**: 475–90

For the 2020 report on national implementation of the Code from UNICEF, WHO, and the International Baby Food Action Network see <https://www.unicef.org/reports/marketing-of-breast-milk-substitutes-status-report-2020>

For more on the **Nestlé factory raid** see <https://timesofindia.indiatimes.com/india/haryana-administration-raids-nestle-over-inappropriate-visuals/articleshow/15332377.cms?from=mdr>

For **global monitoring of marketing practices** see <http://www.babymilkaction.org/monitoring-global>

For **academic analysis of market violations** see *J Hum Lact* 2021; 37: 158–68

For more on **Alive & Thrive** see <https://www.fhi360.org/projects/alive-thrive>

For the **2021 review of promotional activities** see *Int J Environ Res Public Health* 2021; 18: 2381

them at health-care facilities, or cajoling workers to advocate for baby food. Yet, NGOs often inform the government of Code violations, explained Arun Gupta, co-founder of Breastfeeding Promotion Network of India (BPNI). Formerly a paediatrician, Gupta co-founded BPNI in 1991 and “BPNI has since been fighting to ensure that India passes and monitors the enforcement of laws around breastmilk substitutes”, he says.

India passed the Infant Milk Substitutes, Feeding Bottles, and Infant Foods (IMS) Act in 1992. However, the IMS Act had loopholes because of policy reforms favouring economic liberalisation and globalisation, which gave the infant food industry a legal opportunity to lobby for telecasting commercials on the state television channel. BPNI advocated for an amendment to the IMS Act, and it was finally amended in 2003. This did not prevent companies from infiltrating the public sphere through newspapers, magazines, and television. BPNI tipped the state government of Haryana to raid a local factory of Nestlé for violating the IMS Act in 2012. “But the case is still pending for a verdict at the Court of Haryana: Nestlé is using its power to prevent the litigation process even after the confiscated products were shown to be illegal”, Gupta said to *The Lancet Child & Adolescent Health*.

Market violations in various countries have been repeatedly reported in the media and analysed in academia, and governments strive to promote exclusive breastfeeding. However, some paediatricians explicitly criticise the Code and are comfortable with their association with the industry. Stewart Forsyth, a retired paediatrician from the University of Dundee, Scotland, believes the 40th anniversary presents “an opportunity to review the Code, and that this should be viewed as normal governance practice. This process should include

all stakeholders including parents, health professionals, and industry.” Forsyth, who explained to *The Lancet Child & Adolescent Health* that he has ties with the baby food industry (via collaborative research, lecture fees, and consultancy), as well as governments, health services, research funders, and charitable organisations, stated that “we need to have industry at the table”.

The Code community, however, argues that although there is a noticeable time gap between subsequent updates to the World Health Assembly resolutions concerning the Code and the implementations or amendments of national laws, this does not mean there is a need for a complete review of the Code. Furthermore, the implementation of laws is linked to the financial status of individual governments. Organisations such as IBFAN are involved in discussions to provide frequent independent expert opinion to WHO and UNICEF, explained Roger Mathisen of Alive & Thrive (southeast Asia region, Viet Nam), a global nutrition initiative. “The Code is about protecting breastfeeding, protecting a safer use of breast milk substitutes, and ensuring they meet specific standards: these should be decided by public health experts and not the industry”, Mathisen told *The Lancet Child & Adolescent Health*. He continued that “The objective of the public health experts is to ensure the most optimal public health options for populations while the industry aims to have profit primarily, and then to satisfy their shareholders—so why should we put the interest of shareholders at a table like that?”

Some incidents during the COVID-19 pandemic could help justify why country laws should substantially align with the Code. A 2021 study by Constance Ching and colleagues from Alive & Thrive reviewed promotional activities of nine companies during the pandemic that severely violated the Code, in 14 countries. The violations

included promoting breastmilk substitutes through fear-mongering and unfounded health claims about immunity; supplementing donations of masks and hand sanitisers with formula milk products; utilising public sentiment on solidarity and hope to appeal to the public on social media; and discounting products linked to the pandemic. Another key tactic during the pandemic has been donations. For example, Danone donated various formula milk products to the Government of Java, Indonesia.

“Companies use such tactics by partnering with governments and in some cases also NGOs to neutralise what they’re doing so that it’s not actually seen as a marketing scheme”, said Ching. “This is dishonest charity because, at the end of the day, the donations are promotional.” Several companies have also used social and traditional media to advertise their products through claims that breastfeeding could help transmit COVID-19 to infants. “This is just really a terrible, terrible thing on their [industry’s] part in terms of making more money off of the fears of families during the pandemic”, said Kathie Marinelli, associate editor for the *Journal of Human Lactation*. “This is the reason why we—working with organisations like IBFAN—are trying to advocate for the Code implementation and campaigning for the families to realise the benefits of breastfeeding over formula milk themselves.”

Back in Viet Nam, Tra My Nguyen—pregnant during the pandemic—also received a lot of marketing information from the industry. But she is set firmly on breastfeeding her son and weaning him with fruits, vegetables, and rice. Perhaps if governments worldwide would have Nguyen’s conviction and use it to regulate marketing in the baby food industry, then formula milk would only go to those who need it.

Vijay Shankar Balakrishnan