WHY INDEPENDENT MONITORING IS SO IMPORTANT

Global Alcohol Policy Conference (VE) 2021
14th October 2021
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IBFAN monitors the International Code – the first consumer protection tool of its kind.

The Code was adopted in 1981 with 118 countries in favour and 1 – the US – against - causing outrage.
**IBFAN: action oriented, independent network,**

- **International Baby Food Action Network**, founded in 1979 - a people’s network of over 273 groups in over 168 countries - one of the longest-surviving single-issue organisations.

IBFAN participated in the drafting of the Code – evidence of commercial promotion was key.
19 Resolutions strengthen and update the code

NB The Code and Resolutions have equal status and must be read and implemented together
The Code protects against predatory marketing

- **It does not** stop the sale of products

- **It does not** put pressure on women to breastfeed against their will

- **It DOES** ensure protection from misleading and predatory marketing - sound objective independent information and support.
The commercialisation of artificial feeding started when Nestlé created a substitute for mother’s milk in 1867.

Since that time this Swiss food giant has dominated the global market, with Danone closely following.

The baby food and drink market is estimated to grow from $68bn in 2020 to $91.5bn by 2026 - more than 30% in five years!
How this happened: building on ‘trust’

• Companies have always known that sponsorship generates good will and trust.
• **Nestlé Milk Nurses** – sales reps dressed as nurses – are trusted to run infant feeding classes
• In the 80s **Abbott Ross** paid for architectural services - facilitating separation of mothers and babies
• This is how bad practices (separation, timed feeds, routine ‘topping up,’ test weighing etc) have been exported all over the world.

“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
Mothers, babies, countries pick up the cost.

Breastfeeding is the cornerstone of child survival – reducing under-5 mortality by 13%

In 1981 1.5 million babies died each year because they were not breastfed. Today breastfeeding saves 820,000 babies each year. Millions more do not reach their full potential.

The economic and environmental costs are substantial.
People power, Nestlé Boycott

- **1939**: Cecily Williams’ ‘Milk & Murder’ speech exposed Nestlé’s condensed milk promotion in Singapore. “Misleading propaganda about infant feeding should be punished as the most criminal form of sedition, and that these death should be regarded as murder.”
- **1968**: Derrick Jeliffe coins the term ‘commerciogenic malnutrition’
- **1974**: War on Want’s ‘The Baby Killer’ translated into German as ‘Nestle kills babies’ Nestle sues for libel triggering worldwide publicity
- **1975**: US nuns sue Bristol Myers for unethical marketing in Latin America
- **1976**: Nestle wins libel case on a technicality, pay costs and is criticised
- **1977**: Nestle Boycott launched in the USA
Kennedy Hearings 1978

Despite testimonies and clear evidence of the harm caused by marketing, the companies refused to stop.

Senator Edward Kennedy proposes an international code and the US Government sets up Scientific Committee of Inquiry.
NGO action was and still is essential

‘Without the NGOs, without their constant lobbying, reminding us of our duty as public health officers, even harassing us for months on end, without all that, there would have never been a Code. WHO would simply not have had the courage to get on with it.’

• Halfdan Mahler (WHO DG 1973-88)
'the infant formula experience has put back the multinational cause by 8-10 years…'
The Code is underpinned by Human Rights instruments

- **1990 Convention on the Rights of the Child** ratified
- Breastfeeding enshrined as a legal right of the child, contributing to the fulfilment of its right to the highest attainable standard of health. (Art 24)
- Other HR instruments seek to remove obstacles to breastfeeding and maternity protection.
- States have a duty to **protect** those rights. Corporates have a duty to **respect** them.
Why the US has been a persistent problem

• USA was the only country to vote against the Code’s adoption.
• The ‘corporate personhood’ legal concept in the US is used to argue that attempts to restrict company activity is an infringement of those rights - taking away ‘life liberty and property’
• Corporates do NOT have human rights – they just steal them!
Responding with CSR

- Corporations developed counter strategies - aiming to be seen as 'socially responsible' and willing to self-regulate through voluntary codes.
- The ultimate aim has always been to convince governments that there was no need for more international codes, regulations or conventions.
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.
failing to mention that self regulation...

- works only as long as companies want it to.
- Doesn’t reduce the extent and impact of marketing - the volume can increase.
- undermines governments’ resolve to legislate. ¹

¹ Taken from a presentation at the European Platform for Action on Diet and Physical Activity by Corinna Hawkes, the International Food Policy Research Institute, Washington. Feb 2007

For analyses of the weaknesses of voluntary approaches:
http://info.babymilkaction.org/node/466
http://info.babymilkaction.org/sites/info.babymilkaction.org/files/P1PHNhawkespledges.pdf
Using the tobacco playbook

1. **Hijack/manipulate** the political and legislative process;
2. Exaggerate the economic importance of the industry;
3. **Manipulate public opinion** /look respectable;
4. **Use front groups**;
5. Discredit science/fund science, infiltrate food safety systems
6. **Intimidate governments** — threaten litigation

Interference in public health policy: examples of how the baby food industry uses tobacco industry tactics
https://doi.org/10.26596/wn.201782288-310
“The industry is fighting a rearguard action against regulation on a country-by-country basis.”

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

Global Packaged Food: Market Opportunities for Baby Food to 2013 Euromonitor
Graph reproduced by Save the Children, 2013.
Monitoring and Training government officials

- IBFAN’s International Code Documentation Centre (ICDC) produced IBFAN’s global monitoring reports and charts grading companies and countries.
  - ICDC also ran 60 courses training 2000 government officials. 67 countries have based laws on ICDC’s Model Law
A survey of marketing practices of infant food and feeding bottle companies, measured against the requirements of the International Code of Marketing of Breastmilk Substitutes.

Breaking the Rules
Streching the Rules
2017


STATE OF THE CODE BY COUNTRY

A survey of measures taken by governments to implement the provisions of the International Code of Marketing of Breastmilk Substitutes & subsequent World Health Assembly resolutions.

2016
Comedian hits out at ‘hijacker’ Perrier

Stars boycott Fringe awards for comedy

Politics on the Fringe is no laughing matter

Ban it! Boycott it! The festival of hype begins

Comics told Perrier’s no laughing matter

Nestlé sends in lawyers as Hay controversy grows

Is Nestlé still pushing formula milk on the developing world? A special report from Bangladesh

Antony Gormley: What veggies can’t eat

Was Nick Htynner right?
• 70% of countries (136 of 194) have laws based on the Code – although most are far from strong enough
• 44 countries have strengthened their regulations in the past two years.
8 WHA Resolutions tackle Conflicts of Interest

• The first in 1996 - WHA Resolution 49.15 urged Member States to:

“ensure that financial support for professionals working in infant and young child health does not create conflicts of interest...”

“that monitoring the application of the International Code and subsequent relevant resolutions is carried out in a transparent, independent manner, free from commercial influence..”
Using the Resolutions to improve transparency in EU science

• Before 2000 EU scientific advisors did not have to declare interests – leading to many bad decisions.
The Conflict of Interest Coalition (COIC) 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.
Nestlé Whistleblower exposes COI in the medical profession
WHO/FAO Codex Alimentarius Commission: where Global Trading standards are set

Codex standards are used as benchmarks in trade disputes. Codex has poor COI rules.
Rich exporting countries dominate Codex

Nigeria: "if anything the situation with cross-promotion is on the increase just as malnutrition of infants and young children continues to be a challenge.”

African countries over-ridden over the words Cross Promotion’ – a deceptive marketing technique used to expand the sale of products such as alcohol, tobacco, soft drinks and baby formulas.
Obstacles to consumer protection

- Codex has poor COI and transparency safeguards
- Large presence of business interest observer organizations – sitting on government delegations and speaking for them
- Consensus decision-making prioritises trade of ultra-processed foods over health
- No mention of PLANETORY health – but watch out for sustainability claims ...
The Code and Climate crisis

- The Code protects breastfeeding, the most sustainable, environmentally friendly way to feed babies.
- The UN Intergovernmental Panel on Climate Change (IPCC) attributes 21–37% of total greenhouse gas (GHG) emissions to the food system.
- Codex Green-lighting ultra-processed, excessively packaged products increases environmental degradation.

800 litres of water to make a 1 litre of milk - 4700 litres of water for 1 kilo of milk powder
11,000 petition against ‘sunsetting’ the Code.

• The food industry has wanted the Code removed from the WHO agenda for decades.
• Member States reports to the Assembly prompt new resolutions that keep pace with continually evolving marketing.
• WHO has a duty to keep watch on commercial promotion that has the potential to harm health – whether on baby foods, tobacco, junk foods, or alcohol.
• **Codes must keep pace with new evolving marketing and new products** – Member States must be kept aware if they are to report to the Assembly.

www.babymilkaction.org/archives/27834
Reporting on the Code is embedded in the WHO Constitution

- The **International Code** is in a ‘class of its own’ in terms of international human rights instruments and the **WHO Constitution**. It places affirmative obligations on Member States and on the WHO Director General to implement it and on commercial companies to comply with it.

- Member States are also obligated to report on their progress (Article 11.6) and WHO Constitution (Article 62)
We need to watch our language!

- Avoid the business term **STAKEHOLDER** – NGOs should have no business agenda or ‘stake’ in the matter at hand.

- ‘**Partnerships**’ by definition are arrangements for ‘**shared governance**’ to achieve ‘**shared goals.**’ *Shared decision-making is their single most unifying feature, implying ‘respect, trust, shared benefits’*

- ‘**Interactions**’ ‘**financing**’ are better.

- The ‘**image transfer**’ from UN or NGO ‘partners’ has strong emotional and financial value.
In 2017 the Gates funded Meridian Institute proposed a multi-stakeholder Global Monitoring Mechanism with industry. This was abandoned after IBFAN’s Note of Dissent.

An equally worrying idea resurfaced in 2020 with the BMS Call to Action using the commercially influenced Access to Nutrition. IBFAN opposed this again.

“inviting the fox to build a chicken coop”
Scaling up Nutrition (SUN)

- SUN and the Global Alliance for Improved Nutrition (GAIN), are a major problem because they advocate close collaboration with corporations and have poor COI safeguards.
Key messages

- WHA must keep the Code and *marketing controls* on its agenda
- health policy setting must be *transparent and free from commercial influence* – and based on *monitoring* that is free from commercial influence
- **effective regulations** need a delegated authority and good implementing rules.
- **Governments are ‘duty bearers’** and must protect human rights
- **Planetary health** is inseparable from human health
- Support Whistleblowers (ask to show *Tigers*)
Thank you!

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www.ibfan.org
Nestlé: “The boycott is actually an indirect attack on the world’s free market system”

Kennedy: “[Boycott is] a recognised tool in a free democratic society”