

WHY INDEPENDENT MONITORING IS SO IMPORTANT

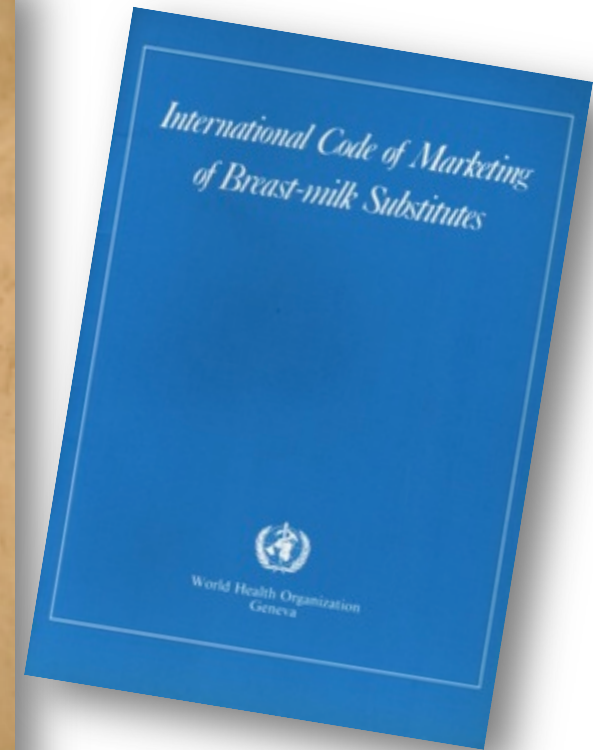
Global Alcohol Policy Conference (VE) 2021

14th October 2021

Patti Rundall, Baby Milk Action, IBFAN Global Council



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

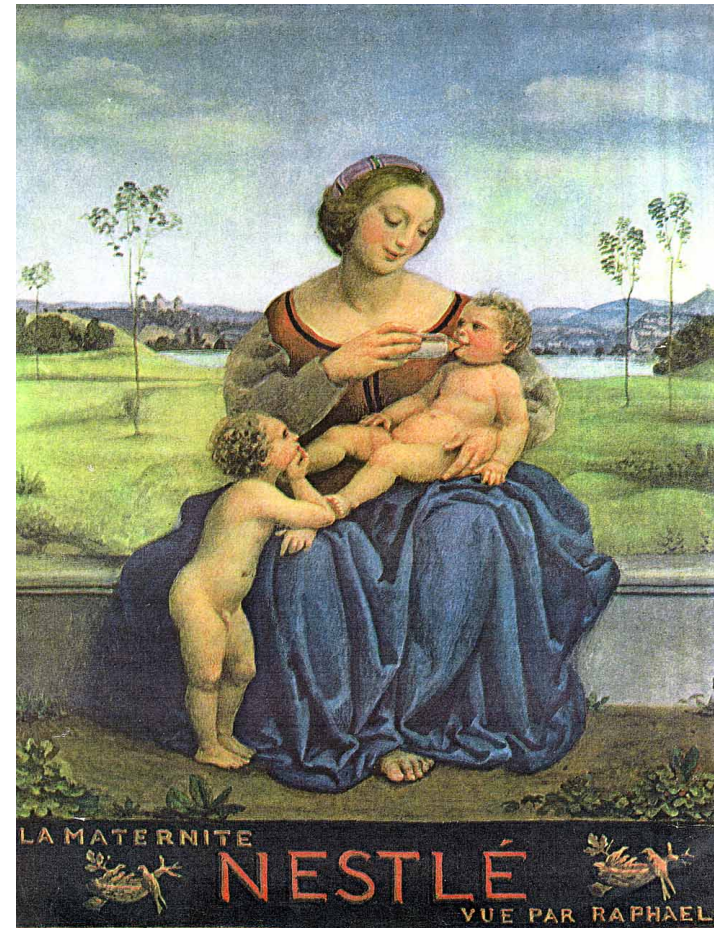
- **It does not** stop the sale of products
- **It does not** put pressure on women to breastfeed against their will
- **It DOES** ensure protection from misleading and predatory marketing - sound objective independent information and support.

Why the Code is needed

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!



1936 advert

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



20 Logo used on the cover of
The Baby Killer (Andy
Chetley/War on Want, 1974;
Courtesy of War on Want)

- **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 Jelliffe 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...'*

International Tobacco Information Center (INFOTAB) 1981

Taken from *Tobacco Industry Responses to International Statutory Regulation*, John Paterson,
August 2008, Dissertation.



The Code is under-pinned 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**.

Here is Nestlé reassuring its shareholders



“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

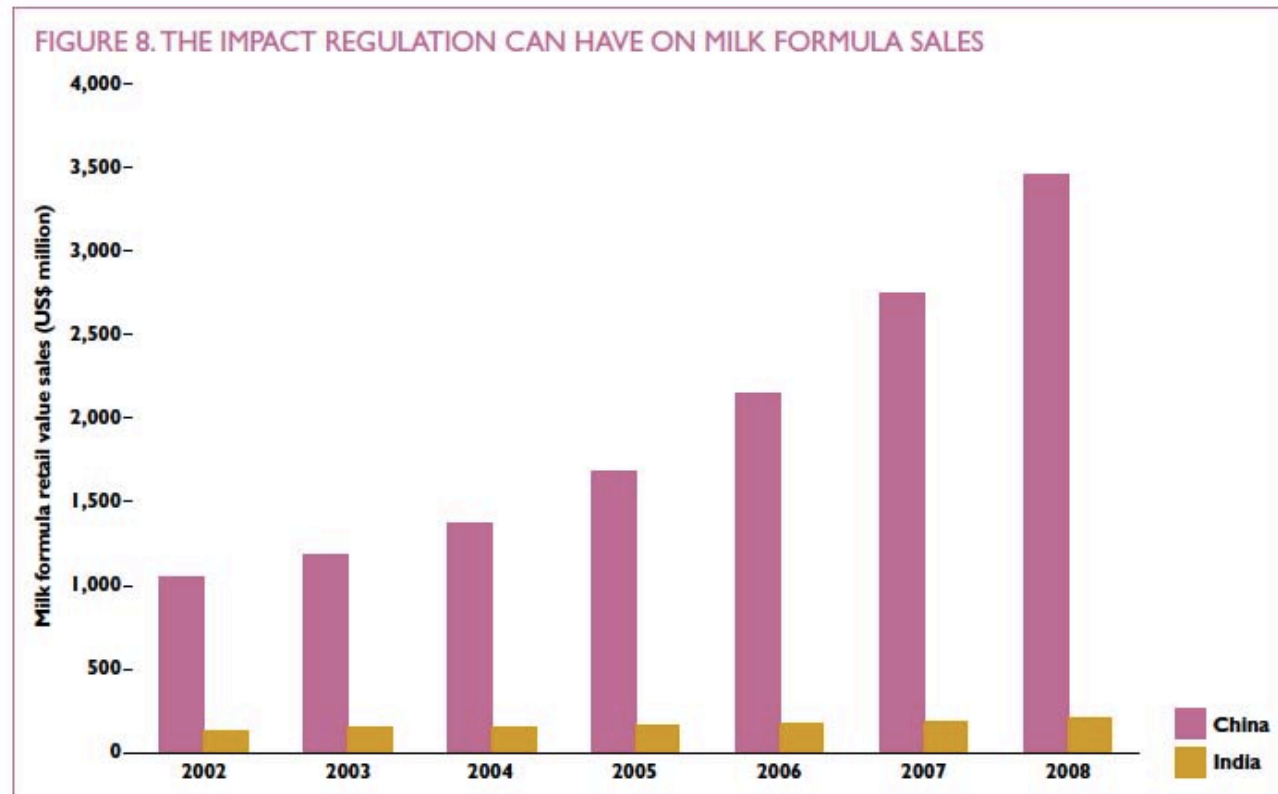
1. **Hijack/manipulate** the political
2. and legislative process;
3. Exaggerate the economic importance of the industry;
4. **Manipulate public opinion** /look respectable;
5. **Use front groups**;
6. **Discredit science/fund science**, infiltrate food safety systems
7. **Intimidate governments** –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



Interference in public health policy: examples of how the baby food industry uses tobacco industry tactics

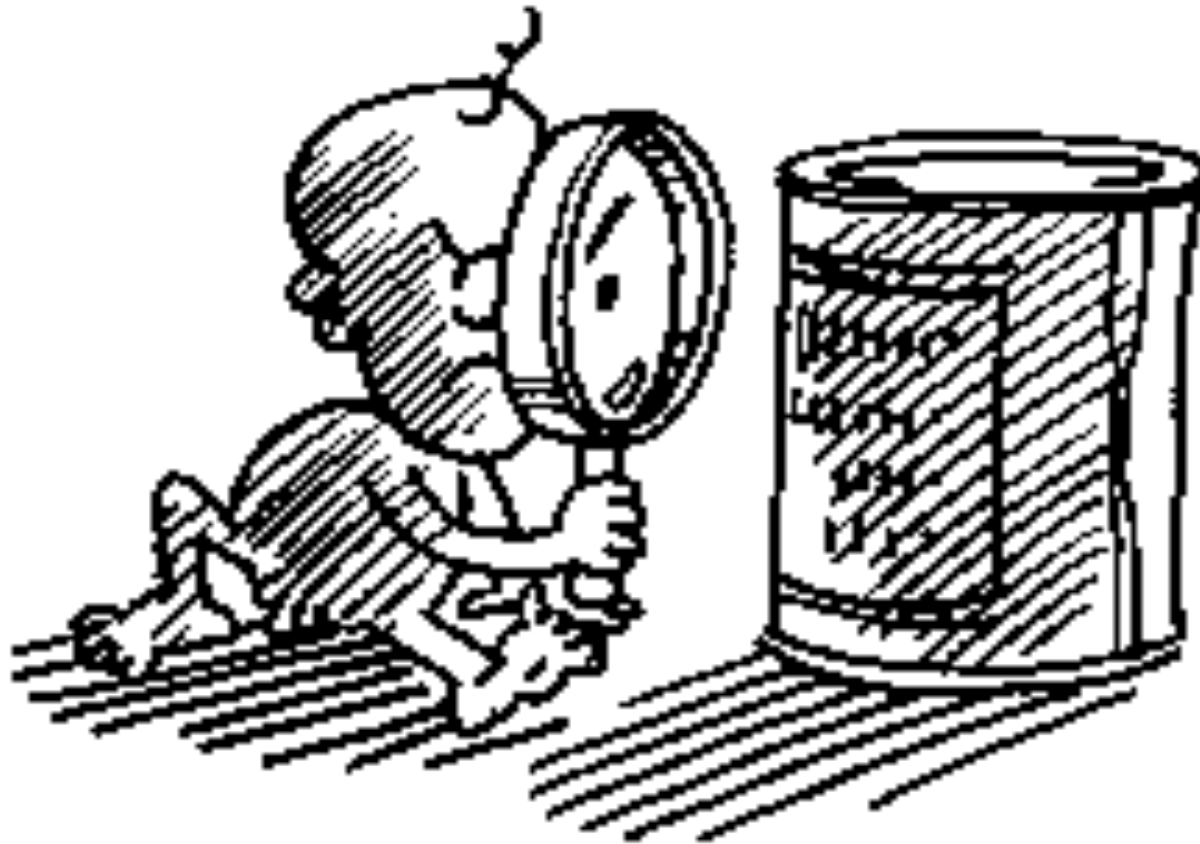
<https://doi.org/10.26596/wn.201782288-310>

“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

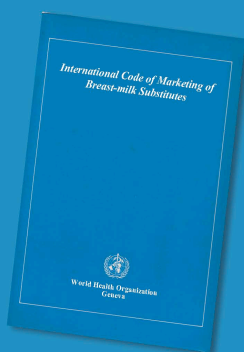
- IBFAN's **International Code Documentation Centre** (ICDC) produced IBFAN's global monitoring reports and charts grading companies and countries.
 - ICDC also ran 60 courses training 2000 government officials. 67 countries have based laws on ICDC's Model Law



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



Evidence of violations of the International Code of Marketing of Breastmilk Substitutes and subsequent resolutions, compiled from June 2014 to June 2017



International Baby Food Action Network



BREAKING THE RULES. STRETCHING THE RULES 2017

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Code violations by baby food companies (in alphabetical order)

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Code violations by feeding bottle & teat companies

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[illegible][illegible]

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.



INTERNATIONAL
CODE
DOCUMENTATION CENTRE

2016





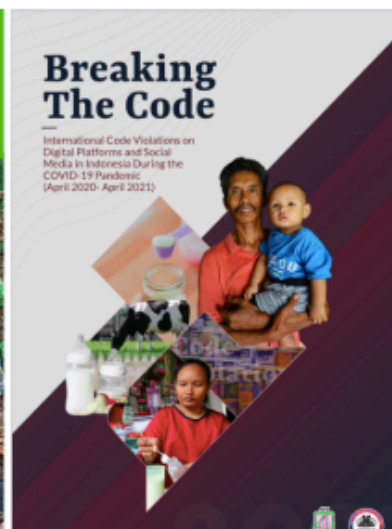
Tuesday 15.05.07



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

g2

David Hockney Was Nick Hytner right? Antony Gormley What veggies can't eat



WHO/UNICEF/IBFAN status report 2020

- **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

European Voice

A WEEKLY VIEW OF THE UNION

16 - 22 March 2003 Volume 6 number 11

NEWS

Scientists bow to call for more transparency

By RENÉE CORDEA

THE European Commission has agreed to publish the annual declarations of interests made by members of the EU's scientific food committee for the first time, bowing to pressure for greater transparency.

All 19 scientists on the influential expert panel which advises the EU executive on consumer health and food safety issues have agreed to make their declarations public following complaints from interest groups that their failure to do so was undermining their credibility. The scientists also agreed to "immediately and explicitly" inform the committee if any issues come up before the group which raise specific potential conflicts of interest.

Enterprise Commissioner Erkki Liikanen agreed to the move in response to strong pressure from more than 50 interest groups and MEPs, who called for a crackdown on committee members who did not disclose work for firms which would be directly affected by the panel's decisions.

Concerns over the interests "may" have influenced the decision to adopt the 1999 directive on dietary foods intended for medical purposes, which covers breast-milk substitutes for babies with health problems.

The decision to publish committee members' declarations has been welcomed by British Labour MEP Gloria Kinnock, who wrote to the Commission earlier this year asking what it planned to do to

make the panel's work more transparent. "I think we can now feel a lot more confident that people are getting independent advice," she said this week, although she added that the committee should ideally also be required to publish minutes of its meetings. "It should be a natural progression towards more openness," she intoned.

Only four of the current committee members said they had interests in dietary food in relation to the directive on infant foods. Patti Russell of Baby Milk Action, who wrote to the Commission on behalf of the 50 interest groups, said these four should not be singled out for criticism but rather applauded for coming forward. She also stressed that these interests did not necessarily mean the members'

impartiality had been jeopardised.

In his response to the clamour for action, Liikanen pointed out that existing EU rules require scientific committee members to inform the Commission each year of all the interests which "could be considered prejudicial to their independence".

He said that although the Commission had now decided to publish the declarations of current members of the food committee, former panel members were under "no particular obligation". The interest groups had demanded that ex-advisers' declarations be released as well.

Commission officials say they plan to publish the declarations of members of all the EU's other scientific committees on the Internet, but have yet to decide what information to release and in what format.

Research, transparency and conflicts of interest

Is transparency a sufficient safeguard against conflicts of interest? The Lancet is aware of the importance of its conflicts of interest policy given that two of its authors of its recent paper on the safety of infant formulae are members of the Nestlé's Global Infant Advisory Committee. Both authors could be seen to have a conflict of interest. The authors could be seen to have a conflict of interest. The authors could be seen to have a conflict of interest.

From: Patti Russell
Sent: 13 February 2014
To: Janet Voute

Dear Janet - Sorry. This is a language issue. I am not sure I have understood the word 'but' in your email. I am not sure I have understood the word 'but' in your email. I am not sure I have understood the word 'but' in your email.

Here is an email correspondence with Janet Voute, Nestlé's Vice President, Global Head of Public Affairs, asking about the financial disclosures made to the Commission members. The email was sent to Nestlé's CEO to see if he will answer our simple question.

From: Patti Russell
Sent: 12 February 2014
To: Janet Voute

Dear Janet - In previous correspondence you say that Nestlé does not pay a salary to the Global Council members. However, in the interests of transparency can you confirm that they do not receive any remuneration or benefit of any kind from Nestlé? Or another word I notice that the Global Council members have not been paid for their work.

From: Janet Voute
Sent: 12 February 2014
To: Patti Russell

Dear Patti As I said before, our Global Council members do not receive a salary from Nestlé. However, we are currently reviewing the charter for this group. Over this time we will make additional information publicly available. I can't say when this will be published. We will also be reviewing the process of reviewing the 2013 charter in time for the Annual General Meeting. This will require any temporary changes in the charter to be made by the time of the AGM. Do you think you might try to say something for us?

From: Janet Voute
Sent: 14 February 2014
To: Patti Russell

Hi Patti, Our Global Council members do not receive a salary from Nestlé. However, we are currently reviewing the charter for this group. Over this time we will make additional information publicly available. I can't say when this will be published. We will also be reviewing the process of reviewing the 2013 charter in time for the Annual General Meeting. This will require any temporary changes in the charter to be made by the time of the AGM. Do you think you might try to say something for us?

The Lancet Child Survival Series has an important influence on health policy. In 2013, it concluded that breastfeeding is the best way 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 products of some kind. The greater emphasis is also called on to generate evidence about the positive and negative effects of private sector and marketed products in this area.

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


Can anyone tell me their own evidence about Nestlé's negative influence on health? Facts, the power of big food, a few corporate complainers show the way you live your life now do you really?

Among those who responded was Prof Anthony Costello who asked:

"Maybe the way to start big food is not to have members of Nestlé's advisory board directing the Lancet Nutrition Series."

- Before 2000 EU scientific advisors did not have to declare interests – leading to many bad decisions.

UN Political Declaration: COI Coalition



The screenshot displays the UN News & Media Webcast interface. At the top, a navigation bar includes links for 'UN Home', 'Multimedia', 'Radio', 'Photo', 'News Centre', and 'Webcast'. Below this, the 'NEWS & MEDIA UNITED NATIONS WEBCAST' header is visible. The main content area features a video player showing a woman speaking at a conference. To the right of the video, a sidebar lists topics: 'Information on non-communicable diseases', 'Informal hearing on disease', 'Running Language', and 'English'. The bottom of the page shows the URL 'United Nations Webcast: www.un.org/webcast'.

Conflicts of Interest Coalition Statement of Concern

This Statement of Concern has been developed by the Conflicts of Interest Coalition*. It focuses on the lack of clarity regarding the role of the private sector in public policy-making in relation to the prevention and control of non-communicable diseases (NCDs).

It calls for the development of a Code of Conduct and Ethical Framework to help protect the integrity of, and to ensure transparency in, public policy decision-making, by safeguarding against, and identifying and managing conflicts of interest.

The Statement of Concern has been sent to the President of the United Nations General Assembly and the co-facilitators of the United Nations High Level Meeting on the Prevention and Control of Non-Communicable Diseases.

As of September 2011, the statement has been endorsed by 138 national, regional and global networks and organisations working in public health, including medicine, nutrition, cancer, diabetes, heart disease, lung disease, mental health, infant feeding, food safety and development.

- 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 Cols 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-riden 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.



Codex Secretariat, the Chair of the meeting and UN delegates. Photo credit: Codex Alimentarius

Exporting countries put trade before the health of the planet and children

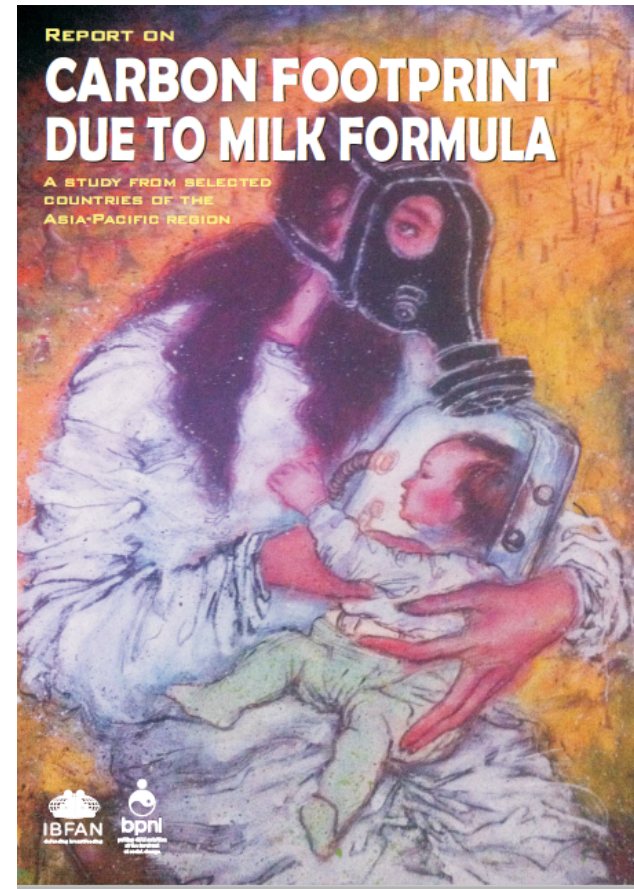
41st Codex Nutrition meeting (CCNFSDU) 23 – 29th November 2019, Dusseldorf, Germany

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**

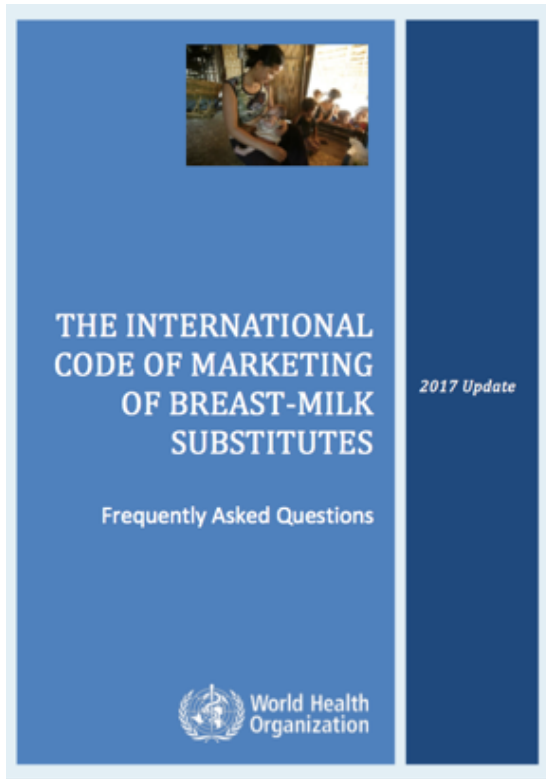
Reporting on the Code is embedded in the WHO Constitution

- 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.

Multi-stakeholder monitoring ideas

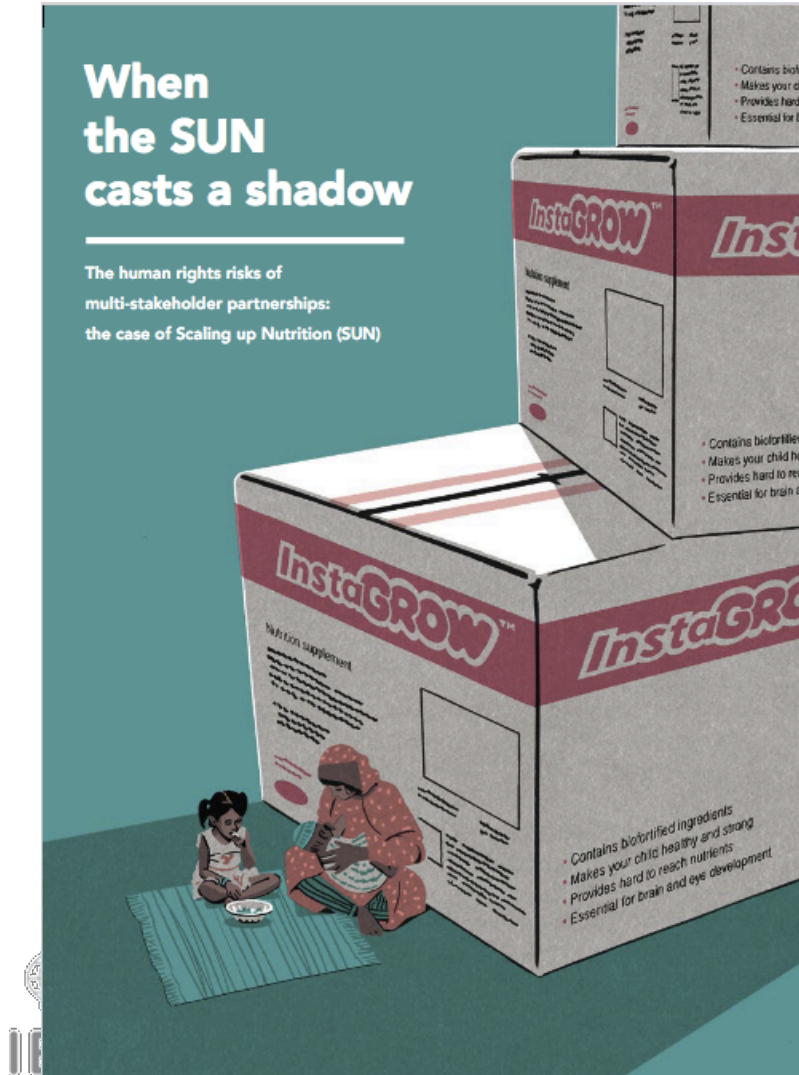


In 2017 the Gates funded Meridian Institute proposed a multi-stakeholder **Global Monitoring Mechanism with industry**. This was abandoned after *IBFAN's Note of Dissent*

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

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!
- prundall@babymilkaction.org
- www.babymilkaction.org
- 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”*