

# Baby Milk Action's comments on Nestlé presentation to the CFB on 22 November 2004



Baby Milk Action thanks the CFB for the detailed minutes of the meeting held to discuss the ethical suitability of Nestlé as a potential CFB investment.

The following additional information is provided relating to Nestlé's presentation as set out in the minutes. The numbering follows that in the minutes.

## 5.1 History of the Code and General Background

Nestlé attempts to suggest infant formula sales are small by quoting them as a percentage of company turnover. Sales to customers in 2004 was 87 billion Swiss Francs. So 2% of this is 1.7 billion Swiss Francs. Of course, infant formula is not the only product covered by the World Health Assembly marketing requirements, which are for all breastmilk substitutes. Nestlé does not give figures for sales of breastmilk substitutes in company accounts, instead it groups infant nutrition in 'milk products, nutrition and ice cream' so it is impossible to determine the true figure. In a presentation to institutional investors on 22 March 2005, Mike Garrett, Vice President for Asia, Oceania and Africa, said infant formula sales make up about 4% of turnover in Africa.

## One of Nestlé's main strategic pillars

Nestlé has described infant nutrition as one of its 'main strategic pillars'. Breastmilk substitutes are not only high profit products, they give a company which is criticised for contributing to the epidemic of obesity through unhealthy food an aura of respectability as a 'nutrition company'.



Much of Nestlé's aggressive promotion is through the health care system meaning parents associate the Nestlé brand adorning the doctors office with health. **Top right is a Nestlé desk calendar in Indonesia. Bottom right is a tissue box in the colour and style of Nestlé Nan infant and follow-on formula, a gift to health workers in Thailand.** Many similar examples were found in IBFAN's monitoring conducted between January 2002 and April 2004, some of which are pictured in *Breaking the Rules, Stretching the Rules 2004*, published in May 2004.



## 5.2 History of the Infant Formula Controversy

It is noteworthy throughout that Nestlé refers only to infant formula. As UNICEF's Executive Director, Carol Bellamy, has written to Nestlé CEO, Peter Brabeck:

*"Nestlé's limitation of the scope of the Code to infant formula is another matter of contention. The plain wording of Article 2 of the Code shows clearly that the term 'breastmilk substitute' can include 'other milk products, foods and beverages' depending on how they are marketed."*

This quote comes from a letter sent to Nestlé on 3 November 1997, yet over 7 years later Nestlé continues to limit the scope to infant formula.

It is curious that Nestlé claims it accepts the "adverse health consequences" of its marketing in "the 1960s and 1970s". It denied such consequences at the time, just as it denies wrong-doing today. For Nestlé malpractice is always in the past. Although it now claims "regretting the way it had done business" it has offered no apology to the parents who lost children nor offered any form of compensation.

## International concern

Ms Parsons claims there is only concern about Nestlé's activities in the UK. Baby Milk Action is only able to campaign because of the monitoring evidence it receives through the International Baby Food Action Network (IBFAN) consisting of over 200 groups in more than 100 countries. The monitoring report *Breaking the Rules, Stretching the Rules 2004* contains evidence gathered by groups in 69 countries.

Nestlé has been prosecuted and criticised by government authorities (e.g. Costa Rica, Czech Republic, Vietnam, Malaysia). In India, Nestlé's Managing Director faces a prison sentence if convicted in a long-running trial over Nestlé's failure to put warnings in Hindi on infant formula packaging. The courts rejected Nestlé's attempt to have the law struck down and the government has recently strengthened the law to cover products for infants up to 2 years of age. Boycotts have been launched by groups in 20 countries. In a global internet poll coinciding with the World Economic Forum in January 2005 Nestlé was voted the world's most irresponsible company. With 29% of the vote Nestlé scored more than double the votes of the next companies (see [http://www.evb.ch/index.cfm?set\\_lang=2&page\\_id=3346](http://www.evb.ch/index.cfm?set_lang=2&page_id=3346))



In November 2003 German television's *Panorama* programme ran an exposé of Nestlé violations in the Philippines. This can be viewed via the Baby Milk Action website [www.babymilkaction.org](http://www.babymilkaction.org)

Just a few months before Ms Parsons claimed there is only concern in the UK, Swiss NGOs held an event in Nestlé's home town of Vevey, where 350 participants gathered to hear evidence of Nestlé baby food marketing malpractice and other concerns such as trade-union busting, exploitation of suppliers and environmental impact. One group, Attac Switzerland, launched a book (left) detailing Nestlé malpractice, which was reviewed in the Swiss press.

Part of the reason Baby Milk Action is asking the Methodist Church to support our call for a public tribunal into Nestlé is that we would then be able to call expert witnesses from around the world to present evidence.

### 5.3 Nature of the Code

According to the minutes, Ms Parsons described the Code as *"a set of guidelines, nothing more...The Code was passed as a recommendation rather than a regulation..."*

### Why does Nestlé never refer to Article 11.3 of the Code?

Ms Parsons, and Nestlé in its materials on the Code, never mentions Article 11.3 of the Code, which states:

*"Independently of any other measures taken for implementation of this Code, manufacturers and distributors of products within the scope of this Code should regard themselves as responsible for monitoring their marketing practices according to the principles and aim of this Code, and for taking steps to ensure that their conduct at every level conforms to them."*

Nestlé claims to abide by the Code. Why then does it ignore its obligations under Article 11.3.

### The Convention on the Rights of the Child

The minutes have Ms Parsons saying that Baby Milk Action claims the Code is an internationally binding treaty. Baby Milk Action has never said this and we challenge Nestlé to produce evidence to the contrary. Baby Milk Action has related that the Code has status in international law through the Convention on the Rights of the Child, as UNICEF has said:

*"States Parties are placed under an obligation to ensure that the advantages of breastfeeding are universally understood and to take appropriate measures to achieve this goal. This can only be*

*accomplished if the information reaching the general public, and parents in particular, is factual, objective, and not prepared with a view to persuading mothers to forgo or diminish breastfeeding and use an artificial product in the mistaken belief that it is equivalent to breastfeeding."*

### **Progress Report on the Baby Friendly Hospital Initiative, UNICEF New York, January, 1998.**

UNICEF called for the United Nations Committee on the Rights of the Child "to ask every government reporting on the CRC whether it is enforcing the International Code...." The Committee has accepted this argument and in reviewing a government's action to fulfill its obligations under the Convention looks at what steps have been taken to implement the International Code and subsequent, relevant Resolutions of the World Health Assembly. The UK government has been told by the Committee to implement the Code in legislation as it has so far failed to do so. The government is taking action to this end. Many other governments have had similar instructions from the Committee. Progress is reviewed every 5 years.

Regarding the position of the US and Canada, the Code and Resolutions apply in those countries and Nestlé should fulfill its obligations under Article 11.3. The FTSE4Good criteria recognises this and specifically requires baby food companies to show they abide by the Code and Resolutions in the US and Canada.

#### *5.4 Role of Infant Formula in Developing Countries*

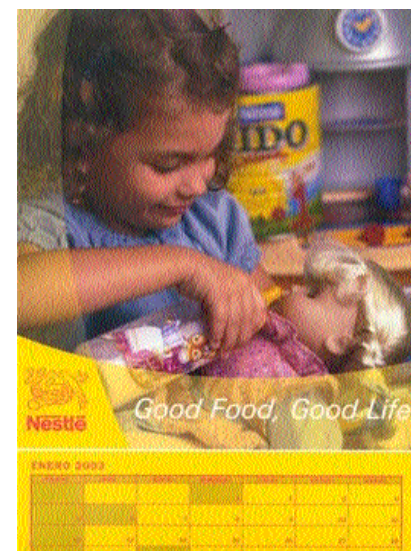
In its presentation Baby Milk Action made it clear that the marketing requirements do not prohibit the sale or marketing of breastmilk substitutes. They prohibit their promotion and require labels to contain essential information and be in the correct language.

The aggressive promotion as documented by IBFAN, serves to undermine breastfeeding whether mothers then use infant formula, powdered whole milk or animal milks and is prohibited for this reason.

#### **Use of inappropriate substances for infant feeding**

Baby Milk Action agrees that mothers sometimes use unsuitable products or over-dilute formula if they cannot afford it. For this reason we are campaigning for Nestlé to stop promoting unsuitable whole milks in the infant feeding sections of supermarkets and pharmacies as it does in many countries. Nestlé has refused to stop this practice, arguing that as whole milks are not breastmilk substitutes there are no restrictions on marketing!

**The picture top right is taken from one of Nestlé's own publications and shows so-called auditors in front of the baby food section of a pharmacy in Argentina, where Nestlé's *Nido* whole milk is on sale next to the formula. As *Nido* is typically 30% of the cost of formula poor mothers frequently use this instead of the infant formula. The 2003 calendar right from the Dominican Republic demonstrates how cynical Nestlé is in promoting what it knows to be an unsuitable product for infant feeding.**



A study in Brazil (where Nestlé advertised *Nido* - there known as *Ninho* - on television during the world cup without required warnings saying it is unusuitable for infant feeding) finds an alarmingly high proportion of mothers use products such as *Nido*. The 1997 study in the city of Ouro Preto found that among mothers using powdered milks for infant feeding, over two-thirds (70%) of the poorer families (those whose income was less than half the minimum per capita daily wage) tended to buy powdered whole milk rather than infant formula. Nestlé knows this, but excuses the types of promotion pictured here. They are in fact violations of Resolution 49.15 of 1996 as whole milks can be viewed as complementary foods and the Assembly called for action to ensure: "complementary foods are not marketed for or used in ways that undermine exclusive and sustained breast-feeding."

## Nestlé misrepresents Baby Milk Action's position

The minutes suggest Ms Mirando “argued that if you banned infant formula, as she claimed BMA seemed to wish, you would be condemning babies to much inferior breast milk substitutes.” Ms Mirando knows from the many debates in which she has participated with Baby Milk Action, our correspondence and the materials we produce, that we explicitly state we are not seeking a ban, only that companies fulfill their obligations under Article 11.3 of the *International Code*.

## Nestlé refuses to warn parents about *Enterobacter Sakazakii* contamination of formula

It is worth commenting on Ms Mirando's comment that “when properly prepared infant formula was quite safe.” It is well known that breastmilk substitutes do not contain the anti-infective properties of breastmilk. Even in the UK artificially-fed infants are at greater risk of short and long-term illness. Indeed, a Department of Health study 10 years ago noted that the NHS spends £35 million per year treating gastroenteritis in artificially-fed infants.

Of more concern is Nestlé's refusal to include warnings on labels that powdered formula is not sterile. It is widely believed that it is sterile, yet a surprisingly high proportion of tins are contaminated with *enterobacter sakazakii*. This came to prominence when a child died in Belgium after being fed contaminated Nestlé formula. Baby Milk Action has asked Nestlé to include warning on labels, but this has been rejected by Nestlé. Two infants died in France last year, prompting the French government to back a Resolution at the World Health Assembly, which Nestlé is seeking to undermine.

### 5.5 Female Empowerment

Ms Mirando's comment on the impact of banning infant formula is not worthy of response. She well knows Baby Milk Action is not calling for this.

### 5.6 Infant Formula Marketing in Developing Countries

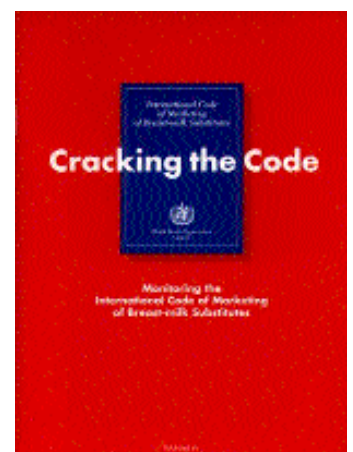
Ms Mirando's assurances about what Nestlé does and does not do in developing countries should be viewed alongside the documentary evidence.

### 5.7 Auditing and Supervision

This was covered in Baby Milk Action's presentation. Principal concerns are Mr. Brabeck either ignores reports of violations made to him or the response is inadequate. IBFAN provided Nestlé with detailed background information to the violations in the *Breaking the Rules* report at the company's request, but has received no response. As UNICEF's Legal Officer noted when Mr. Sinha presented his Pakistan audit to the European Parliament public hearing into Nestlé, the Nestlé Instructions used as the basis of the audit are not the same as the Code and Resolutions. The same failing has been found with Nestlé's latest audits in Africa.

## Free supplies in Thailand

Mr. Sinha claims to have investigated Baby Milk Action reports of free supplies in Thailand and found them to be groundless. IBFAN's is not the only monitoring to have reported free supplies in Thailand. The Inter-agency Group on Breastfeeding Monitoring (IGBM), of which the Methodist Church is a member, found free supplies in Thailand amongst the 'systematic' violations reported in *Cracking the Code* in 1997. In the IGBM random survey of health facilities in Bangkok free supplies of Nestlé products were reported in 10% of health facilities despite a 1992 agreement to end the practice. There are over 200,000 births in urban areas in Thailand each year. In the country as a whole there are over 1,100,000. While the IGBM report is not recent, it should be recalled that Nestlé only admits to malpractice in the 1960s and 1970s.



UNICEF has also exposed free supplies in Thailand.

## Changing story about Pakistan malpractice

It is interesting to read that Mr Sinha “*did accept that there had been some problems with Nestlé Pakistan, but argued that the company was working hard to put them right.*”



This proves the point that for Nestlé the malpractice is always in the past. At the time Nestlé was in the media spotlight, when the *Milking Profits* and *Feeding Fiasco* reports were produced at the end of the 1990s, Nestlé argued it was doing nothing wrong. Indeed, the flawed audit produced by Mr Sinha cleared Nestlé, finding only 3 minor violations (just as the recently published audit report on Africa has). Why didn't Nestlé admit to 'problems' then? Why is it doing so now?

Ms Parson was in charge of the public relations campaign against the evidence of marketing malpractice reported by former Nestlé-employee Syed Aamar Raza in *Milking Profits*. As well as effectively branding him a liar, he was also accused of attempting to blackmail the company, a claim Ms Parsons still refuses to substantiate, though she claims Nestlé has a tape-recording to prove it (Aamar says any tape would reveal Nestlé was attempting to bribe him to keep quiet).

Thanks to the campaign against him, Aamar has been unable to return to Pakistan since going public and hasn't seen his wife or two children for five years. It is truly shocking to read Mr Sinha's statement (signed off by Nestlé as accurate) effectively admitting there were 'problems' as Aamar alleged.

### 6.1 Having a Good Policy on the Code Was One Thing, but How Did Nestlé Ensure Compliance?

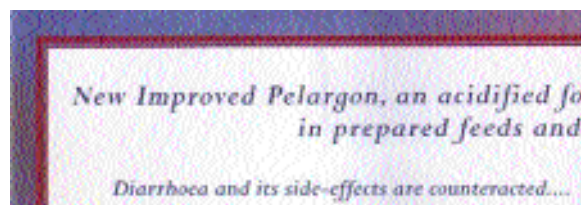
Firstly Nestlé's policy is not good. Secondly Nestlé breaks its own policy. Baby Milk Action is forced to conclude it is part of deliberate strategy to deceive and divert criticism.

### 6.2 How Independent Was EME

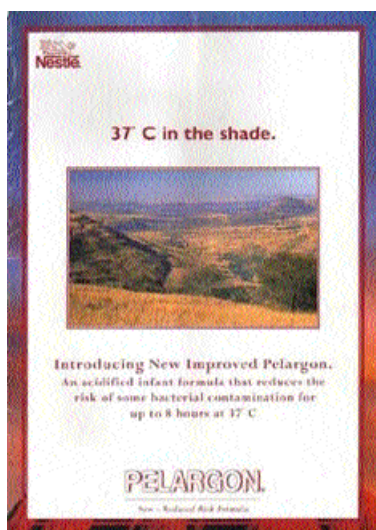
As noted in Baby Milk Action's presentation, EME was paid by Nestlé, it used Nestlé's Instructions not the Code and Resolutions and it agreed to Nestlé's demand not to contact NGOs or Syed Aamar Raza.

### 6.3 Explain the Marketing Claim that Pelargon (Infant Formula) Combats Diarrhoea?

Nestlé said it “*has never marketed Pelargon on the basis that it combats diarrhoea. Some governments have publicised the fact that Pelargon's infant formula is better than some other infant feeds.. but it certainly is not an anti-diarrhoea medicine*”.



The scan of Nestlé's leaflet referred to by Baby Milk Action is reproduced here. This had been raised directly with Nestlé.



### 6.4 Why Doesn't Nestlé Sue Baby Milk Action?

Because it would lose.

