

# UPDATE

BABY MILK  
**ACTION**

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## **Melamine in baby milk scandal**

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**Former MI6 agent ran Nestlé spy operation**

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**UK law: High Court action and monitoring**

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**Martek health claim rejected by EU scientific body**



### Baby Milk Action

Baby Milk Action is a non-profit organisation which aims to save infant lives and to end the avoidable suffering caused by inappropriate infant feeding. We work as part of the International Baby Food Action Network (IBFAN) to strengthen independent, transparent and effective controls on the marketing of the baby feeding industry. IBFAN has over 200 member organisations in more than 100 countries.



### Baby Feeding Law Group

Baby Milk Action is the Secretariat for the Baby Feeding Law Group (BFLG) which is working to bring UK legislation into line with UN Resolutions. BFLG members include consumer and mother-support groups and professional bodies such as the Community Practitioners and Health Visitors' Association, the Royal College of Midwives, the Royal College of Nursing, the Royal College of Paediatrics and Child Health, and UNICEF's Baby Friendly Initiative. We are also on the Steering Group of the **Breastfeeding Manifesto Coalition (BMC)** which has 7 Objectives to support and protect breastfeeding. Objective 7 is to implement the Code and Resolutions.



### International Code

We work for controls implementing the *International Code of Marketing of Breastmilk Substitutes (The International Code)*. This Code was adopted in 1981 by the World Health Assembly (WHA), the world's highest policy setting body. The *International Code* bans all promotion of breastmilk substitutes and was adopted as a 'minimum requirement' to be implemented by member states 'in its entirety'. The *International Code* and the subsequent relevant WHA Resolutions, which have clarified or extended certain provisions of the Code, must be considered together in the interpretation and translation into national measures.

**Cover:** "One doesn't have to be absolutely useless at the age of 90", boycotter and Baby Milk Action member, Kathleen Manning. Picture by *Huntly Express* which ran a story about her and the campaign.

### Protecting breastfeeding

There is no food more locally produced or sustainable than breastmilk. A breastfed child is less likely to suffer from gastroenteritis, respiratory and ear infections, diabetes, allergies and other illnesses. In areas with unsafe water a bottle-fed child is up to 25 times more likely to die as a result of diarrhoea. Reversing the decline in breastfeeding could save 1.5 million lives around the world every year. Breastfeeding helps fulfill the UN Millennium Development Goals and has the potential to reduce under-5 mortality by 13%. A further 6% of deaths could be saved through appropriate complementary feeding. Breastfeeding also provides health benefits to the mother, such as reduced risk of some cancers.

### Protecting babies fed on formula

Breastmilk substitutes are legitimate products for when a child is not breastfed and does not have access to expressed or donor breastmilk. Companies should comply with composition and labelling requirements and other Code requirements to reduce risks - independently of government measures. Parents have a right to accurate, independent information.

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**Update 41** was written by Mike Brady and Patti Rundall and is free to members and affiliates. Details of how to join and order items:

**[www.babymilkaction.org/shop](http://www.babymilkaction.org/shop)**

Electronic versions with links, regular updates and blogs can be found on:

**[www.babymilkaction.org](http://www.babymilkaction.org)**



## Strong regulations needed as Nestlé and Danone battle it out in a consolidating market

Nestlé is the target of a boycott because it is found to be the worst of the baby food companies. Several stark examples from **South Africa** (Page 22), **Laos** (Page 23) and **China** (below and Page 16) are highlighted in this issue.

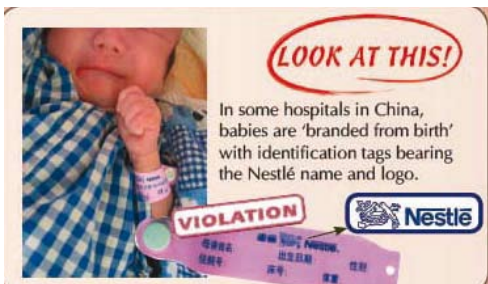
In South Africa Nestlé claims its formula ‘*activates your baby’s immune system*’ and promotes it in supermarkets. The **Infant Feeding Association**, the industry body, reported Nestlé’s supermarket campaign as a breach of the South African Advertising Code and the *International Code of Marketing of Breastmilk Substitutes*. (The strong law has not yet come in). When even its own competitors accuse it of breaking the rules, it really is time for Nestlé to drop the pretence that it complies.

IBFAN’s monitoring round-up in 69 countries, *Breaking the Rules, Stretching the Rules 2007*, showed Nestlé again to be the leading violator of the Code. This ‘gift’ to hospitals in **China** is a newborn’s identification wristband, complete with the Nestlé logo which is a product brand, prominent front-of-pack only on its baby milks. Get them young, Nestlé!

Nestlé has since taken over **Gerber**, meaning the end of the commitment of previous owner, **Novartis**, to make it Code compliant. There are rumours that Nestlé is in the market to add **Mead Johnson** to its infant nutrition empire.

The report, *Breaking the Rules*, shows the NUMICO companies (**Nutricia, Milupa, Cow & Gate**) getting worse, particularly as they battle Nestlé for market share in Asia. **Danone** has since bought NUMICO and is now No 1 in Europe and No 2 in the global baby food market. In response to IBFAN, Danone promised to carry out a ‘*root and branch*’ review of its marketing operations. Sadly its policy contains similar weaknesses to that of Nestlé, and with new aggressive campaigns launched, our initial hope of an improvement has been short lived.

So the market is consolidating around two big players who seem to care little about their responsibilities, infant health or mothers’ rights. It all comes down to profits. All the more reason to push for **strong regulatory systems** and support Baby Milk Action’s work.



**Branded from birth:** Nestlé’s anti-boycott team in the UK is now headed by nutritionist, **Zelda Wilson**, who lobbied students at Sheffield University in April 2008, where she admitted that the purpose of gifts such as this “*is to keep the company name and products in people’s mind.*”

### Self-regulation lets companies off the hook

Despite its competitors and the Department of Health in South Africa opposing the supermarket promotion (above and Page 22), Nestlé defended it at the **Advertising Standards Authority (ASA)** which ruled that it was ‘*information*’ not ‘*advertising*’. The UK ASA - also industry-funded and self-regulated - has cleared a **Danone** TV advert for **Cow & Gate** formula featuring laughing babies and promising protection from infection.

- The UK ASA did, however, rule against against a Nestlé TV advert (on Nepali TV shown in the UK) claiming that **Maggi Noodles** “*build strong muscles and bones.*” With typical double standards, Nestlé said the advert complies with **Bangladesh** law and was not intended for the UK. [www.nestlecritics.org](http://www.nestlecritics.org)



## Protection for breastfeeding in public in the UK

The UK Government sent confusing signals this year as it suggested its **Equality Bill** would protect women who breastfeed in public from discrimination. Campaigners had been calling for protection for mothers in all parts of the UK similar to that in Scotland, where it is an offence to try to stop a mother feeding a child in a place accessible to the public (**Breastfeeding, etc (Scotland) Act, 2005**).

In response to a petition on the 10 Downing Street website posted by **Rebecca Crips** the Government said: *"There is already protection for women who are breastfeeding, whatever the age of the baby, wherever goods and services are provided - for example in shops, cafes, on buses etc. This is within existing sex discrimination law. There is also added protection under the grounds of 'maternity', so that there is even stronger protection for the first six months. The Equality Bill will make it explicit that maternity discrimination includes 'breastfeeding', so that women can be completely confident in the knowledge that the law is on their side if they want to breastfeed while going about their day-to-day business, without having to face the humiliation of for example being asked to leave a cafe by the owner."* (number10.gov.uk/Page15731).

Questions about the confused message prompted **Barbara Follett MP** (Parl Under-Sec, Gov. Equalities Office), to state: *"The law is not as clear as it could be. People are unsure of their rights and their responsibilities in this area. Some people also think that women can be charged with indecency for breastfeeding in a public place. This is utter nonsense and completely wrong."* **Barry Durdant-Hollamby**, [artofchange.com](http://artofchange.com)

● Baby Milk Action is a member of the **Breastfeeding Manifesto Coalition**. Objective 5 of the Manifesto calls on the Government to do all it can to protect women's right to breastfeed in public places. The **Mother** magazine launched another protest and petition on the Downing Street website (with 7,000 signatures so far). Sign at: [petitions.number10.gov.uk/breastfedright/](http://petitions.number10.gov.uk/breastfedright/)



There has been media frenzy over the pictures of actress, **Angelina Jolie**, breastfeeding her baby - as if such a sight is extraordinary. The picture right, taken by her husband, actor, **Brad Pitt**, will appear on the front cover of **W** magazine in November.

Breastfeeding picnics in front of Parliament and around the country on 21 July, with the theme 'Protect me, protect my baby'. Hostile comments appeared on some media websites see: [one-of-those-women.blogspot.com/2008/08/lactaphobia.html](http://one-of-those-women.blogspot.com/2008/08/lactaphobia.html)



## ECO Baby trick

In May we accepted an offer from a magazine called **Eco Baby Guide** (free with **Healthy & Organic Living**)

for an advert for **Baby Milk Action**. We did this on the verbal understanding that the magazine would not be carrying adverts for breastmilk substitutes including follow-on milks. Much to our horror when the magazine came out we discovered that our advert was placed right next to 2 adverts for **Babynat** and **Hipp** organic follow on formulas. **ECO Baby** has refused to print an apology.





## Going for gold

This year's theme for World Breastfeeding Week (WBW) was Going for Gold, tying in with the Olympics in China. WBW is organised by the **World Alliance for Breastfeeding Action** (WABA) and Baby Milk Action is a member. The map, from the site [www.waba.org.my](http://www.waba.org.my), shows torches for events around the world, mainly held in August and October. Organisers could also apply for medals in a 'marathon,' awarded for events of long duration, such as over a week.



## 1,600 mothers breastfeeding in the Amazon Forest

IBFAN Brazil organised the biennial **National Breastfeeding Conference** in May in Bethlehem (Belém), Pará State, which makes up part of the Amazon rainforest. 1,600 mothers turned out to breastfeed alongside the Guajará River, including a contingent involved with Brazil's famous baby-friendly fire fighters, who held a parallel event within the conference. Baby Milk Action's Campaigns and Networking Coordinator, **Mike Brady**, was a guest international speaker on holding corporations accountable (see book on pg 24).

● Last year over 10,000 mothers in 42 countries and 352 locations breastfed simultaneously. This initiative, coordinated by campaigners in the Philippines, has now been recognised by the Guinness Book of Records.

## Reaching a new generation in the UK with Posters and DVDs

From Bump to Breastfeeding is a new DVD from **Bestbeginnings** available free from the **Department of Health** website ([www.orderline.dh.gov.uk](http://www.orderline.dh.gov.uk)) Totally and utterly different from the Nestlé-sponsored Video for Teenagers (see pg 13) which raises problems but fails to provide answers - this DVD will be a great help to new mothers.



The poster, right, from [beastar.org](http://beastar.org) and a radio advert in Lancashire promote breastfeeding and an information and chat website using local mums. The poster, far right, won a competition run by [bestbeginnings.info](http://bestbeginnings.info)



## Is breast best - or just normal?

Dr. Diane Wiessenger warned in the *Journal of Human Lactation* in 1996 (Vol. 12, No. 1) of the risks of promoting breastfeeding as providing advantages and being optimal. She said: "When we talk about the advantages of breastfeeding - the "lower rates" of cancer, the "reduced risk" of allergies, the "enhanced" bonding, the "stronger" immune system - we reinforce bottlefeeding yet again as the accepted, acceptable norm.... Our own experience tells us that optimal is not necessary. Normal is fine, and implied in this language is the absolute normalcy-and thus safety and adequacy - of artificial feeding. The truth is, breastfeeding is nothing more than normal. Artificial feeding, which is neither the same nor superior, is therefore deficient, incomplete, and inferior." She explores at length why speaking this truth makes some mothers feel guilty.

Dr. **Karleen Gribble** made the same case at an Australian Breastfeeding Association conference, pointing out that in choosing her clothes for the event she didn't go for the 'best' - a trip to Paris for the latest designs - but for something adequate. See: [youtube.com/watch?v=M8BjnGCNahU](http://youtube.com/watch?v=M8BjnGCNahU)



## **UK regulations\* are “inadequate... aggressive promotion of breastmilk substitutes remains common” - UN report**

In September we warmly welcomed the badly needed £2million Government grant to UNICEF UK’s Baby Friendly Initiative (BFI), but our concerns remain about the lack of action on marketing and the Government’s failure to listen to health professionals and to its own advisory body (SACN). In September the UK was called to answer questions from the **UN Committee on the Rights of the Child (CRC)** - 5 years after being told by the Committee to implement the Code. We presented evidence to the CRC Committee including the **Baby Feeding Law Group (BFLG)** monitoring reports, which we produce and coordinate. The Committee was unimpressed by the Government’s submission which claimed it had implemented the *International Code*.

protecting breastfeeding, company profits seem to matter more than health. (For the report see: [everychildmatters.gov.uk](http://everychildmatters.gov.uk)).

All the leading health professional bodies and mother-support groups in the Baby Feeding Law Group and beyond supported stronger regulations during a consultation last year. **Prof Mary Renfrew**, Chair of the **Breastfeeding Manifesto Coalition (BMC)**, wrote in her letter to **Dawn Primarolo MP**, Minister for Public Health:

*“...you may not be aware quite what a quiet revolution has taken place among all the organisations concerned with this issue. I have never before seen such determination and consistency, on any health issue. There is complete agreement between organisations with very different agendas and priorities, and who are not natural allies. This indicates to me that the answer they are proposing is the right one.”*

Because this advice was not taken the new **Infant Formula and Follow-on Formula Regulations (2007)** are a travesty, with the few new safeguards undermined by the lack of controls on follow-on milk advertising and the new nutrition claims permitted by the new law. In an attempt to appease the health lobby, the Minister promised to immediately implement the Regulations, alongside legally enforceable **Guidance Notes**, and to carry out a 12-month independent review on their impact. She also promised to strengthen the Regulations if it was found to be necessary following an **Independent Review**. We were told that the Guidance Notes would address many of our concerns. However, as we report on pages 10 - 13, in practice companies are ignoring them with little action taken. The final Regulations were introduced in February following a legal challenge from the industry to delay key provisions (see overleaf).

\* UK Law: [www.opsi.gov.uk/si/si2007/ukSI\\_20073521\\_en\\_2](http://www.opsi.gov.uk/si/si2007/ukSI_20073521_en_2)  
EU Directive [with claims listed in Annex IV] [http://ec.europa.eu/food/food/labellingnutrition/children/formulae\\_en.htm](http://ec.europa.eu/food/food/labellingnutrition/children/formulae_en.htm)

### **CRC Committee responds to UK**

*“The Committee, while appreciating the progress made in recent years in the promotion and support of breastfeeding in the State party...is concerned that implementation of the International Code of Marketing of Breastmilk Substitutes continues to be inadequate and that aggressive promotion of breastmilk substitutes remains common.... The Committee recommends that the State party implement fully the International Code of Marketing of Breastmilk Substitutes.”*



The Government’s *Sure Start* centres have been active in promoting and supporting breastfeeding, particularly targeting disadvantaged areas where rates are often lower - the report left was part of the Government’s submission to the UN. Sadly when it comes to



### IDFA vs UK Government

Following the consultation on the Infant formula Regulations (pg. 7), the UK Government took the industry line of minimum action. Doing little to strengthen marketing restrictions, it legitimised some of the claims companies had been using illegally for years. But the industry was not satisfied, hating the sections which protect health, such as the new requirement about storage and disposal of formula (because of the risk of intrinsic contamination) and the requirement to make a clear distinction in labelling and marketing between follow-on formula for older babies and infant formula for newborns. The day before the Regulations were due to come into force the **Infant and Dietetic Food Association (IDFA)** called for a Judicial Review in England and Wales, Scotland and N. Ireland - arguing that they should be allowed two years to implement the labelling (and possibly the advertising) requirements. The Regulations were immediately suspended in England, Wales and N. Ireland but remained in force in Scotland.

We were not happy with the Regulations, but given the promise of an **Independent Review** during the first year, we decided that it was important to defend the Government's right to bring in the Regulations straight away. We submitted evidence as an *'Interested Party'* on behalf of both the Baby Feeding Law Group and the Breastfeeding Manifesto Coalition at the two-day High Court hearing in London. We also attended the Scottish case as an observer. We took the view that as existing formula labels breached the Regulations dating from 1995 and should, by rights, be re-labelled, it made little sense to delay the new provisions. However, the court case did not consider such practicalities, instead arguing over the meaning of one word - "product" - in the legislation. Thanks to semantics, the industry won.

● In general the revised EU Directive has weakened the implementation of the Code in Europe, with **Ireland** and the **Netherlands** now permitting infant formula advertising when they once banned it. **Italy** planned to ban follow-on milk advertising, but this seems likely to change under the new regime. **Luxembourg** has, however, banned follow-on milk advertising.

### Bisphenol A: new danger

Canada is the first country to announce a ban on the import, sale and advertising of baby bottles containing Bisphenol A (BPA) declaring it a toxic substance that is hazardous to human health. BPA is a chemical used in many plastic products including some baby bottles. It is also in the lining of some formula cans. BPA has been linked to obesity, infertility, endocrine disruption, early-onset puberty and prostate and breast cancer. Meanwhile, the **U.S. Food and Drug Administration (FDA)** has been criticized for continuing to deem BPA safe and for relying on two industry-funded studies while ignoring many dozens of independent research findings. A **Washington Post** editorial (16.10.08) cites a \$5 million donation by **Charles Gelman** to the **University of Michigan's Risk Science Center**. Gelman is the retired head of a medical device company and a known BPA supporter. The Center's acting head, **Martin Philbert**, is head of the FDA advisory panel delivering the BPA risk assessment, but did not report the gift to the FDA when he was appointed. He maintains that this was because he does not stand to gain from the funds. The FDA is looking into a possible conflict of interest. The **EU Food Safety Authority (EFSA)** considers that BPA is not a hazard.



### Kennedy 30 years ago...

In May 1978, **Senator Edward Kennedy** chaired a **U.S. Senate Hearing** on the marketing of formula in developing countries. Nestlé and other companies were unable to give satisfactory answers to his questions. Recognising the need for an international solution, Kennedy asked **Dr Halfdan Mahler**, then WHO's Director General, to take action. The **International Code** was born as a result. See an excerpt from the Hearing in our 1984 BBC TV Open Space film, **When Breasts are Bad for Business**. [www.babymilkaction.org](http://www.babymilkaction.org)



## New UN Resolution tackles intrinsic contamination



In May 2008, representing **Save the Children**, we joined the **IBFAN** and **Consumers International** team at the 61st World Health Assembly in Geneva to help the adoption of new Resolutions. Once again, the **US** took an opposing position, but thanks to the support of **New Zealand, Palau, Africa** and the **Middle East**, important resolutions were adopted which will protect infant and young child health, and help ensure that parents are properly informed. *The box below contains some key points:*

### WHO and conflicts of interest

Meanwhile some important principles regarding conflicts of interest were raised in the discussion on **Strategies to Reduce the Harmful use of Alcohol** (WHA 61.4) **Dr Ala Alwan**, the Ass.Dir.Gen.for Noncommunicable Diseases and Mental Health supported Member States concerns about the involvement of the alcohol industry and emphasized *"the need to avoid any perception of conflict of interest."* This position was supported by WHO's Legal Counsel who said: *"The set of Guidelines on Interaction with Commercial Enterprises to Achieve Health Outcomes is the codification of the best practices so that interaction with commercial enterprises does not impact negatively on the integrity and legitimacy of WHO's normative functions."* The final resolution separate collaboration with Member States from consultation with other parties such as industry. For the *Guidelines* see:  
[http://ftp.who.int/gb/archive/pdf\\_files/EB107/ee20.pdf](http://ftp.who.int/gb/archive/pdf_files/EB107/ee20.pdf)

● We contributed to the UK Dept. for Int. Development (DFID) consultation on its new HIV strategy, *Achieving Universal Access - the UK Strategy for halting and reversing the spread of HIV in the developing world*, which has improved the section on breastfeeding.

● In July **Gov.Net Communications Ltd** hosted a conference *Health of the Nation 08* sponsored by Nestlé. Despite its name, GovNet is a private company and not a government body. According to the **Food Magazine (Jun 08)** NGOs would have been charged £15,000 to run to two-hour seminars!

- The Resolution on **Infant and Young Child Nutrition** (WHA 61.20), the 13th since the *International Code* was passed in 1981, focussed on the risk of intrinsic contamination of powdered formulas and the need for warnings, safe storage and preparation, the importance of breastfeeding in relation to food security and the need to monitor and enforce the Code and its Resolutions *"while keeping in mind the WHA resolutions to avoid conflicts of interest."*
- For the first time the Resolution on the **Global Immunization Strategy** (WHA 61.15) urged Member States: *"to strengthen efforts to protect, promote and support early and effective breastfeeding, in order to boost the development of infants' overall immune system."* We don't know how the word 'effective' got in, but trust that it refers to exclusive and sustained breastfeeding!
- Resolution WHA 61.14 adopted the **Plan of Action for the Prevention of Noncommunicable Diseases**, which calls on Member States: *"to promote and support exclusive breastfeeding for the first six months of life, and promote programmes to ensure optimal feeding for all infants and young children."*
- The Resolution on **Monitoring of the Achievement of the Health-related Millenium Development Goals** (WHA 61.18) cites malnutrition as a social determinant that underpins mortality and morbidity.
- For the above WHA Resolutions see [www.who.int/gb/e/e\\_wha61.html](http://www.who.int/gb/e/e_wha61.html) See [www.ibfan.org](http://www.ibfan.org) (the Issue, the Code) for other important resolutions. **WHA 58.32** on micronutrients and the importance of *"safe and adequate amounts of indigenous foodstuffs and local foods ..."* **WHA Res 49.15, 55.25 and 58.32** address conflicts of interest.



## Public Private Partnerships - whose interests do they serve?

Public-Private-Partnerships (PPPs) and UN Business Partnerships (UNBPs) - in the form of satellite bodies that are not democratically governed or accountable - are being promoted as innovative market-led solutions to just about everything from development to climate change to health. But whose interests do these bodies really serve?

**DANONE** - since its takeover of NUMICO, the world's second largest baby food company - now sits on the governing body of the **Global Fund for Improved Nutrition (GAIN)** - a UNBP. But there is no mention of Danone's interest in baby foods on the GAIN website nor any mention that it is a systematic Code violator. GAIN claims to be working to improve nutrition by building markets for fortified foods in the developing world and has now launched a project on infant and young child nutrition.

In concern about this unacceptable conflict of interest, 53 experts from 24 countries, attending the **World Alliance for Breastfeeding Action (WABA)** workshop in **Penang, Malaysia** in October have written to **WHO** and **UNICEF** calling on them to reconsider their partnership with GAIN.

While fortification of selected foods may be useful in some cases, GAIN's interventions with governments are worrying. The philanthropic packaging of the GAIN message and the image transfer from GAIN's UN partners, can be used to push processed, ready-to-eat foods into national public health nutrition systems, so undermining breastfeeding and the use of indigenous, traditional and low-cost foods, and exacerbating problems for those most in need.

**Mark Ameringen**, the Executive Director of GAIN explains how we are all expected to work together to help companies establish these new markets: "[this] *underscores the importance and need for development agencies and donors to continue to support business solutions and, thus, maximize productivity of the poor. GAIN can*

*mobilize development partners from the public and non-profit sectors to create an enabling environment for companies interested in nutrition for the poor.*"<sup>1</sup>

- A silent protest by public health experts and NGOs took place in **Dehli** in April, calling on GAIN to leave **India**. The ongoing controversy over whether traditional cooked meals should be replaced with packaged food at **Integrated Child Development Services** centres, has alerted people to the risks of nutrition interventions which ignore conflicts of interest and the need for an independently-funded evidence base and independent monitoring of the outcome.

### The UK and WHO

The UK funds 11% of WHO's budget and is now the second largest contributor after the USA's 16%. (The USA used to contribute 25%.) However, it is not clear how much of this money is going to WHO and how much to PPPs.

Responding to the UK Government's consultation on its new 'Institutional Strategy' for relations with WHO, the **National Heart Forum** and the **International Association for the Study of Obesity (IASO)** highlighted conflicts of interest. IASO said "*In developing partnerships and collaboration, it is important that WHO maintains its independence and takes care to avoid conflicts of interest in any joint collaboration with interested global industries, ensuring first that WHO's policies and implementation strategies are based on the health needs of the population rather than the interests of their partners.*" IBFAN and NGOs have written to EASO (the European member) about the sponsorship of the **European Congress on Obesity** in Geneva by Nestlé and Unilever, in conflict with EASO's own guidelines!

- See [www.ibfan.org](http://www.ibfan.org) for papers on PPPs, including the UNRISD paper, *Beyond Pragmatism: Appraising UN-Business Partnerships*.

<sup>1</sup> *Opportunities and challenges for the food industry in reaching the poor.* M.Ameringen, B. Magarinos (Sen.Man. GAIN) M.Jarvis (World Bank), Business & Malnutrition: Development Outreach June 2008.



# BFLG reports track formula marketing strategies and action (or lack of it) by authorities

Baby Milk Action coordinates a UK monitoring project on behalf of the **Baby Feeding Law Group (BFLG)**. Since May, we have been producing quarterly reports, which are accepted by **Trading Standards Home Authorities** responsible for each formula manufacturer and their umbrella body, **LACORS**. We also send them to the Government's **Independent Review Panel** and to the **Advertising Standards Authority (ASA)**. Many thanks to everyone who sent us evidence.



For example, this TV advert (above) for *Aptamil* formula, highlighted in the May report, suggests that the protective shield provided by breastfeeding is also provided by *Aptamil* formula. The '*Immunofortis prebiotics*' claim is used despite being non-compliant with the *Infant Formula and Follow-on Formula Regulations* in both their 1995 and 2007 versions.

The **May 2008** report recorded some of the key concerns about practices by the different companies. The next report in August included responses from the **Nestlé** and **Wyeth/SMA home authorities**, the only ones who responded, and evidence of new promotional campaigns launched in the intervening three months.

## Danone: from bad to worse

At the beginning of the year, we were in communication with **Mr. Frank Riboud**, CEO of Danone, following the company's takeover of **NUMICO**, which owned the **Nutricia, Milupa** and **Cow & Gate** brands. Danone is now a major player in the EU and global baby food market. Ribaud promised a '*root and branch*' review of marketing practices which we welcomed on our March 2008 *Campaign for Ethical Marketing* action sheet. But time has passed we are now seeing Danone's strategy.

While pretending to the UN bodies that it is only interested in improving nutrition for young children, Danone is aggressively expanding its whole range of milks, including follow-on milks and growing-up milks\* and doing so in ways that undermine breastfeeding.

In July, Danone began advertising Cow & Gate formula on TV with an advert showing laughing babies (inspired by a popular **Youtube** clip). The advert also claims that it provides for '*natural defences*' despite a previous ASA ruling against a similar Cow & Gate claim in print advertising.

We reported this advert to the ASA also, but it has been cleared because even though it shows bottle feeding, the small print running along the bottom of the screen mentions follow-on formula, which is unregulated in the UK.



\* Numico's website reports that in 2007 sales of growing-up milks rose by 15.8% and prepared foods and follow-up milks rose by 12%.



## Cow & Gate and Hipp launch Good Night milks

A major promotion has been launched for the new product Cow & Gate Good Night milk, backed by special displays and discounts, such as that shown in Boots, right, in April 2008. The product is a follow-on milk with added potato starch and rice flakes.



The advert (left) in the celebrity magazine *Reveal* in March 2008 and on a 12-page booklet, encourage mothers to visit the Cow & Gate website where the full range of products is promoted. The promotion is dominated by the idealising text and image implying that it will help infants sleep, playing on a parent's insecurities and concerns about night feeding. The name itself is an idealising claim which has no supporting evidence and has not been submitted to or passed by the European Food Safety Authority (see P 14).

The advert above is also the front of a 12-page booklet, distributed in Boots, and is full of misleading information. It encourages parents to telephone Cow & Gate for advice on infant care.

*to the day.*" This promotion undermines the Department of Health recommendation to continue breastfeeding beyond 6 months and long-standing health advice not to feed anything other than milk or water using a bottle. Goodnight milks could lead to babies being overfed as parents try to keep them asleep. It's also easier to consume calories as a liquid than as solid food and babies tend to consume any liquid in their mouths, regardless of hunger, because of their swallowing reflex. The Government's Scientific Advisory Committee on Nutrition (SACN) discussed Goodnight Milks in October.<sup>1</sup>

The advert states : *"New Cow & Gate Good Night milk has been specially developed to help settle your baby at bedtime. Thicker than regular follow-on milk, but gentle on your baby's tummy, it provides a warm, contented and satisfying end*



**Hipp** also has a brand of *Goodnight Milk Drink*. The advert (right) in *Prima Baby* magazine, Sept.08 suggests that thanks to the milk *"...everyone can get a good night's sleep... the ideal end to a busy adventure filled-day."*

### Support the project

The monitoring project is funded by sales of the printed version of the report and donations. Advocacy using the August report and preparations for the next one has been made possible by donations through

[www.latchon.org](http://www.latchon.org)

Find a pdf version and submit evidence for future reports at:

[www.babyfeedinglawgroup.org.uk](http://www.babyfeedinglawgroup.org.uk)





# Heinz launches a new formula: prohibited claims, coordinated promotion and inflated prices

The August 2008 report we produced for the BFLG monitoring project, documented the launch of Heinz Nurture formula. Heinz provides a lesson in how to promote formula - if you are not concerned with bending and breaking the law.

## Cross-promotional product range

The UK regulations currently allow follow-on formula to be promoted to the public, but not infant formula. The law also states that these should be packaged differently but, following the Judicial Review (see Page 8) the companies do not have to comply with this until 2010. They have, however, been asked to comply immediately with the **Guidance Notes** which describe how the law should be interpreted. The new Heinz range ignores this and uses similar branding to make the products cross-promotional.



## Idealising claims



The infant formula label has a logo, 'science behind nurture' and the claim, 'Prebiotics,' which is not on the permitted list. Heinz was reminded of this by the **Food Standards Agency** in 2006. The next quarterly report will indicate whether action is taken on this illegal claim which misleadingly suggests that the formula provides health benefits. Artificially fed infants are more likely than breastfed infants to suffer short and

long-term illness. Breastmilk contains over 130 oligosaccharides which act as prebiotics. Foods such as bananas also have a prebiotic effect.

## Pushing formula through the follow-on formula loophole



Having created a cross-promotional range, Heinz then uses another loophole to promote the third tin (shown left) on television and in print with the idealising claims "New Nurture helps nourish, protect and develop your baby." The advertised website promotes the full range of formulas. Promotion in supermarkets, ostensibly for the follow-on milk, is placed with the infant formula - something explicitly prohibited by the Guidance Notes. Example above, Boots in August.



## Co-opting health workers to justify higher prices

Nurture was promoted to health workers with the disease risk reduction claim: "a new arrival offering constipation relief" (a claim not on the approved list). The old Farley's brand was promoted to health workers as the "Best formula. Best value... Committed to fair prices." Nurture is about £3 a tin more expensive than Farley's.



# Lack of enforcement leads to an increase in promotion by Wyeth/SMA - Nestlé receives warning

The Trading Standards Home Authority for Wyeth/SMA was one of two that responded to the May 2008 monitoring report.

## Guidance Notes unenforceable?

The **Guidance Notes** which accompany the Regulations clarify the Law and are intended to have the same force. So far industry is ignoring them. During the consultation, they said:

*We are specifically concerned about paragraph 49 of the Guidance which suggests that shelf-talkers and other in-store promotional devices for follow-on formulae are not used in the vicinity of infant formulae. We are especially concerned about the unreasonable suggestion that a follow-on formula has to be located in a different part of the store to infant formula. This is gold plating, as this is not laid down in the legislation. As best practice this proposal is completely unjustified.*

The Government took a different view and these provisions remained in the Guidance Notes, which we were assured would be enforced. However, Trading Standards said of promotion breaching these provisions:

*It may not comply with good practice in the Guidance Notes, but it does not infringe the 2007 Regulations. Therefore enforcement action cannot be taken.*

## No action on labels

Trading Standards is also not taking action on labels. For example, the stylised breastfeeding mother, introduced after Wyeth was forced to remove its 'now even closer to breastmilk' slogan. The Home Authority stated: "It



*is too subjective. I have done several straw polls and some people simply see an M and not a breast feeding mother." Our straw polls found the opposite. We ask the question, why not just use a letter M? Why have the two red dots?*

## Promotion increases

*Brand Republic* reported in May: "SMA Nutrition, the baby milk formula brand, is on the hunt for an agency to handle its direct marketing account." This increased direct promotion to mothers is in addition to an existing £3 million advertising campaign.

## Warning on Nestlé Teenage video

Nestlé is trying to enter into the UK mass formula market and is working closely with midwife **Chris Sidgwick** who launched a Nestlé video at a past **Royal College of Midwives** conference and suggested in the **British Journal of Midwifery** that healthworkers should look to Nestlé for sponsored materials (pg 21). At the time we raised the point that such resources can only be distributed with the prior approval of the **Department of Health**, which has not been given. Trading Standards agreed but has taken no action apart from asking Nestlé to try to obtain approval yet again. The **BFLG**, **WHA** and **NICE** position (see below) is that industry should not fund such materials.

## 2008 NICE Guidance gets tough on industry funded materials:

The National Institute for Health and Clinical Excellence (NICE) published Guidance No 11 in March: *Improving the nutrition of pregnant and breastfeeding mothers and children in low-income households*. Rec 14 states: "Avoid promoting or advertising infant or follow-on formula. Do not display, distribute or use product samples, leaflets, posters, charts, educational or other materials and equipment produced or donated by infant formula, bottle and teat manufacturers."

[www.nice.org.uk/Guidance/PH11](http://www.nice.org.uk/Guidance/PH11)



## **EFSA: tough on claims?**

The EU Nutrition and Health Claims Regulations (1924/2006) was amended at the last minute following the concerns of Parliamentarians about claims on foods for children. All children's health claims, disease risk reduction claims and claims based on new evidence (Article 14 claims) must now be evaluated by the **European Food Safety Authority (EFSA)**. This means that under EU law no claims should be made on follow-on milks or baby foods unless they are cleared, or are awaiting clearance, by EFSA. (*Claims can be made on infant formulae if they are listed in the Infant Formula Directive (141/2006/EC, Annex IV).*)

Companies have submitted applications for over 2,800 claims including over 200 Article 14 claims. These include a **Nestlé** claim that *Bifidobacterium lactis* in formula and milk-based products "*strengthens natural defences*" and a **Ferrero** claim that "*Kinder Chocolate is the chocolate that helps you grow.*" The can of worms is well and truly open.

Baby Milk Action, on behalf of IBFAN, the BFLG and the BMC, sent submissions calling for all health and nutrition claims on foods for infants and young children to be rejected on the grounds that they mislead the public and undermine breastfeeding and sound complementary feeding.

EFSA rejected the majority of the first applications, including a **MARTEK** claim for follow-on milk: "*DHA and ARA support neural development of the brain and eyes.*" EFSA said MARTEK failed to demonstrate causality between consumption of DHA/ARA and a benefit to infants between 6 months to 3 years. The food industry, which already proclaims the excellence of its products, expressed fears worried EFSA was setting too high a standard. We breathed a sigh of relief and saw this as a signal that EFSA was prepared to put scientific substantiation before commercial interest.

EFSA did, however, give an ambiguous opinion on **UNILEVER's** alinolenic acid (ALA) claim about growth and development of children and has followed this with a positive opinion for **French Dairy Industry (ATLA)** claims on Vitamin D, Calcium and bone health.

There is a 30-day public consultation period following the publication of each EFSA decision, and the Commission and Member States will decide if and how these claims can be used. We will need to keep a close eye on developments.

- Baby Milk Action has worked for years with **Glenys Kinnock** MEP to increase the transparency of EU scientific bodies because of our concern about the undue corporate influence on EU policy making. The rules adopted in 2000 require members to declare their financial links to industry. *EU advisory committee members declare their interests* BMJ 2000;320:826 ( 25 March )

- A major problem with the **Infant Formula and Follow-on Formulae Directive** is that it allows ingredients to be added on an optional basis. This is an illogical and risky notion for products which play such a critical role in child development. Ingredients should only be added which have been proven to be safe and essential and the evidence for this should include a good proportion of independently-funded research (something that is not an EFSA requirement). As things stand, companies are adding unchecked, novel ingredients, one by one, alongside a range of unauthorised claims - and leading parents to believe that they must choose at point-of-sale between very different health outcomes.

- Although the proportion of long-chain fatty acids in breastmilk is clearly important the efficacy and safety of the artificially-made versions are questionable. **The Cornucopia Institute** in the USA used **Freedom of Information** legislation to obtain information on concerns registered with the **Food and Drug Administration (FDA)** about adverse reactions to DHA/ARA-supplemented formulae. The FDA questioned the adequacy of information to determine safety and efficacy of the clinical trials required for premarket approval of these LCPs. Cornucopia and the **National Alliance for Breastfeeding Advocacy (NABA)** are petitioning the FDA for labels to warn of the possibility of an adverse reaction to DHA/ARA-supplemented formula. See *Replacing Mother, Imitating Human Breast Milk in the Laboratory* (Jan 08) [www.cornucopia.org](http://www.cornucopia.org)



# Public Private Partnerships - companies and education

*"All too often the education process is entrusted to people who appear to have no understanding of industry and the path of progress...The provision of education is a market opportunity and should be treated as such"* European Round Table of Industrialists, 1988

*"The secret of success is sincerity. Once you can fake that you've got it made"*  
Jean Giraudoux (1882-1944).

Baby Milk Action represents IBFAN on the European Commission's **Platform on Diet, Physical Activity and Health** which brings companies, such as **Mars, Nestlé, Pepsi and McDonalds** together with public health NGOs supposedly to find strategies to combat obesity and food-related ill-health.

There have been several Platform meetings focussing on nutrition education and public-private-partnerships (PPPs). The NGOs are concerned about the predominance of industry-funded education schemes, despite the lack of evidence that information campaigns alone can deliver behaviour change. Nestlé has many schemes advising parents.

At the meeting in July, EU Commission Chair and Dir. General of DG SANCO, **Robert Madelin**, asked why companies fund education. The CIAA representative, working for Mars, responded saying that it is to *"help the whole population to understand, appreciate and enjoy their products, but not in excess...."* The minutes of this meeting for the first time suggest that *"economic operators could avoid education and focus more on their core expertise: reformulation and marketing"* and that the term: *'partnership'* could be re-named as *'coalitions of interest.'*

At two meetings with Member States in October we continued to press for the *risks* of PPPs and commercial involvement in schools and education to be acknowledged and to warn of the undue pressure on policy setting. Robert Madelin had, in the July meeting, said that to his knowledge such pressure had not occurred at Commission level, but that he was aware that it does at Member State level and that the Commission had been asked to help. Meanwhile chocolate and baby food sales rise. <sup>1</sup>

- The **European Ombudsman** took up our complaint of 'maladministration' by the EU Commission and asked the President of the Commission to respond to the allegations that it has failed to protect public health and has ignored Member States' obligations to implement the *International Code*. The Ombudsman will make a decision in 2009. (See website link.)

- Our comments to the **Department for Children, Families and Schools (DCFS)** consultation: **Assessing the Impact of the Commercial World on Children's Wellbeing** contain a critique of several industry-funded education schemes such as **MediaSmart** and **Nestlé's Phunky Foods**. The **National Heart Forum** noted that the review of Media Smart was conducted by **Prof David Buckingham** (who was involved in its development) and paid for by Media Smart and the **Advertising Association** itself! We will rework our education Pack, *Seeing Through the Spin* and welcome reports of industry-funded education materials.

- We are members of **ALTER-EU** (the Alliance for Lobbying Transparency and Ethics Regulation), a coalition concerned with corporate lobbying of EU policy making. [www.alter-eu.org](http://www.alter-eu.org)

- **Danone** sponsored a Fringe meeting on **Obesity and Toddlers** at the **Labour Party Conference** in September. **David Algar** of **Nutricia** claimed that adult food is inappropriate for babies and went on to promote PPPs and the Nutricia-sponsored education project, **MEND**. Much to his annoyance, we highlighted the company's Code violations. The Fringe meeting scheduled for the Conservative Party the next week was mysteriously cancelled.

<sup>1</sup> Edinburgh Evening News. Business.com, 4 July 2008  
Mintel, Baby Food, Drinks and Milk, Market Intelligence, Nov. 2007



## Melamine contamination deaths in China show need for regulations

The scandal of **Melamine** contamination of formula and other dairy products in China which created global news in August has been a frightening wakeup call for all parents who have been persuaded to place their trust in brands. 54,000 babies have been hospitalised in China with problems including kidney stones and at least four have died as we go to press. (Chinese parents speak out on TV: <http://tvnz.co.nz/view/page/899522/2203262>)



A bus on one of the busiest routes in Beijing serves as a mobile ad for Sanlu: *"the best selling infant formula for 12 years"*

The worst-affected company, **Sanlu** (in which New Zealand **Fonterra** has a 43% holding), blamed farmers for adding the chemical to milk. It now seems that there were many reports of sick babies from the beginning of 2008, but nothing was done until after the Olympics. Shocking as this is, it's clear that lack of proper scrutiny and regulation is not confined to China, nor to Chinese companies (see Pages 7 and 17). Melamine contaminated formula has now been found in more than 22 brands and many products have been removed from shelves in many countries. Babies have become sick from this contamination in Taiwan, South Korea and elsewhere.

Tragic as the Sanlu issue is for the families concerned (including, perhaps, the recipients of Sanlu's much publicised \$1.25 million donation of formula to the Sichuan earthquake in May) it's important to put this into perspective. With a population of 1.3 billion and 17 million births each year, China has falling rates of breastfeeding.<sup>1</sup> It has good literacy levels, good health infrastructure and lower maternal and infant mortality rates than in many developing countries, but about 300,000 children under 5 still die each year from diarrhoea and respiratory illness.<sup>2</sup> A large number of these deaths (perhaps one third or more) are due to poor infant feeding practices, including bottle feeding, which undermine the health gains made. Bottle feeding deprives infants of breastmilk and actively harms the child's immune system, exposing it to sources of infection. The deaths, and the additional burden of serious non-fatal illness in bottle-fed babies, are the result of the use of formulas supposedly developed to the highest standard - a standard that is seriously deficient. These deaths and illnesses are presumably considered to be 'acceptable' and so go unnoticed.

China's 1995 regulations on the **International Code** are incomplete and not fully implemented, so companies ignore them, or use the loopholes they lobbied for, to aggressively fight for chunks of the vast Asian baby food market. Action on the Code is urgently needed to alert Chinese parents to the risks of artificial feeding, provide them with breastfeeding and relactation support. But it must also stop all the follow-on milk promotion and the claims that formulas make their babies cleverer and healthier.

**What is Melamine?** Melamine resin, a mix of melamine and formaldehyde (used in the manufacture of formica and floor tiles) is rich in nitrogen, and relatively cheap. When added to sub-standard or watered-down milk the protein level appears higher, enabling farmers to meet quality specifications. Also implicated is the contaminant, **cyanuric acid**: *"Melamine alone is of low toxicity,*



however experimental studies have shown that combination with cyanuric acid leads to crystal formation and subsequent kidney toxicity." A WHO Briefing stated: "The Sanlu product incriminated in the cases in China was contaminated at a level of over 2500 mg/kg powder, corresponding to approximately 350 ppm in reconstituted product (assuming a 7-fold reconstitution factor)... Considering a 5kg infant, the tolerable amount of melamine would be 2.5 mg per day. This amount would be reached when consuming 750 ml liquid (or reconstituted) formula contaminated at a level around 3.3 mg/l (ppm)." The melamine level in the reconstituted formula is over 100 times this amount.

**Other contaminants:** Update readers will know that melamine is not the only contaminant artificially fed infants have to cope with. Contamination with **Enterobacter Sakazakii** which can also cause infant fatalities, is worryingly common (found in 14% of tins in a study cited by the US Food and Drug Administration). Yet companies still refuse to warn parents that powdered formula is not sterile or inform them of the simple steps required to kill possible bacterial contamination (see Pg 4 and UD 40 for UK survey). In August, the **Austrian Agency for Health and Food Safety** ordered the recall of *Enterobacter Sakazakii* contaminated formulae: *HIPP Hypoallergene Anfangsnahrung HA 1 (Starter Formula HA 1)*, *Milupa Pre Aptamil HA*, *Wyeth Babylove Dauermilch*. See also Page 8 for concerns about **Bisphenol A**, the contaminant in plastic baby bottles and formula tins. Details of recalls are posted by IBFAN's working group on contaminants at [www.ibfan.org](http://www.ibfan.org). See also **Risks of Formula Feeding**, by Infact Canada in our online shop.

IBFAN's **International Code Documentation Centre (ICDC)** in Penang, Malaysia is compiling reports on the widespread violations of the Code in China and South East Asia, including Sanlu's advertising on buses (left). ICDC's report, *Cashing in on the China tainted milk scandal*, shows how companies are taking out expensive ads in major dailies and public places to reassure parents in Hong Kong, Singapore and Malaysia that their products are safe. See: [www.babymilkaction.org/press/pressindex.html](http://www.babymilkaction.org/press/pressindex.html)

**Nestlé's role - a safe alternative?** In September, speaking in India as the melamine crisis was growing, Nestlé's Chairman, **Peter Brabeck-Letmathé**, gloated that his company was actually benefiting from the crisis, saying: "All our products are 100 percent safe... Sales in China are rather being favoured... It's rather positive than negative." (Reuters 26.8.08) A misleading press release (21.10.08) stated: "the Chinese authorities have issued official certificates for all tested Nestlé products stating that no melamine has been detected in any of them" and referred to a report from the **Hong Kong Government's Food and Environmental Health Department**, but did not link to it. Our new **Nestlé Critics website** (pg. 18) did link to the report, noting that **Nestlé Dairy Farm UHT Pure Milk** was on the contaminated list with 1.4 ppm (above government safety limits). Taiwan later found contamination in a range of processed foods and called for delisting of the products, taking a zero-tolerance approach. Another Nestlé press release (2.10.08) said it "fails to understand temporary delisting request." However, it agreed to the recall. It also withdrew products in South Korea. In 2005 Nestlé "blamed excessive iodine levels in its formula on milk suppliers and at first refused to recall products, prompting a consumer boycott and the comment in the *China Daily* (10.06.05): "Nestle was caught remarkably flat-footed for a multinational firm of its global standing. Many believe it reacted with the speed and alacrity of a sailor drunk on shore leave."

**A little bit of history** Nestlé opened the first baby milk factory in China 1990 and another in 1995. In 1996 **Save the Children (SCF)** exposed how Nestlé's pushing of free milk into Chinese hospitals was undermining breastfeeding in the Yunnan Province. (*UD 19 Boycott News, Financial Times* (8.7.96), *New Internationalist* No 275). SCF maintained private correspondence with Nestlé for a year before going public with their concerns. Nestlé refused to accept responsibility for its actions and described SCF's campaign as a "barren pursuit."



## **New Nestlé boss rejects plan for ending the boycott**

Baby Milk Action wrote to Mr. Paul Bulcke in April to welcome him to the post of Nestlé Chief Executive Officer and request that he break with the strategy of his predecessor, Mr. Peter Brabeck-Letmathé, who continues as Chairman.

Mr. Brabeck's way of dealing with critics of the company's baby food marketing was through denials and deception, only making changes when forced to do so by the campaign or legislation. He spent large sums on an anti-boycott team and PR disasters, such as a big book of letters purporting to be from governments 'verifying' the company complies with the baby food marketing requirements. But he ended up having to apologise for misrepresentation and using letters without permission.

We asked Mr. Bulcke to accept the four-point plan rejected by Mr. Brabeck and he has refused. We invited him to set out his terms and conditions for participating in an independent expert tribunal investigating the claims and counter-claims and he refused. He has suggested we meet at WHO, knowing that when we explored this possibility under Mr. Brabeck's regime it got nowhere because he refused to accept WHO marketing requirements as a starting point - just as Mr. Bulcke has done.

Mr. Bulcke presided over growing the infant nutrition market in Latin America prior to becoming CEO and judging from continued aggressive marketing strategies and the recent attempt to hi-jack the Nestlé critics website (see below) the new boss is the same as the old boss.

### **Nestlé tries to hi-jack Nestlé-Free Week**

Avid readers of our Campaign Coordinator's daily blog **boycottnestle.blogspot.com** - which surely includes Nestlé - will have learned at the beginning of August of the plan to launch a new website with the theme "Nestlé's Actions speak louder than its words" during Nestlé-Free Week, which began on 4 October, the 20th anniversary of the launch of the current boycott.

The website is a portal for information on different aspects of Nestlé's business, with contributions from experts from around the world providing overviews and links to sources of additional information. With plans well developed for its launch, Baby Milk Action received a letter from Nestlé's lawyers demanding that we transfer the domain name to Nestlé by 29 September - that is, a few days before the start of Nestlé-Free Week. Nestlé justification was that people visiting the site might believe it to be an official site and accused us of "passing off" as Nestlé. This is inconceivable given the clear explanation of the purpose of the site and a link to Nestlé's own.

We refused to hand over the domain name, judging that Nestlé's aim might be to undermine Nestlé-Free Week by putting its own content on the site and "passing off" this as independent analysis of the company. As the original domain name had not yet been publicised we launched the site with a new domain name **nestlecritics.org** to deflate Nestlé's "passing off" claim.

### **Cross-promotional campaigning**

The Nestlé Critics website arises from networking Baby Milk Action has done with other campaigners at the European Social Forum, at the Multiwatch tribunal in Switzerland into Nestlé in Colombia, with water campaigners and others. It covers concerns over trade union busting, child slavery in the cocoa supply chain, treatment of coffee and dairy farmers and much more in addition to the baby food campaign. Link to **nestlecritics.org** whenever you mention Nestlé.



### Nestlé 'most criticized'

Nestlé is one of the top ten most environmentally and socially criticized companies, according to analysis conducted by the company ECOFACT. This is how ECOFACT describes itself:

*"ECOFACT is a consulting boutique specialized in the management of environmental, social and reputational risks, mainly in the financial sector. ECOFACT is based in Zurich and leverages a global network of sector and issue specialists."*

So it is coming from an industry perspective of how a company's image and, hence, value, is harmed by criticism. This shows the importance of campaigning, because company executives and investors take notice when a financial cost is put on their malpractice enabling us to force some changes. However, Nestlé's preferred response to date is to use a range of Public Relations and more underhand tactics to try to undermine and silence critics and divert criticism.

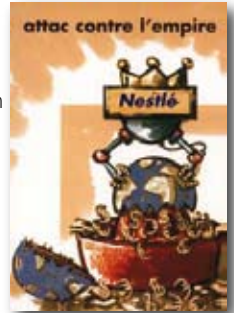
### Nestlé spy infiltrated Swiss ATTAC group

While trying to hi-jack the Nestlé Critics website with the claim it was "passing off" as Nestlé, Nestlé itself was in court in Switzerland where it admitted hiring a secret agent to "pass off" as an activist to join the Swiss ATTAC group.

The agent was employed by **SECURITAS** and run by a former **MI6** officer working for Nestlé. She joined the editorial board producing a book with content similar to that on the Nestlé Critics website, which was launched at a conference in 2004 where Baby Milk Action was also speaking - meaning our correspondence with ATTAC would probably have been sent straight to Nestlé by the spy.

ATTAC has taken legal action over breach of privacy and expressed concern that trade unionists in Colombia and others who have been

targeted by paramilitaries after organising at Nestlé sites may have been put in danger. The story has been massive in Switzerland. The media interest in Switzerland also helps to explain why Nestlé was desperate to take the Nestlé Critics website off the air days before it's official launch.



### Nestlé 'Shared Value' report

In March Nestlé launched a new Public Relations booklet called 'Creating Shared Value'. The launch took place jointly with the Global Compact Office, a United Nations initiative set up by Kofi Anan when Secretary General as an alternative to pursuing an international system of enforceable regulations for transnational corporations. Nestlé Chairman, Peter Brabeck, said of the company's business model:

*This enables us to deliver five to six per cent organic growth while at the same time improving our environmental and social performance, thereby having a positive impact on millions of people across the world.*

The business-orientated *Ethicsworld* website commented: "Nestlé's accomplishments in its key CSR areas are detailed in the report, but the text falls short when it comes to admitting problems and difficulties in meeting goals."

Nestlé once again employed Bureau Veritas to provide a comment on some aspects of its business, including its baby food marketing. Once again violations were ignored, such as the evidence in the *Breaking the Rules* reports and more recent practices such as the labelling and promotion described on page 22 from South Africa. Baby Milk Action joined with partners in issuing a press release providing some of the information missing from the report.



### UK Methodist Finance Board gives Nestlé Public Relations coup

Nestlé is using the decision by the UK Methodist Church Central Finance Board (CFB) to buy Nestlé shares to undermine the campaign. The investment comes after an investigation by the Church's Joint Advisory Committee on the Ethics in Investment (JACEI). The CFB states, regarding the investment:

*JACEI acknowledges and respects the work of organisations such as Baby Milk Action in highlighting the scandal of inappropriate marketing of breast milk substitutes. The way in which the CFB responds to such activities is to engage with company managements and seek change from within. These approaches should be seen as complementary strategies working to achieve a common aim.*

Receiving the JACEI report in 2006 the Methodist Conference adopted text noting concerns about Nestlé practices and stated:

*These concerns may cause some through conscience to maintain a consumer boycott of Nestlé products.*

Baby Milk Action warned the CFB that 'engagement' does not require investment and that Nestlé would misrepresent the decision. We were ignored, but have been proved right.

### Scottish Parliament 'No to Nestlé'

Member of Scottish Parliament, Elaine Smith, highlighted Nestlé's baby food marketing in questioning contracts awarded by local authorities to Nestlé for bottled water. One of the five authorities has switched suppliers and a second is in the process of doing so (*Sunday Express, 18 May 08*).

● Former Olympic athlete, Daley Thomson, was questioned in *The Times* (2.08.08) about his links to Nestlé and handed the question to

the company's PR minder: "She explains that the baby-milk arm of Nestlé is a "separate corporate entity" from the food part of Nestlé". At least it wasn't the usual dishonest claims about respecting the marketing requirements!

### George Clooney link to Nestlé

We joined a coalition of groups that wrote to actor, George Clooney about his appearance in Nestlé Nespresso ads (UD 40). Nestlé provided him with a briefing which misrepresents the Methodist Church investment (see left) as having cleared the



company. Long-time supporter, actress and Oscar winner, Emma Thompson, also wrote to George Clooney. [See *The Observer* 3.8.08].

### Nestlé book prize ends

The Smarties Children's Book Prize, launched in 1985 was rebranded the Nestlé Children's Book Prize when Nestlé bought Rowntrees (the owner of Smarties) in a hostile takeover in 1988. Authors began to protest, and winners, Richard Platt (2002) and Sean Taylor (2007), refused to keep the prizes. The organisers, the Book Trust, had to hold the award ceremonies in secret locations until the end was announced in November 07 with Nestlé saying it would direct its sponsorship to: "nutrition, health and wellness issues." Plans for the Nestlé Teenage Book Prize were abandoned in 2003 after Philip Pullman and Philippa Pearce and other leading authors protested. (*Independent on Sunday, 23.2.03*) We wish the Book Trust well as it continues to promote Children's Book Week 6 - 12 Oct. and the Teenage Book Award without sponsors that violate child rights. The Nestlé Perrier Award ended after 25 years in 2006 but continues with a new sponsor. [www.ifcomedy.com](http://www.ifcomedy.com)



### The Queen's dog food

The Food Magazine (issue 81) has highlighted that the British Royal Family have awarded their coats of arms to some questionable companies, including Nestlé **Purina**, which makes pet food. **The Telegraph** (3.6.08) reported a Buckingham Palace spokesman saying: "Royal Warrants are a mark of recognition that a trade organisation has supplied the Royal household to its satisfaction. It doesn't necessarily mean that that particular product [bearing the coat of arms] has been used by the Queen." So we still don't know what the Corgis are eating. (**Purina** dog food contaminated with Melamine was recalled in the USA in 2007.)

The Queen presented the Order of the British Empire to Baby Milk Action's Policy Director, **Patti Rundall**, on the recommendation of the Government. Royal Warrants are awarded by the Lord Chamberlain to the Royal Household, not the Queen herself. You can send a message to the Lord Chamberlain suggesting they may like to try non-Nestlé products at: [www.royal.gov.uk](http://www.royal.gov.uk)

### Nestlé fails to act on child slavery

A new report from the **International Labor Rights Fund** shows that Nestlé and other confectionery companies have failed to meet their commitments to a US Senate plan, called the **Harkin-Engel Protocol**, on ending child slavery. ILRF Executive Director, **Bama Athreya**, said:

*The major chocolate companies are not able to prove the elimination of exploited child labor in their cocoa supply, nor show concrete improvements in West African farmers' lives. Consumers cannot be assured today that their favorite chocolate candies are made without abusive child labor.*

**Tim Newman** of ILRF's Campaigns Department stated, "Consumers should reward companies with ethical integrity in their supply chains and continue to demand that world's largest chocolate companies answer the question of how consumers can be assured their chocolate is not produced using exploited child labor."

### Backsliding on 6-months

It took 9 years to persuade Nestlé to respect the 1994 WHA Resolution recommending 6 months as the appropriate age for introducing complementary foods. Nestlé's loud declaration in 2003 that it would 'lead the way' by complying with this policy is at odds with its planned launch of a new range of baby milks and foods called **NutriNes**: "aimed at infants over the age of four months." A report in **Marketing** (27.8.08) says Nestlé is also planning the global roll-out of an infant formula brand containing probiotics next year. The brand will contain the probiotic strain *Lactobillus Reuteri* and will launch "in all global markets except Japan and Korea. The line is backed by a £2.5m investment." Several countries have refused to allow the addition of Probiotics to formulae and their use has not been approved in the EU.

### Nestlé's strategy for a UK launch

Nestlé is attempting to break into the UK mass formula market by targetting health workers. **Chris Sidgwick**, the midwife who launched Nestlé's video without the required clearance from the Department of Health (pg. 13) is currently promoting Nestlé study days with **Zelda Wilson** as main speaker. Zelda heads the Nestlé (UK) anti-boycott team, though her employment with Nestlé was not mentioned in publicity. Zelda and **Chris Sidgwick** have lobbied students to drop their support for the boycott. TV celebrity and author, **Dr. Miriam Stoppard**, has also been recruited to invite health journalists on an all-expenses-paid trip to Switzerland to meet Nestlé.

### Nestlé-Free Week and Zones

For reports on occurrences during Nestlé-Free Week and how you can promote Nestlé-Free Zones, see our website. Thank you for the donation of this logo to campaigners in Switzerland.





## **Nestlé driving down standards in South Africa - and co-opting UK Parliamentarians**

### **MPs on jolly to South Africa**

Nestlé took several members of the UK Parliament to South Africa on an all-expenses-paid week-long trip in February to show off its work there. One was **Rosie Cooper**, Parliamentary Private Secretary to Health Minister, **Ben Bradshaw**. The *Independent on Sunday* (11 May) revealed that she was being sponsored by Nestlé for a year-long Industry and Parliament Trust fellowship!

Another MP was **Tom Levitt**, who represents **Buxton** where Nestlé bottles water and has a sometimes fractious relationship with those wishing to develop its spa baths. Mr. Levitt wrote glowing articles about Nestlé on his return, criticising those who continued to boycott it for actions from '30 or 40 years ago'. We wrote to Mr. Levitt pointing out that if he had conducted an independent investigation in South Africa he may have seen examples of on-going malpractice such as the supermarket promotion mentioned below. We have repeatedly requested to meet Mr. Levitt but have had no response.

### **Nestlé claims it formula 'protects'**

One example of Nestlé's aggressive marketing in South Africa is its promotion of its *Nan* infant formula with claims that it 'protects' and its use of edge-of-shelf advertising (known as 'shelf-talkers'). The labels breach the existing South African regulations according to the Department of Health, which informed us:

*"Therefore, statements such as "optimal physical and mental development", "activate your baby's immune defences" and "strengthen your baby's natural defences" as indicated on the labels are just some examples of prohibited statements on NAN 1 and 2".*

Nestlé - and Tom Levitt MP - refuse to accept that such advertising is prohibited by the *International Code*, South African measures and Nestlé's own Instructions, and claim that the shelf talkers are merely information which has been cleared by the South African **Advertising Standards Authority**. Nestlé only provided us with the ASA ruling after we had made three requests. It was clear why they were reluctant: the complaint was brought by the **Infant Feeding Association** - the industry body which argued that the promotion: *"contravenes both the World Health Organisation (WHO) Code and the Code of Advertising Practice, which [prohibits] practices used to induce sales directly to the consumer at retail level."* The ASA, a self-regulatory body funded by advertisers (with Nestlé one of the biggest) found in Nestlé's favour. The Department of Health says it is normally consulted in such cases, but wasn't with this one. The danger now is that Nestlé's competitors, having failed to stop this, will feel compelled to follow Nestlé's strategy.

● South Africa's proposed new law is urgently needed to put an end to all this promotion. Our *April Campaign for Ethical Marketing* action sheet enabled supporters from around the world to send messages to the Government's consultation, urging them to take the right action. The draft law is strong and bans health and nutrition claims reflecting changes we achieved in the Codex Infant Formula Standard (see UD39).





## Why is coffee creamer used for infant feeding?

A survey of 1098 consumers and 26 paediatricians in Laos, published in the **British Medical Journal** in September, reaffirmed the harmful impact of Nestlé's **Bear Brand** logo, which is used on many Nestlé formulae and was exposed by **INFACT Canada** in 2006. The idealised mother bear holding a baby bear (along with the Vitamin claim) conveys a far more powerful message than the warnings:

*"The Bear Brand coffee creamer is used as a breast milk substitute in Laos. The cartoon logo influences people's perception of the product that belies the written warning "This product is not to be used as a breast milk substitute." Use of this logo on coffee creamer is misleading to the local population and places the health of infants at risk."*

24 of the 26 paediatricians said mothers often or sometimes fed the product to babies. Malnutrition was also reported in babies fed exclusively on this totally unsuitable product. When we raised similar concerns about Nestlé promoting whole milk in the infant feeding

sections of supermarkets & pharmacies, Nestlé denied that this promoted it as a breastmilk substitute, stating: "Why would the company want to promote other non-suitable products to feed infants in competition with its own products?"



Laos is one of the poorest countries in South East Asia with extreme levels of malnutrition and a high level of illiteracy in rural areas. Why then does Nestlé refuse to stop putting this logo on coffee creamer when it is well aware of the misuse of these products.

*Misperceptions and misuse of Bear Brand coffee creamer as infant food: national cross sectional survey of consumers and paediatricians in Laos*  
[bmj.com/cgi/content/full/337/sep09\\_2/a1379](http://bmj.com/cgi/content/full/337/sep09_2/a1379)  
[www.infactcanada.ca/winter\\_2006\\_pg4.htm](http://www.infactcanada.ca/winter_2006_pg4.htm)

### International Code Documentation Centre (ICDC)

**Evenflow progress:** ICDC's September Legal Update reports the encouraging story of the US company, **Evenflow's** efforts to become 'Code compliant.' The feeding bottle promotion has been removed from its website and the breastpump and bottle packaging redesigned. The 'Best for Baby' slogan has been changed to 'Breastfeeding Best for Baby.' Although further changes are needed - it's a good start.

**Nestlé in Vietnam Rent-a-dazzle:** The Legal Update explains how Nestlé breaks the prohibition on special displays in retail outlets in Vietnam by renting prime display space, dictating the placement (at eye level) and the minimum quantity of formula products to be displayed. All the products come under the scope of the Vietnamese Decree and four display options are given: diamond (124 tins; rental value US\$43), platinum (64 tins; rental value US\$19), gold (34 tins; rental value US\$9) and silver (24 tins; rental value USD\$6). (Available as PDFs on [www.ibfan.org](http://www.ibfan.org))

### Breastfeeding reduces infant deaths in India

Infant mortality in **Chhattisgarh** has dropped from 84 to 59 deaths for every 1,000 children in the last eight years. The drop is directly linked to a dramatic rise in the number of women exclusively breastfeeding their children for the first six months. This figure has risen from 35% in 2002 to 82 % as a result of an initiative by UNICEF, CARE and the Chhattisgarh Government. (15.8.08 Hindustani Times)

● **IBFAN's Breastfeeding Promotion Network of India (BPNI)** is doing a huge amount of work to protect breastfeeding, while still attending the ongoing trial of Nestlé- now in the 14th year - for failure to label its infant formula and cereals in compliance with Indian law. [www.bpni.org](http://www.bpni.org)

● **New report: Awareness and reported violations of the WHO International Code and Pakistan's national breastfeeding legislation**, by **Mirhetab Salasibew** et al. (17.10.8)  
[www.internationalbreastfeedingjournal.com/content/3/1/24](http://www.internationalbreastfeedingjournal.com/content/3/1/24)

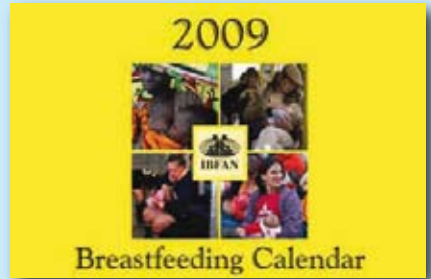


### Calendar and book offer

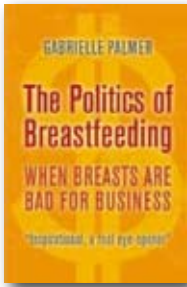
IBFAN's 2009 breastfeeding calendar, with 12 A4-size full colour pictures of breastfeeding mothers from around the world, is now available. A great alternative to corporate calendars. (£7 inc. UK p&p, £6 each orders of 10 or more)



*Fit to Bust*, a book produced by Alison Blenkinsop, features songs and text in support of breastfeeding and the Nestlé boycott (£11 inc. UK p&p). Alison is donating money raised by the book to Baby Milk Action.



**Order both items and we'll send you a free set of humorous breastfeeding postcards, while stocks last.**



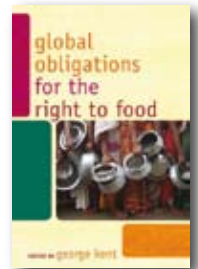
### The Politics of Breastfeeding - new edition

*The Politics of Breastfeeding* by Gabrielle Palmer, has motivated thousands of people to campaign on the baby food issue. This eagerly awaited updated version is a compelling, entertaining and easily

accessible look at the history of breastfeeding and culture. Gay was a founder of Baby Milk Action and is a nutritionist and key figure in the campaign. (£10 inc. UK p&p). Signed copies will be available in January - see on-line shop.

### Ideas to end hunger

Baby Milk Action's Mike Brady joined a Task Force of the UN System Standing Committee on Nutrition to contribute a chapter to this book, edited by Professor George Kent, on holding corporations accountable. The successes and failures in tackling company malpractice inform proposals for an international regulatory framework with effective monitoring and enforcement. IBFAN's Dr. Arun Gupta wrote the breastfeeding chapter. (£21 inc UK p&p)



### Baby-led Weaning

Gill Rapley and Tracey Murkett's guide, geared to industrialised countries, shows that with time and space babies learn to feed themselves with healthy family foods (alongside breastfeeding). No need for spoonfeeding commercial baby foods long before they are ready. Vermillion £10.99



### Global Health Watch 2

This book covers a range of health topics including US global health policy, The Gates Foundation and WHO. Patti Rundall and IBFAN's Elisabeth Sterken and Dr Arun Gupta wrote the chapter on infant feeding. Zed Books (£18.99 + p&p)



**all available at:**  
[www.babymilkaction.org/shop](http://www.babymilkaction.org/shop)