



2009 External report on Nestlé's WHO Code compliance

INTRODUCTION

Nestlé supports the best start in life for babies. This means protecting and promoting breastfeeding and ensuring that, when alternatives are needed, these are of the highest quality.

We recognize that the *International Code of Marketing of Breast-milk Substitutes* (WHO Code) is an important instrument for the protection of infant health, in particular in countries where public health concerns are heightened.

The WHO Code was integrated across our entire operations in developing countries in 1982, and we have implemented extensive procedures to embed it into our practices and to ensure compliance with it. This means in part training our personnel and partners involved with the marketing of breast-milk substitutes, monitoring and auditing our compliance with the Code. More information about our procedures can be found on the [Nestlé Baby Milk website](#).

This report, intended for interested stakeholders, aims at increasing our transparency with regards to our Code compliance record. It outlines the 2009 results of Nestlé's compliance with the WHO Code and our Policy for the implementation of the Code. It is a summary prepared for reporting purposes and is not intended to give any enforceable rights to third parties.

Information on alleged WHO Code violations may come from various internal and external sources. Internal sources include internal audit reports and allegations received through our Internal Ombudsman system. External sources include external independent audits and contacts from NGOs, consumers or other stakeholders.

Internal audits

Internal audits are carried out in approximately 20 countries each year. Nestlé employees are instructed that their actions are subject to audits and that Code violations may result in disciplinary measures. Audit results are communicated to top management, and where violations occur, these are reported to the Nestlé CEO.

In addition, Nestlé produces annual summary reports to the Audit Committee of the Board of Directors on internal monitoring, external reporting and corrective actions taken regarding non compliance.

In 2009, 26 different countries in Europe, Asia, Africa, Middle East and Latin America were audited by Nestlé corporate auditors for WHO Code compliance.

Internal ombudsman system

Each Nestlé Market operating in higher-risk countries has a designated Ombudsman to whom suspicions of WHO Code breaches can be reported by employees in a confidential manner, outside of line management.

There is also a Corporate Ombudsman, who is a member of the Executive Board of the Nestlé Group, to whom any employee can report concerns or potential non-compliance with the WHO Code.

External independent audits

Nestlé commissions at least three external audits on Code compliance per year. Since 2004, Bureau Veritas, a major global auditing company, has been commissioned to review Nestlé infant food marketing in several countries in Africa, Asia and Latin America.

In 2009, Bureau Veritas audited Nestlé's compliance with the WHO Code in El Salvador, Brazil and Ecuador.

Contacts from stakeholders¹

We rely on stakeholders and the general public to directly communicate in detail any allegation of non-compliance with the WHO Code. A [Complaint Form](#) is available on our website to this effect.

We take all allegations of non-compliance with the Code very seriously and investigate each one of them, whether raised internally or externally, provided that there is information with sufficient detail to permit this and treat such investigations with the appropriate level of confidentiality. When a breach is identified, corrective action is taken as quickly as possible.

FINDINGS

Summary of results

In 2009, internal and external monitoring of Nestlé's adherence to the WHO Code shows that the level of compliance is high:

- No evidence of systematic contravention of the WHO Code was found.
- 23 allegations of non-compliance with the Code were raised internally or externally, of which 7 constituted a contravention to the WHO Code or Nestlé Policy and Instructions and required corrective actions (ref. to table 1). In addition, 2 further areas of concern were identified and remedial action taken (ref. to table 2).
- 5 allegations did not require any corrective action (ref. to table 3).
- 9 allegations related to activities carried out by third parties on their own initiative (promotion at point of sale by retailers).
- 7 allegations were reported internally (6 through internal audit reports and one through the Ombudsman System) and 16 allegations were raised externally (8 through Bureau Veritas audits and 8 through external stakeholders).
- All contraventions to the Code or to the Nestlé Policy and Instructions requiring remediation have now been corrected.

Adherence by third parties

The largest number of allegations (9) related to promotions at point of sale carried out by retailers. These are not considered as breaches to the WHO Code by Nestlé as these are initiatives taken by third parties over whom we have limited control.

Nestlé works with all retailers, distributors and agents that deal with its infant nutrition products to ensure that they are fully informed about the WHO Code. Third parties are made aware of their obligations to comply with the provisions of the WHO and national Codes, their staff are trained in the Codes, and their contractual agreements with Nestlé in higher-risk countries clearly specify

¹ The International Baby Food Action Network (IBFAN) has recently published the 2010 'Breaking the Rules' report, outlining allegations of non compliance with the WHO Code from major infant food manufacturers, including Nestlé. A response to all allegations outlined in this report will soon be available on our website.

that continued compliance with the Codes and the Nestlé Policy and Instructions are conditions of doing business with the company.

Among the many thousands retailers, distributors and agents that we work with there are some who have not yet understood, or who make mistakes. When such mistakes happen and we are made aware of them, we immediately contact the third party to remind him of our Policy and to ask him to stop non compliance with it.

Non-compliance with the WHO Code and the Nestlé Policy and corrective actions taken

No evidence of systematic or deliberate contravention of the WHO Code by Nestlé personnel was found. The 7 allegations which required remedial actions have all been corrected.

Two further areas of concern were identified. Although these were not WHO Code or Nestlé Policy contraventions, measures were taken to ensure that our marketing practices reflect a high sense of responsibility.

Table 1: WHO Code and Nestlé Policy contraventions requiring remediation	
Issue	Corrective action
<p>1. Free or low-priced supplies</p> <p>In one case, two infant formula products were sold on a tender to health authorities below the minimum price allowed by our instructions. Progressive rebates were also given to two customers.</p> <p><i>Source: Internal audit</i> <i>Location: Middle East</i> <i>Reported in November 2009</i></p>	<p>Nestlé Headquarters clarified the pricing policy for tenders in writing. The new guideline was sent to the Nestlé's subsidiary and the Standard Operation Procedure was updated accordingly.</p> <p>Customers have also been informed that infant formula products cannot be given progressive rebates.</p>
<p>2. Staff training</p> <p>In one instance, eight employees' rated knowledge about the WHO Code was 'low'.</p> <p><i>Source: Internal audit</i> <i>Location: Middle East</i> <i>Reported in November 2009</i></p>	<p>Employee training on the WHO and Nestlé Policy was reinforced, in particular for sale representatives and merchandisers.</p>
<p>3. and 4. Infant formula supplies for employees</p> <p>In two subsidiaries, infant formula cans were given to Nestlé employees for the feeding of their infants without the medical prescription required by our procedure.</p> <p><i>Source: Internal audit</i> <i>Location: Africa</i> <i>Reported in July and June 2009</i></p>	<p>A reminder about the procedure ensuring that employees receive product under controlled conditions was issued.</p>
<p>5. Informational and educational materials to health workers or intended for mothers</p> <p>One item of informational material intended for</p>	<p>The Nestlé subsidiary concerned issued an</p>

Table 1: WHO Code and Nestlé Policy contraventions requiring remediation	
Issue	Corrective action
<p>health care professionals did not mention all the information specified in Article 4.2 of the WHO Code, including the benefits and superiority of breastfeeding.</p> <p><i>Source: External audit</i> <i>Location: Latin America</i> <i>Reported in September 2009</i></p>	<p>immediate instruction to all its Medical Delegates to stop distributing this material, and to recall those in circulation.</p>
<p>6. Informational and educational materials to health workers or intended for mothers</p> <p>A Nestlé Nutrition article (a direct summary of a scientific paper) intended for health workers in a higher-risk country and in the process of being printed included a statement recommending exclusive breastfeeding for 4 months only.</p> <p><i>Source: External audit</i> <i>Location: Latin America</i> <i>Reported in September 2009</i></p>	<p>The Nestlé subsidiary made immediate contact with the printer to ensure a statement with Nestlé's support for exclusive breastfeeding for 6 months be included in the article.</p>
<p>7. Sampling of Growing-up Milk</p> <p>During a sampling of growing-up milk, some mothers were given samples although they may have been with babies aged between 6 months and 1 year old.</p> <p><i>Source: External stakeholder</i> <i>Location: Middle East</i> <i>Reported in July 2009</i></p>	<p>Sampling of growing-up milks to mothers with babies below 12 months of age is against Nestlé Policy. More detailed guidelines have been issued to our staff in all higher-risk countries to clarify conditions for sampling milks for children over 1 year of age.</p>

Table 2: Other concerns for which remedial action was taken	
Area of concern	Remedial action
<p>1. Relationship with health care professionals</p> <p>A Nestlé subsidiary's medical consultant, appointed to provide emergency medical care to foreign employees and their families, became subsequently the Director of a baby-friendly hospital.</p> <p><i>Source: Internal Ombudsman</i> <i>Location: Asia</i> <i>Reported in 2009 Ombudsman report</i></p>	<p>Although this was not a Code violation, the situation could have led to a conflict of interest for the doctor. As a consequence, the relationship was severed.</p>
<p>2. Labelling</p> <p>An article published in the British Medical Journal claimed that Nestlé's Bear Brand</p>	<p>This is not a Code violation: the product contained the statement 'not to be used as a</p>

<p>sweetened beverage creamer logo – an adult bear holding a cub in its lap - caused parents in Laos to believe that the product is an appropriate substitute for breast milk.</p> <p><i>Source: External stakeholder</i> <i>Location: Asia</i> <i>Reported in January 2009</i></p>	<p>breast milk substitute’ as well as a pictogram of an infant bottle with a large red X across it.</p> <p>However, in order to avoid any potential confusion, Nestlé changed the Bear Brand logo to a bear sitting upright holding a glass of milk.</p>
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Table 3: WHO Code and Nestlé Policy allegations which did not require corrective action

Issue	Response
<p>1. Labeling</p> <p>Labels of sweetened condensed milk sold in one country did not indicate that this product was not intended as breast-milk substitute.</p> <p><i>Source: Internal audit</i> <i>Location: Latin America</i> <i>Reported in April 2009</i></p>	<p>The national legislation does not allow the industry to make any mention on its labels that could relate sweetened condensed milk products to infants and young children’s nutrition needs.</p>
<p>2. Promotion in health care facilities</p> <p>A member of the public reported that nurses in a hospital warned new mothers that they may not have enough breast milk and that they will have to buy and use Nestlé infant formula.</p> <p><i>Source: External stakeholder</i> <i>Location: Asia</i> <i>Reported in May 2009</i></p>	<p>The allegation was investigated and it was concluded that, assuming the allegation was true, this was not the result of Nestlé’s activities.</p> <p>A letter was sent to the person who raised the issue, asking for more information (including the name of the hospital). No response was received.</p> <p>Nestlé does not employ any Medical Delegate in the country and products are sold through a distributor.</p> <p>The distributor has been made aware of the Nestlé Policy and Instructions on several occasions.</p>
<p>3. Free or low-priced supplies</p> <p>A news article published on IRIN website reported that “UNICEF found Lactogen 1, a breast milk substitute, being marketed for newborns at camps, along with feeding bottles. The manufacturing company had donated these items through a team from a university visiting the camps”.</p> <p><i>Source: External stakeholder</i> <i>Location: Asia</i></p>	<p>An investigation was carried out to determine if this allegation was true. It was concluded that no infant formula was donated neither by Nestlé nor by distributors to any Internally Displaced Person (IDP) camp nor was it donated to a third party for use in an IDP camp. IRIN published a correction.</p>

Table 3: WHO Code and Nestlé Policy allegations which did not require corrective action

Issue	Response
<i>Reported in June 2009</i>	
<p>4. Labelling</p> <p>An external stakeholder claimed that the 'Protect' logo found on the label of a specific range of infant formula is a contravention of the WHO Code.</p> <p><i>Source: External stakeholder</i> <i>Location: Not specific</i> <i>Reported in November 2009</i></p>	<p>The 'Protect' logo does not contravene the WHO Code. All our infant formula labels carry the points laid out in articles 9.1 and 9.4 of the WHO Code, in particular the "Important Notice" stressing the superiority of breastfeeding and the importance of appropriate use and preparation, and all comply with local legal and regulatory frameworks.</p>
<p>5. Informational and educational materials to health workers or intended for mothers</p> <p>An external stakeholder reported that the booklet 'My Baby's Records Book' intended for mothers is a contravention of the WHO Code.</p> <p><i>Source: External stakeholder</i> <i>Location: Asia</i> <i>Reported in July 2009</i></p>	<p>The 'My Baby's Records Book' is made available to health care professionals only upon their request. HCPs can then provide it to mothers if they so wish. It contains WHO recommendations on breastfeeding as well as on appropriate weaning practices and the clear information that Nestlé's infant cereals are recommended for use only after 6 months of age or beyond. This is in line with the WHO Code and national legislation.</p>