

## Overview: Breaking the Rules, Stretching the Rules 2017

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**Breaking the Rules, Stretching the Rules 2017** (BTR 2017) is a global monitoring report that compiles marketing practices that violate the International Code of Marketing of Breastmilk Substitutes and relevant WHA resolutions from June 2014 to June 2017. Published by IBFAN-ICDC and currently at its 11<sup>th</sup> edition, violations are collected from IBFAN's regional and country groups and volunteers. The report contains almost 800 legally-vetted entries on 28 companies from 79 countries.


The violations illustrated in the full report provide undeniable proof that baby food companies continue to undermine breastfeeding and optimal infant and young child feeding. In addition to conventional means of promotions, companies are now competing with breastfeeding in new ways that are harder to 'pin down'. Old and new promotional tactics aim to influence doctors and parents with misleading information and create an environment that justifies bottle-feeding to increase corporate profits. The report begins with an overview of the International Code and subsequent relevant WHA resolutions (including the latest WHO **Guidance on Ending the Inappropriate Promotion** of Foods for Infants and Young Children). There is also a special page on claims, yet another strategy that companies use indiscriminately to promote products, in the absence of national regulation. For selected companies, there are special country reports *"Look What They're Doing"*. For Nestle and Danone, a detailed analysis of their Code compliance policy manuals as compared to the Code is included in *"Where Do They Differ"*. Aside from outright Code violations, the report also highlights some disturbing trends that "stretch the rules" and give rise to conflicts of interest. It includes examples that show how companies challenge public interest, interfere with public health recommendations, and weaken governments' ability to regulate corporate practices.

Here are some of the marketing trends identified:

- **Raising conflicts of interest to new levels.** In addition to sponsoring medical conferences and professionals for continuing education, companies portray themselves as 'ambassadors

*"Women produce around 23 billion litres of human milk a year worldwide, a 'health food' for babies and young children that is far better than anything from industry. Breastmilk is so valuable that health services in other countries pay hundreds, even thousands of dollars a litre for it. No country can afford to waste this valuable human resource."*

Dr Julie P. Smith, Australian National University Canberra

 *"Global sales of breastmilk substitutes total US\$ 44.8 billion, and this number is expected to rise to US\$ 70.6 billion by 2019. "*

Marketing of breastmilk substitutes: National implementation of the International Code, Status Report 2016 - WHO, UNICEF, IBFAN  
[http://www.who.int/nutrition/publications/infantfeeding/code\\_report2016/en](http://www.who.int/nutrition/publications/infantfeeding/code_report2016/en)

of breastfeeding and infant nutrition'. Their activities range from breastfeeding promotion, scientific research on breastfeeding and breastmilk, financing breastfeeding rooms at corporate offices and hospitals, to partnering with community organisations and governments in public health programmes. Such public-private partnerships (PPPs) have become endemic.

For instance, the Nestlé-sponsored Kartini Programme in Indonesia and the Projects for Nutrition Improvement in Vietnam sponsored by Abbott, are a means for these companies to use high profile 'support of breastfeeding and infant and young child nutrition' as bargaining chips to turn the tables and increase sales. Many more companies have set up "Nutrition Institutes" which claim to be non-commercial organisations working to improve public health. Meanwhile, their parent companies increase sales.

Companies joining hands with healthcare facilities, academic institutes, community NGOs and government programmes exacerbate conflicts of interest. Such industry infiltration compromises the integrity of institutions and programmes whose primary duty ought to be the promotion of breastfeeding and service of public health.

Despite WHA resolutions on conflicts of interest, more health professionals are now being drawn into industry-sponsored associations, which act systemically as conduits between companies and the public, or even between companies and governments. In Nigeria, as in many countries, paediatric associations readily accept Nestlé support for exhibitions, seminars and meetings on infant and young child topics. In Colombia, Nestlé 'guides' the healthcare system and professionals by sponsoring the co-production of the "*Guide to Clinical Practice in Neonatology*" published by the Ministry of Health and Social Protection in collaboration with the Colombian Association of Neonatology.



Comfortable breastfeeding room in a corporate office in the Philippines, with poster reminding users of **Avent** feeding bottles.



August 2017, Nestlé launches “United for Breastfeeding” in Mexico by opening 20 breastfeeding rooms in public hospitals with the promotional slogan “Start Healthy, Stay Healthy”. \*Selected violations that took place after the monitoring period (June 2014 to June 2017) are included to help illustrate latest marketing practices

• **Trade associations as industry ‘fronts’.** In recent years, new organisations have been set up to act as ‘fronts’ to promote industry interests in infant and young child nutrition programmes and policies. It is common to see trade associations like the Hong Kong Infant and Young Child Nutrition Association (HKIYCNA) working to derail Code implementation like in this TV talk show when Hong Kong was consulting the public on a national code.

Other trade associations in the region known to be active in opposing strong Code measures are the Asia Pacific Infant and Young Child Nutrition Association (APIYCNA), and the Infant and Paediatric Nutrition Association of the Philippines (IPNAP). Their ‘neutral-sounding’ or even ‘pro-public health sounding’ names conceal direct links to baby food companies. Yet they work behind the scene to influence policymaking and public opinion on behalf of industry.



HK doctor, representing a Wyeth-sponsored child nutrition advisory group, insinuated that there is not much difference between formula and breastmilk. A rep for HKIYCNA, also a speaker at the same interview, expressed doubt about the scope of the Code, calling it too strict.

• **Hijacking public health campaigns.** Companies have been building a “health expert” image to gain trust and goodwill from the public. It was already reported in BTR 2014 that Nestlé and Danone had hijacked UNICEF’s 1000 Days Campaign; which proved to be a good tool for promotion and they continue to ride on it. In China, Nestlé portrays its 1000 Days Initiative as

a campaign which provides “*excellent care for 1000 days, excellent lifetime protection*”. It artfully combines the Initiative with its “*Start Healthy, Stay Healthy*” slogan to project Nestlé as health and nutrition champion from pregnancy to two years of age. Wyeth partners with the National Institutes of Health (NIH) in the US to conduct studies on infant and young child brain development, capitalising on the prestige of the NIH to burnish its image as a child health expert.

- **Claiming Code compliance.** Many companies put eye-catching statements on their websites and in brochures to state their support for breastfeeding and their compliance with the International Code. However, most of them only acknowledge the importance of exclusive breastfeeding up to 6 months, omitting the linked global recommendation of continued breastfeeding for two years and beyond. In other words, they acknowledge the absolute ban on promotion before 6 months but imply the period after is open market space.

Nestlé and Danone have both produced their own versions of a ‘Code Manual’ to instruct employees on Code compliance. The “*Where Do They Differ?*” sections examine both these companies’ attempts to convince the public that they abide by the Code. The analysis shows that their statements are fraught with inconsistencies, misrepresentations and gaps when compared to Code provisions. For example, both have divided the world into ‘high-risk and low-risk’ countries and have changed the applicability of each Article of the Code accordingly, gearing toward opening up channels for promotion. The Code does not distinguish between countries and is applicable in all.



- **Distorting public health recommendations.** Companies are forever finding new ways to try and wiggle their way around the International Code. The Code clearly distinguishes between breastmilk substitutes and complementary foods. However, in India, **Nan Pro 2** follow-up milks and **Nan Pro 3** growing-up milks are now mysteriously labelled as “Follow-Up Formula - Complementary Food”. The only justification may be in a 2017 ESPGHAN paper that corroborates Nestlé’s curious labelling. It states: “*anything other than breastmilk is defined*

*as a complementary food; thus, infants who receive infant formula are considered to have started on complementary food, even if this is from birth”.*

Under the International Code and WHO Guidance, promotion of complementary foods is only allowed under strict conditions even if they are recommended for after six months. But it does ban promotion of all milks fed to babies up to three years. By renaming liquid follow-up milks and growing-up milks as complementary foods, companies are clearly attempting to justify promotion of products that are under the scope. It is akin to selling alcohol where this is banned, by labelling it as water. This flagrant attempt to promote products under the scope, may also point to companies and professional associations working hand in glove.



“Ambiguous labelling in India - Why does Nestle call liquid formula, complementary food?”

- **Unfounded health claims.** Claims have become a prime marketing tool. Adding complicated ingredients to formula gives rise to ever more health claims protecting the baby from everything and anything. Many of these additives are then used as trademarked logos, mascots or benefit icons, to protect the company’s exclusive usage. More importantly, such logos and icons serve to push ‘fortified’ or “premiumised” formulas without having to use brand names, circumventing the Code. Whether trademarked or not, logos or icons that represent health claims or formulas are still prohibited by the Code.

“Fortified milks are frequently high in sugar and are likely to contribute to higher energy intakes, which may contribute to chronic disease, and the voluntary fortification of foods and drinks needs to be questioned as there is increasing evidence that giving additional nutrients to those who do not need them may have adverse consequences.” - First Steps Nutrition Trust

([http://www.firststepsnutrition.org/newpages/fortified\\_milks\\_for\\_children.html](http://www.firststepsnutrition.org/newpages/fortified_milks_for_children.html))



Argentina 2017 - Mead Johnson claims world leadership in “mental development” with its additives at work in four key areas of the child’s brain from infancy to toddler age.

- **Technological advances influence consumers.** New gadgets and electronic means of communications, social media and phone apps have become more effective marketing tools than the traditional media such as television, magazines and radio. The new tools enable companies to contact parents, collect personal information and carry out promotional activities. Companies also use social media such as Facebook, Instagram, and YouTube to reach parents and health professionals. Built- in features on social media such as hash-tagging, (re)posting, sharing, liking and commenting are transforming promotion, making it ever more interactive, participatory, and personal.

The resulting new ‘influencer marketing’ can go viral within minutes, reaching hundreds of thousands of people conveniently, freely, and effortlessly. For example, in Australia, Nestlé together with socialsoup.com, an influencer community that uses “peer-to-peer influencing strategy”, promotes Cerelac by recruiting mothers to test it and instructing them to post pictures and videos on social media with the #SolidsJourney hash tag. This makes mothers themselves promote and recommend products. Their posts are fed back into live campaign hubs and onto the Australian Nestlé Baby website. In 3 years, 27,000 mums were given Cerelac and became unwitting brand ambassadors, with 2,614 posts on Instagram.

With Nutricia China, data provided by mums will enable the company to tailor its promotion to match the different stages of development of these women’s children.





In Australia, 27000 mums were given Cerelac samples and became unwitting brand ambassadors. Nestle achieved a 33% growth in its market share.

• **Inappropriate marketing.** The WHO Guidance on Ending the Inappropriate Promotion of Foods for Infants and Young Children, issued in May 2016, reaffirms that toddler milks, also called growing-up milks (GUMs) fall within the scope of the International Code. All companies covered in this report still act as if GUMs were not under the scope and unabashedly violate the Code & the Guidance by promoting such milks. The Guidance also forbids the promotion of breastmilk substitutes via complementary foods promotion. Cross-promotion, through similar packaging designs, colour schemes, labelling, and icons, is still a common marketing tactic.



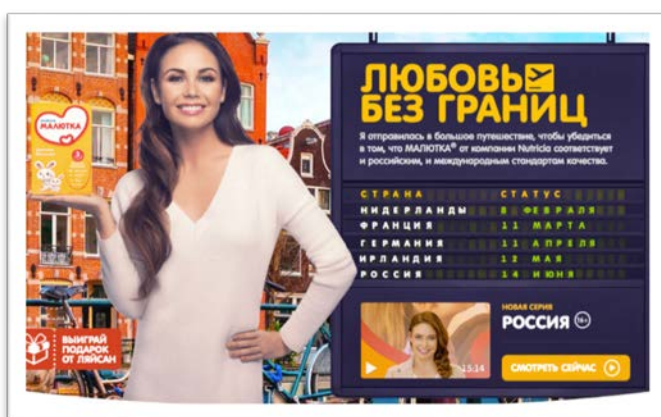
In Hong Kong, huge ads for Cow & Gate toddler milks line the walk ways in metro stations; they are also on buses and in shops so no mother could miss the message that she needs to buy Cow & Gate for her child's optimum growth and development.

• **All eyes on China and Russia.** The “*Look What They’re Doing*” sections report on aggressive marketing of breastmilk substitutes in China and Russia. In both these countries, growing disposable incomes and rising birth rates have triggered higher spending on milk formula, especially on premium brands that portray ideas such as “*intelligence*”, “*elite*”, “*excellence*”. China, with increased spending power of the middle and ‘nouveau riche’ classes, continues to be the most attractive market. It is expected to grow at a 14% compound annual growth rate, gaining US\$15 billion in absolute retail value every year. In Russia, parents remain reluctant to cut expenditure on baby foods. This category was among the least affected by the economic downturn. Baby food sales there are expected to reach US\$4 billion by 2021.



Mead Johnson riding on the premiumisation wave in China - promoting **Enfitas** and its additives as the “complete excellent intelligence choice”.

Breastfeeding saves lives and its benefits prevail throughout life. As long as the Code is being violated, protection of breastfeeding is impossible. Now that the International Code has regained some of its shine of the past, commercial promotion is increasingly subtle and insidious, but no less effective. Although 72 countries have now adopted all or nearly all of the Code as national law, enforcement is patchy and the promotion of breastmilk substitutes is still widespread. Only enforceable laws, with independent and sustainable monitoring that brings violations into public scrutiny and holds companies to account, can level the playing field in support of breastfeeding. Other areas that need to be strengthened include awareness-raising, public education, and capacity building. Thirty-six years on since the adoption of the Code, public health and public interest advocates alike are still fighting that Old battle in a New world.



Russian famous athlete, Laysan Utiasheva promotes Danone’s Malyutka (baby) 3 on her lively shows and YouTube.