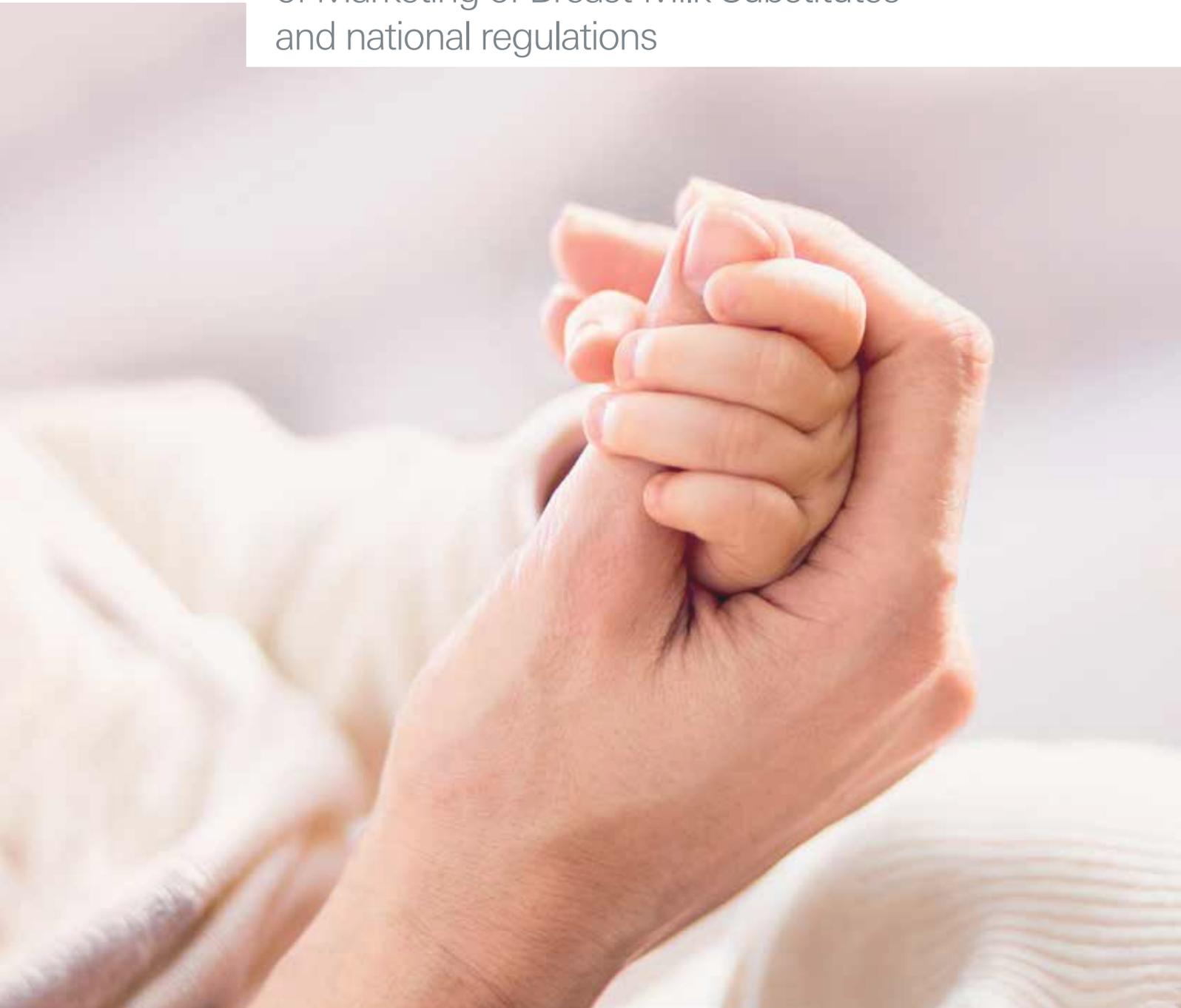




# 2014 Annual External Report

Compliance with the Nestlé Policy  
and Instructions for Implementation  
of the WHO International Code  
of Marketing of Breast-Milk Substitutes  
and national regulations



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# 1. Executive Summary

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- This report describes the 2014 results of Nestlé’s compliance with the Nestlé Policy and Instructions for Implementation of the WHO Code and with local regulations implementing the WHO Code.
- In 2014, 39 countries were audited by the Nestlé corporate auditors on compliance with the Nestlé Policy and Instructions for Implementation of the WHO Code (Nestlé Policy and Instructions) and/or local regulations implementing the WHO Code.
- Our monitoring system was strengthened with the launch, in January 2014, of “Tell Us” – an external grievance mechanism which enables external stakeholders to report any allegation of non-compliance.
- No evidence of systematic instances of non-compliance with the Nestlé Policy and Instructions and local Codes initiated by Nestlé has been noted.
- Thirty-three (33) instances of non-compliance with the Nestlé Policy and Instructions and/or local regulations attributable to Nestlé were found in 2014.
- Five (5) instances of non-compliance resulting from activities initiated by independent third-parties were identified in 2014 through allegations received via our external grievance mechanism “Tell Us” (2 instances) and external audits carried out by Bureau Veritas (3 instances). In addition to these, we received from competitors and industry associations in different countries, 29 reports of promotional activities initiated by retailers at the point-of-sale.
- Three (3) disciplinary actions (dismissals) were taken in 2014 against employees that deliberately breached the requirements of the Nestlé Policy and Instructions.
- Non-compliance instances attributable to Nestlé requiring remediation have been corrected or correction is currently underway.
- The topic with the highest number of instances of non-compliance identified is relationship with health-care professionals. An important step to tackle this situation was already taken in 2014 with the publication and distribution to the markets of new Guidelines on this topic.
- Instances of non-compliance carried out by third-parties with no direct commercial relationship remain an area of attention. As a matter of principle, we usually request that they cease these activities but enforcement by Nestlé solely is challenging due to the limitations of antitrust and commercial

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regulations. The assistance of governments, civil society and industry associations to encourage these independent businesses to comply is required to tackle this issue.

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## 2. Introduction

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Breastmilk is the best nutrition for infants. This is why Nestlé supports the World Health Organization's (WHO) recommendation of six months exclusive breastfeeding, followed by the introduction of adequate nutritious complementary foods along with sustained breastfeeding up to two years of age and beyond.

However, there are still numerous barriers to optimal breastfeeding. In consultation with their healthcare providers, when mothers and families decide that optimal breastfeeding is not possible, infant formula – the only suitable breast-milk substitute (BMS) recognized by the WHO – plays a vital role in providing essential nutrients to infants and ensure they grow adequately.

Nestlé has a global [commitment to market breast-milk substitutes responsibly](#). We comply with the WHO International Code of Marketing of Breast-milk Substitutes (WHO Code) as implemented by national governments everywhere in the world. The WHO Code is a set of recommendations to member states, which hold responsibility for defining the Code's implementation at the country level. In 152 countries, which are considered to be higher risk in terms of infant mortality and malnutrition by the FTSE4Good Index, we apply our own Nestlé Policy and Instructions for Implementation of the WHO Code ([Nestlé Policy and Instructions](#)) when it is stricter than the national regulations implementing the WHO Code. This is necessary because many 'higher-risk' countries have not fully implemented the WHO Code. According to the WHO, only 37 out of 199 member states had passed laws reflecting all of its recommendations and subsequent resolutions as of 2011.

To ensure that we fulfil our public commitment to market breastmilk substitutes responsibly, we monitor our marketing practices to ensure compliance with the Nestlé Policy and Instructions and local regulations implementing the WHO Code (local regulations), irrespective of whether or not a governmental monitoring system is in place. Our monitoring system is constituted by:

- **Audits**

Nestlé has two audit systems to assess compliance with the Nestlé Policy and Instructions, local regulations and the FTSE4Good BMS criteria:

- *Internal Audit System*: internal audits are performed by Nestlé corporate auditors. In 2014, 39 countries were audited by Nestlé corporate auditors on compliance with the Nestlé Policy and Instructions and local regulations. Since 1st April 2014, the practices of the Wyeth Infant Nutrition (WIN)

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markets have been fully aligned with the Nestlé Policy and Instructions and have in place necessary WHO Code Management Systems (WCMS). From 2015, compliance of the WIN business with the Nestlé Policy and Instruction will be assessed via the same audit mechanisms (i.e. internal corporate audits) as the Nestlé Infant Nutrition business<sup>1</sup>. The same transparency with respect to public disclosure of information will also be applied.

- External Audit System: external audits are performed by Bureau Veritas (commissioned by Nestlé) and Pricewaterhouse Coopers – PwC (commissioned by FTSE4Good). In 2014, Nestlé commissioned Bureau Veritas to conduct audits in Kenya and Russia, while PwC audited Malaysia and Angola as part the 2014 FTSE4Good Verification Assessment process.

- **Grievance Mechanisms**

Nestlé has implemented grievance mechanisms to allow employees (internal grievance mechanisms) and external stakeholders (external grievance mechanism) to raise directly with us any concern they may have on compliance with WHO Code related topics:

- Internal Grievance Mechanism: Nestlé and Wyeth Infant Nutrition employees are able to raise any concerns regarding the marketing of breast-milk substitutes through our internal network of 57 WHO Code Ombudspersons: the Global Ombudsman, who is a member of the Executive Board, at the corporate level; or at Market level, with 56 ombudspersons covering all higher-risk countries where Nestlé is present.
- External Grievance Mechanism: Nestlé implemented the “[Tell Us](#)” system in 2014, which is a publically available, web-based, external reporting grievance system that enables external stakeholders to raise any concerns they may have with Nestle directly, 24h/7 days per week, including on WHO Code related topics.

Our rigorous good governance mechanisms are complemented by an internal Global Code Compliance Committee with 3 members of the Company Executive Board which oversees compliance with the Nestlé Policy and Instructions and with the FTSE4Good BMS Criteria. The Nestlé Nutrition CEO, who is a member of our Group Executive Board, is accountable for implementing and monitoring Nestlé’s compliance with the aim and principles of the WHO Code. Global Public Affairs, which is separate from the infant nutrition business, generates policies and reports externally on progress regarding the application of the Nestlé Policy and Instructions. In addition all higher-risk Markets have established local Code Compliance Committees that meet regularly to oversee local compliance with the Nestlé Policy and Instructions and local regulations.

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<sup>1</sup> The external audits performed by Bureau Veritas were already covering the Wyeth Infant Nutrition business in 2014 (i.e. in those countries where WIN operates).

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As part of our commitment to the responsible marketing of breast-milk substitutes, we commit to transparency and [report regularly](#) and publicly on matters related to compliance. We publish this annual compliance report and external audit summaries on our corporate website as well as communication addressing stakeholder concerns.

- **Purpose of the Report**

This report describes the 2014 results of Nestlé’s compliance with the Nestlé Policy and Instructions for Implementation of the WHO Code and with local regulations. It is a summary prepared for reporting and transparency purposes and is not intended to give any enforceable rights to third parties. It is also part of the reporting requirements set out in the [FTSE4Good Breast-Milk Substitute Criteria](#). An annual report is also submitted to the Audit Committee of our Board of Directors. This report is a key component of our WHO Code Management System and is central to our commitment to transparency and continuous improvement of our practices.

- **Content and Methodology**

This report covers instances of non-compliance with the Nestlé Policy and Instructions and local regulations, either attributable to Nestlé or to third-parties, reported through one of the following sources:

- **Internal Audits** performed by internal corporate auditors.
- **External Audits** performed by Bureau Veritas<sup>2</sup>.
- **External Allegations** received from external stakeholders<sup>3</sup>.
- **WHO Code Ombudsperson System.**

This process involves an annual collection of data from Nestlé Nutrition Markets (Nestlé Infant Nutrition and Wyeth Infant Nutrition) in higher and lower-risk countries through an Internal Reporting System and an annual questionnaire completed by our 57 WHO Code Ombudspersons.

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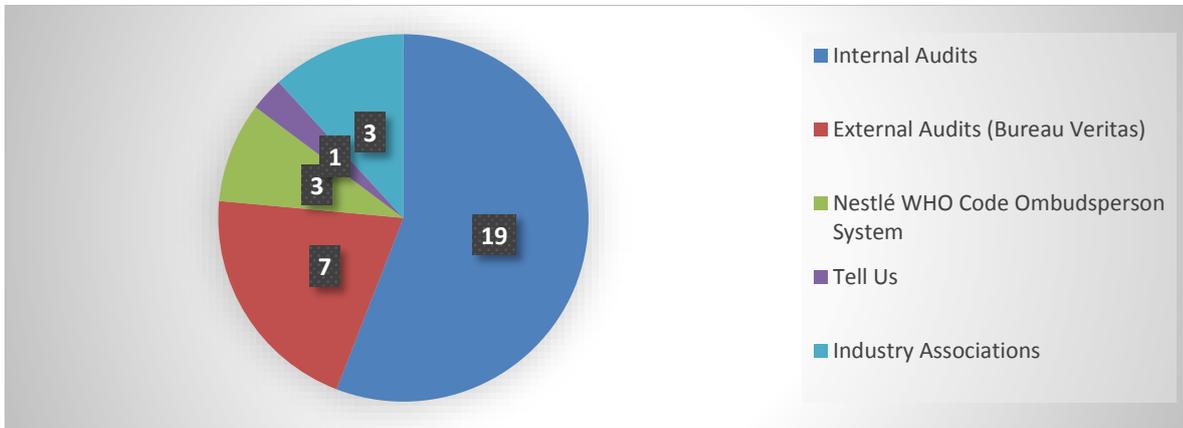
<sup>2</sup> This report does not include the findings reported by PwC during the 2014 FTSE4Good Verification Assessment. This source of information was addressed in a separate document and can be found in the following link: <http://www.nestle.com/csv/nutrition/baby-milk/compliance-record>.

<sup>3</sup> This report does not include the cases reported by IBFAN in the “2014 Breaking the Rules Report”. This source of information was addressed in a separate document and can be found in the following link: <http://www.nestle.com/csv/nutrition/baby-milk/compliance-record>.

### 3. 2014 Findings

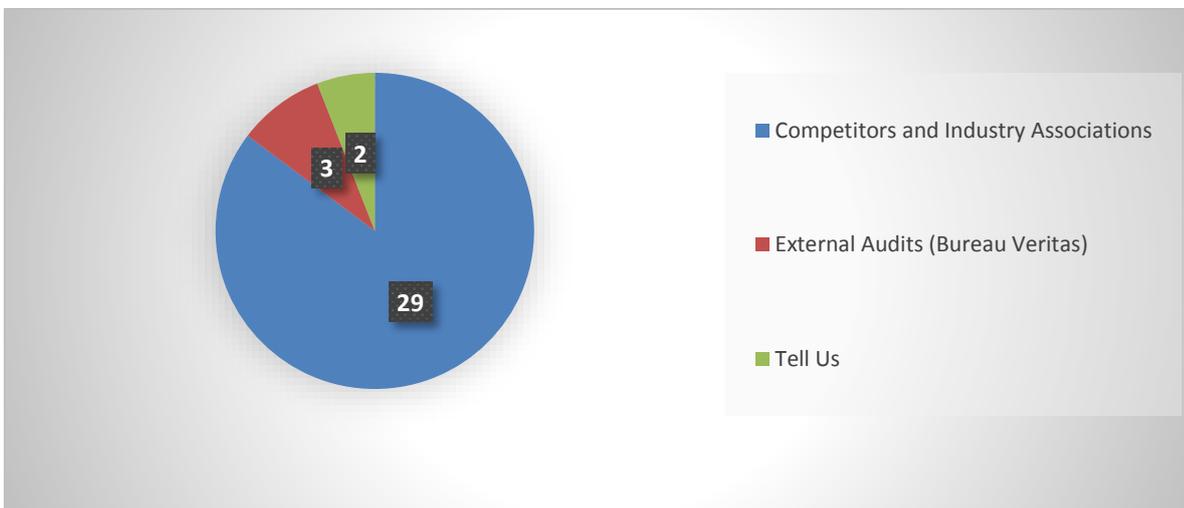
- Total number of instances of non-compliance with the Nestlé Policy and Instructions and local regulations attributable to Nestlé: 33

*Instances attributable to Nestlé by source of information*



- Total number of instances of non-compliance with the Nestlé Policy and Instructions and local regulations attributable to third-parties: 34

*Instances attributable to third-parties by source of information*



#### 3.1 Internal Audits

In 2014, 39 countries were audited by Nestlé corporate auditors with the Nestlé Policy and Instructions and national regulations. This included 35 higher-risk countries and four (4) lower-risk countries.

Out of the 33 instances of non-compliance attributable to Nestlé identified in 2014, 19 instances were identified by internal corporate audits. The non-compliance cases most frequently found are related to:

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- Inadequate execution of the internal instructions related to sponsorship of health-care professionals (HCPs) and health-care institutions (HCIs) (e.g. lack of control over the internal approval process and lack of contracts with key opinion leaders who speak on Nestlé's behalf).
  - Product detailing materials provided to HCPs failing to meet Nestlé requirements (e.g. usage of statements that can be interpreted as positioning the products as equivalent or superior to breast-milk and lack of mandatory statements)
  - Inadequate control on sampling of products for professional evaluation (e.g. lack of supporting documents for samples provided to HCPs).

### 3.2 External Audits

Bureau Veritas was commissioned by Nestlé to conduct audits in Kenya and Russia in 2014. This external audit process included:

- Verification of the implementation of the local WHO Code Management System and its alignment with the FTSE4Good BMS Criteria. This is done through a desk review of the local Policy and Procedure Manual and face to face interviews with Nestlé staff.
- Conducting a gap analysis between the Nestlé Policy and Instructions and the local regulations (if any);
- Compliance with the Nestlé Policy and Instructions for Implementation of the WHO Code and local regulations implementing the WHO Code on the marketing of breast-milk substitutes (if any). This verification covers: interviews with Nestlé staff, distributors' staff, health-care professionals and other external stakeholders (authorities, NGOs, etc) whenever possible, as well as visits to health-care institutions and retailers.

These two external audits found a total of 10 instances of non-compliance with the Nestlé Policy and Instructions and local Codes - seven (7) attributable to Nestlé and three (3) to third-parties. The Assurance Statements by Bureau Veritas relating to these external audits are [available on our website](#).

#### 3.2.1 Kenya

Bureau Veritas found four (4) instances of non-compliance with the Nestlé Policy and Instructions and local regulations: two (2) instances were attributable to Nestlé (lack of mandatory statements required by Art. 7.2 of the Nestlé Policy and Instructions on presentations intended for HCPs; and presence at the retail level of discontinued shelving-strips carrying Cerelac Infant Cereal brand, not in line with the requirement of the local regulation) and two (2) instances were attributable to third-parties (end of aisle display of in-scope products; and presence in the marketplace of Wyeth Infant Nutrition formula products imported from a lower-risk

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country through informal channels by third parties with labels containing imagery which is not compliant with Nestlé Policy and Instructions).

### **3.2.2 Russia**

Bureau Veritas found six (6) instances of non-compliance with the Nestlé Policy and Instructions: five(5) instances were attributable to Nestlé (communications considered as promotional and/or idealizing; use of a corporate branded sticker deemed as promotional at the retail level on infant formula shelves) and one (1) instance was attributable to third-parties (end of aisle display of in-scope products).

### **3.3 WHO Code Ombudsperson System**

We encourage our employees to contact us if they have any questions or concerns regarding the marketing of our BMS products. Our WHO Code Ombudsperson System allows employees in higher-risk countries to report concerns about our infant food marketing practices confidentially, outside their line management. Any employee can report allegations or concerns about Code compliance directly to the Nestlé Group Ombudsman.

In 2014, three (3) cases reported to the Ombudsperson in Philippines were proven to be substantiated and related to contributions made to HCPs: one (1) case related to a contribution provided to a HCP which was not related to a participation in a scientific event and two (2) cases of support provided without undergoing the internal approval process and without the proper documentation required by our local procedures. The Market has subsequently strengthened the training, tests and coaching activities on WHO Code related topics given to its employees and has implemented internal periodic operational audits on compliance with the Nestlé Policy and Instructions and the local regulations.

### **3.4 External Allegations**

Six (6) instances of non-conformance were reported through external stakeholders – four (4) attributable to Nestlé and two (2) to third parties. This includes three (3) reports received through the external grievance mechanism “Tell Us”, which was launched in January 2014, and three (3) reports received via industry associations.

The four (4) instances attributable to Nestlé are related to: public website communication referring to infant formula brands in Brazil being deemed as promotional (the relevant communication and images of infant formula were removed from the website); cross-promotion of stage 2 follow-up formula on stage 3 product label in Indonesia (new compliant labels are now available in the market); the use of a non-compliant promotional pack for infant cereal in Malaysia (promotional items - baby bib and spoon - were removed from the pack); presence of discontinued 15 year old Neslac poster, currently considered as non-compliant, in a

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health-care institution in Malaysia (the poster was removed from the institution and the medical team was directed to remove discontinued materials during visits, if any is found).

The two (2) instances attributable to third-parties related to Brazil, where consumers were receiving a gift (spoon) when buying Nestlé infant and follow-up formula in a drugstore; and the UK, where an e-commerce website which is not in direct commercial relationship with Nestlé was offering a price discount for all infant first milk products, including Wyeth Infant Nutrition's SMA.

In Singapore, we received a complaint from a local industry association in relation to the publication of an editorial in a magazine discussing the use of infant formula. A thematic ad by Nestlé was placed next to the editorial. The article was written by an independent journalist based on his own research. To manage the sensitivities that may arise in reaction to this type of situation in the future, Nestlé Singapore implemented an internal approval procedure concerning media engagement.

In 2014 we also received from competitors and industry associations, 29 reports of promotional activities initiated by retailers at the point-of-sale in different countries. These cases refer to activities such as price promotion, use of promotional displays (e.g. use of gondola ends and block displays) or promotional point-of-sale material and distribution of gifts.

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## 4. Remedial Actions

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The instances of non-compliance attributable to Nestlé had already ceased or markets were instructed to immediately initiate change and they have now all been addressed.

Concerning the instances of non-compliance attributable to independent third-parties, we have requested that they cease these activities but enforcement by Nestlé solely is challenging due to the limitations of antitrust and commercial regulation that we must comply with. We would need the assistance of governments and civil society to encourage these businesses to comply.

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## 5. Conclusion

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This report is a central element of our compliance process as it enables us to identify areas for improvement and that can be further strengthened.

We take seriously all concerns raised directly with us. We investigate and respond to all of them to the extent possible where we receive enough information to carry out an investigation.

The 2014 data shows no evidence of systematic contravention of the Nestlé Policy and Instructions for Implementation of the WHO Code and local regulations initiated by Nestlé.

Sponsorship of health-care professionals (HCPs) and health-care institutions (HCIs) is the individual topic with the highest number of cases reported in 2014. An important step to tackle this situation was already taken in September 2014 with the publication of new Guidelines providing detailed guidance on how Nestlé should deal with sponsorship of research and health workers and institutions in line with the aim and principles of the WHO Code. This reflects our process of continually improving our practices.

We encourage our stakeholders to contact us directly should they have any questions or concerns regarding the marketing of our BMS products. For more information on how to raise a concern, please visit Nestlé's webpage on [our commitment to market breast-milk substitutes responsibly](#).