



2012 Annual External Report

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

1. Introduction

As the world's leading nutrition, health and wellness company, we believe we can contribute to improving the health and nutrition of mothers and their children. Our commitment to good nutrition starts with our support for the World Health Organization's (WHO) recommendation of exclusive breastfeeding up to six months, followed by the introduction of nutritious and appropriate complementary foods, along with sustained breastfeeding up to two years of age and beyond.

For infants who cannot be breastfed for the recommended period of time, infant formula plays a vital role in providing them with essential nutrients. It is the only suitable breast milk substitute recommended by the WHO.

We pledge to market our breast milk substitutes responsibly. As such, we are committed to complying with the WHO Code as implemented by national governments everywhere in the world. In 152 countries which are considered to be higher risk in terms of infant health, we follow our very stringent policy drawn from the WHO Code or national regulations, whichever is stricter. As a result of our strict policies and procedures in this area, we are proud to be the first, and so far the only, breast milk substitute manufacturer to be included in the FTSE4Good Index, FTSE Group responsible investment index.

This report, intended for interested stakeholders, describes the results for 2012 of Nestlé's compliance with the [Nestlé Policy and Instructions for Implementation of the WHO International Code of Marketing of Breast-Milk Substitutes](#) ('Nestlé Policy and Instructions'). It is a summary prepared for reporting purposes and is not intended to give any enforceable rights to third parties. An annual report is also submitted to the Audit Committee of our Board of Directors.

Information in this report comes from several sources, both internal and external. Internal sources are the corporate audit reports and our Internal WHO Code Ombudsman system. External sources are independent audits carried out by an external global leader in conformity assessment and certification services as well as external stakeholders (including NGOs and consumers).

2. Summary of our 2012 compliance record and corrective action taken

Monitoring of Nestlé's adherence to the Nestlé Policy and Instructions in 2012 showed the following:

- No evidence of systematic contravention of our Policy or local legislation was found.
- 25 *contraventions* to our Policy or local legislation requiring remediation were found, compared to 34 *contraventions* in 2011:
 - 11 *contraventions* were attributable to Nestlé, compared to 21 in 2011.
 - 14 *contraventions* resulted from initiatives taken by third parties (distributors or retailers) without Nestlé being involved or informed, compared to 13 in 2011.
- Two concerns raised through the Internal WHO Code Ombudsman system required corrective action. In both cases the contravention was attributable to third parties.
- All *contraventions* requiring remediation have been corrected.

3. 2012 findings

3.1 Monitoring our compliance

- **Internal corporate audits**

In 2012, Nestlé operations in 10 countries were audited by corporate auditors for compliance with the Nestlé Policy and Instructions and national legislation, including 6 higher-risk countries.

Those audits found a total of 9 contraventions to our Policy or national regulations requiring remediation, of which 4 instances of promotion at point of sale initiated by third parties. Of the 5 contraventions attributable to Nestlé, 3 occurred in higher-risk countries.

Contraventions attributable to Nestlé:

- **Africa (higher-risk country):** The review of materials intended for health professionals showed that some of them did not comply with our policy. One contained an idealising claim, two did not include a message about the superiority of breastfeeding, and one did not carry the statement 'For use by health professionals only' on each page.
Action taken: All materials for distribution to health professionals were reviewed to ensure that they are in compliance with our policy. All non-conforming material was collected and destroyed.
- **Latin America (higher-risk country):** The review of the labels of our products showed that three infant formula product labels did not comply with our policy, as they did not state that the product should only be used on the advice of a health worker.
Action taken: New compliant labels were submitted to the Ministry of Health for approval as required by legislation. In addition, the labelling review and approval process was reinforced to ensure compliance with our policy.
- **Eurasia (higher-risk country):** The review of the sales force team's incentive schemes showed that it did not comply with our policy.
Action taken: A new incentive scheme in line with our policy has been implemented.
- **Europe (lower-risk country):** Midwives could request free samples of Foods for Special Medical Purposes (FSMPs) from the Nestlé Baby Service hotline. This is against the national Codex panel decision of forbidding sampling of FSMPs.
Action taken: When the national Codex panel decided that sampling of FSMP products to midwives should be stopped, Nestlé immediately complied with the decision and stopped sampling through medical delegates. The possibility for midwives to ask for samples through the hotline was however forgotten: this oversight has been addressed and the provision of FSMP samples accordingly stopped.
- **Europe (lower-risk country):** Parents of twins and triplets can call the Nestlé Baby Service hotline to request a free gift. The standard gift pack contained several documents, including information about starter infant formula.
Action taken: Inclusion of information about starter infant formula in gift packs to parents of twins and triplets was immediately stopped.

Contraventions attributable to third parties:

- **Asia (higher-risk country):** Promotional activities at point of sale were observed. These were initiated by third parties (distributors or customers).

Action taken: The sales force reporting procedure related to compliance with our policy has been reinforced, including additional training and communication both with the Nestlé sales force (in charge of monitoring compliance with our policies at point of sale) and baby stores.

- Asia (higher-risk country): It was observed that seven third parties' online shops promoted discounted infant formula, for instance by offering price reductions, including on Nestlé infant formula products, to membership cardholders.

Action taken: A monitoring procedure for online shops was implemented. The communication with online baby stores regarding our policy has been reinforced.

- Eurasia (higher-risk country): It was observed that some third parties' websites offering Nestlé infant formula products run price promotions.

Action taken: Procedures for monitoring e-commerce activities and to address potential violations of our policy were established, within the boundaries of the national legislation which does not allow companies to interfere with the pricing policy of their customers.

- Europe (lower-risk country): Four promotional activities for infant formula were observed at point of sale.

Action taken: The promotional activities identified were all carried out by the customers themselves. All concerned customers were informed that these activities were not in line with the EU Directive on Infant and Follow-Up Formula.

- **External audits**

We commissioned Bureau Veritas, an external audit and verification firm, to conduct three verifications of our breast milk substitutes marketing practices in 2012. These were carried out in Ukraine/Armenia, Vietnam and Argentina. The summary of these external audits are available on our website:

<http://www.nestle.com/csv/human-rights-compliance/baby-milk/Pages/home.aspx#monitoring>

These three external audits found a total of thirteen contraventions to our Policy or local legislation, of which 6 were attributable to Nestlé and 7 to third parties (point of sale promotion and labeling).

[Ukraine & Armenia](#)

Bureau Veritas concluded that no significant evidence was found that would indicate that Nestlé were systematically or intentionally operating in contravention of the Nestlé Policy and Instructions or local legislation in Ukraine and Armenia. In addition, Bureau Veritas recognised that considerable efforts were made to communicate our commitment to upholding the requirements of our policy down the supply chain in both Ukraine and Armenia, through training of distributors and communication by letter to retailers.

The two contraventions to our policy identified were the following:

- A prescription pad for use by doctors with pack shots of a complementary food product labeled as suitable from 4 months of age was found in a doctor's consulting room.

Action taken: The material was over two years old, and was produced when Ukraine was considered to be a lower risk country. Following Ukraine's re-classification as a higher-risk country, Nestlé staff was instructed to remove any old materials from health facilities.

- The vinyl window artwork of one retail outlet contained a pack shot of Nestlé infant formula product. This artwork had been developed by the retailer.

Action taken: The retailer was contacted and agreed to replace the infant formula image with the image of a culinary product.

Vietnam

Bureau Veritas concluded that no significant evidence came to their attention to indicate that Nestlé Vietnam is systematically or intentionally operating in contravention of our Policies or of the national code (Decree 21) in Vietnam. The six violations observed in the trade concerning Nestlé products were not initiated by Nestlé Vietnam but by third parties:

- Four instances of promotion at point of sale initiatives by retailers were observed (two special displays and two price discounts on infant formula products).
Action taken: The four retail outlets where those contraventions took place were contacted or visited and our policies and national legislation explained. In all cases, retailers agreed to correct the contravening action.
- Two instances of mislabelling were observed at point of sale. In one case, a complementary food product carried a label stating that the product was suitable for babies from 4 months of age. In the second case, infant formula products with English labels were found in a store.
Action taken: In both cases, the products had been imported by third parties from the USA into the country independently of Nestlé Vietnam. The importers were notified that the way the products were labelled contravened national legislation.

One contravention observed was attributable to Nestlé. Two issues of a Nestlé Vietnam's consumer magazine contained an advertisement for a dairy product intended for young children from 12 to 36 months of age. These did not include the statement 'Breast milk is the best food for the health and growth of infants', as required by national legislation.

Action taken: The team in charge of dairy products was reminded of the national legislation requirements.

Argentina

Bureau Veritas concluded that there is a WHO Code compliance culture across Nestlé Argentina, which has been strengthened by the recent introduction of the role of the WHO Code Compliance Manager. All employees interviewed demonstrated an understanding of the WHO Code and the requirements it places upon their own role and responsibilities. However, Bureau Veritas also identified 4 contraventions with our Policy or national legislation:

- A reference to 'Nestlé products, menus and recipes' was identified in an email communication to consumers with infants aged 5 months. This can be seen as promoting the introduction of complementary food prior to 6 months. This is not in line with our Policy and with the WHO recommendation of exclusive breastfeeding for the first 6 months.
Action taken: The website was reviewed to remove reference to complementary foods from the page aimed at mothers of babies younger than six months.
- In two retail outlets, Nestlé-branded shelf markers used to demarcate the area on the shelf where infant formula are displayed contained a message that could be interpreted as being promotional: '*Nestlé. World leader in Infant Nutrition*', which may imply the superiority of Nestlé's infant nutrition products over others available in the market.
Action taken: The shelf markers were removed.
- A material destined to health professionals and containing information on Nestlé breast milk substitutes included an advert on the back page for the Nestlé's relationship programme. The advert used promotional language.
Action taken: Instructions have been updated to restrict content of material destined to health professionals to scientific and factual matters.
- A display of complementary foods and growing-up milks (both outside the scope of the Nestlé Policy and Instructions and of the national legislation) was observed in a supermarket. The display contained suggestions for recipes using Nestlé complementary food products. The recipe card did not include the important recommendation that babies should be exclusively breastfed for six

months and had no clear recommendation for the age of consumption, carrying the risk that consumers may interpret the products concerned as suitable to feed babies before six months of age.

Action taken: The recipe cards were reviewed to include the age of consumption of the product and a message on the importance of exclusive breastfeeding for 6 months.

3.2 Internal WHO Code Ombudsman

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.

Reports from those WHO Code Ombudsmen pointed to two concerns requiring corrective actions. Both related to activities initiated by third parties that were not attributable to Nestlé.

Action taken: In both cases, a letter was sent to the third party responsible for the contravention to inform them of our policies.

3.3 External stakeholders

One concern about WHO Code compliance raised by an external stakeholder required remedial action. This related to an advertisement for a starter infant formula, which was inadvertently placed in a Finnish consumer magazine. The advertisement was actually intended for a health care professional edition of the magazine, and not for the consumer magazine. The mistake was made by the magazine itself, which publicly apologised.

Another allegation raised by an external stakeholder related to the alleged distribution of free supplies of infant formula in postnatal health institutions in Yemen. An internal audit was commissioned to carry out an investigation. The mission did not find any evidence of sampling of starter and follow-on infant formula (for use by babies below 12 months of age).

3.4 2012 FTSE4Good Verification Assessment

Nestlé sustained its inclusion in the FTSE4Good Index in 2012. This is based on meeting FTSE4Good rigorous criteria in environmental sustainability, human rights, supply chain labour standards, countering bribery, and climate change, as well as responsible marketing of breast milk substitutes (BMS Criteria).

The BMS Criteria are subject to an independent annual verification assessment. FTSE commissioned PricewaterhouseCoopers (PwC) to undertake two such assessments of our practices each year.

In 2012, Morocco and Laos were audited by PwC. The findings of [PwC verification assessment report](#) have been made public for the first time. The report confirms that we meet all the criteria, as defined by FTSE4Good, for the marketing of breast milk substitutes in Morocco and Laos. It also lays out areas for improvement. We are currently following up on these and have already taken actions to address them.

Since our initial inclusion in the Index, the FTSE4Good assessments have led to [significant improvements in our practices globally and at country level](#). We have notably:

- Made our Compliance Management System more transparent;
- More systematically ensured our BMS marketing policies and procedures comply with the WHO Code;
- Clarified internally what is and isn't permitted under the WHO Code in 152 higher-risk countries through the dissemination of further guidelines on specific topics.

Following the recommendations from the 2011 and 2012 assessments, we have put in place several key initiatives in higher-risk countries, including the following:

- Improved communication with our distributors and customers regarding our Code compliance policy, and encouraged them to share this information with their clients;
- Improved the packaging of our BMS products where appropriate to ensure they are adapted to local conditions, including modifying the size of packages in one country so that the product can be conveniently purchased and safely stored;
- Rolled out strict guidelines to ensure the appropriate use of display cabinets;
- Strengthened our internal and external mechanisms for reporting concerns regarding our marketing of BMS, so that allegations of WHO Code violations can be raised with us directly, promptly investigated, and addressed if needed;
- Strengthened our internal reporting mechanism in order to report the results of our compliance monitoring to the Board of Directors annually.

3.5 Acquisition of Wyeth Nutrition

We completed the acquisition of Pfizer Nutrition (now known as Wyeth Nutrition) on 30 November 2012, following the successful conclusion of the regulatory process in most countries. We are now working with Wyeth Nutrition to align their practices and procedures with our stringent WHO Code policies and management systems.

4. Conclusion

We are committed to continually improving our practices. This is why we encourage our consumers, employees and stakeholders to contact us directly should they have any questions or concerns regarding the marketing of our BMS products.

We take seriously, investigate and respond to all concerns raised directly with us, provided that we receive enough information to carry out an investigation. For more information on how to raise a concern, please visit our [Responsible infant food marketing](#) webpage.

The responsible marketing of BMS requires concerted efforts and we call upon open collaboration with retailers, governments and civil society to help the industry as a whole to achieve this.