

Introduction

Breaking the Rules, Stretching the Rules 2010 is based on evidence collected from October 2007 to October 2010. **The Rules** are the International Code of Marketing of Breastmilk Substitutes and subsequent World Health Assembly resolutions (the Code), which are the yardstick to measure compliance by all companies in all countries.

Breaking the Rules 2010 (BTR 2010) is divided into individual company chapters, each with its own page numbering. The companies are 11 manufacturers of breastmilk substitutes listed in alphabetical order. They are followed by 11 producers of feeding bottles. Within each company chapter, violations are listed by theme and then by country. *Stretching the Rules* entries come last as do the **“Just In”** pages with data received after the initial lay-out had been completed.

BTR 2010 is the result of **three years of collective voluntary effort** to compile evidence on marketing practices by baby food companies on all continents. On an ad-hoc basis, IBFAN groups and individuals have been sending reports and pictures to ICDC’s collection centre. All data were reviewed and double checked. Entries not sufficiently substantiated by evidence were rejected. The final report contains more than 500 entries from 46 countries. In addition to this main global report, IBFAN-ICDC encourages national monitoring reports which now exist in Brazil, Cambodia, Egypt, Italy, the UK and the USA.

Code watchers

The internet has made participatory monitoring more easy. Now even people new to the Code use website reporting and send in evidence by photos and scans. The analysis stage takes much longer because of the need to cross-check primary information and explain details of Code provisions. ICDC considers this new development a part of online training and advocacy as well as a good opportunity to obtain insight into marketing practices from new sources and in new regions.

Corporate Obligations

Many companies claim they comply with the Code but they don’t. Their ombudsmen, or corporate marketing policies often use selective interpretations of the Code, which by-pass its central aim: to protect breastfeeding. According to Art.11.3, and independently of any other measures, it is the duty of all manufacturers and distributors to instruct their staff, as well as their retailers, on all provisions of the Code (including the relevant WHA resolutions) and to demand that they comply with them.

Name and Shame

This report is meant to publicly name and shame those companies which violate the Code. If they are concerned about their corporate image, they ought to be worried about the rebuke in this publication to their reputation and potential repercussions from investors.

BACKGROUND

The International Code was adopted in 1981 as a “minimum” standard to help protect and promote breastfeeding in all countries.

The Code’s preamble explains that “the marketing of breastmilk substitutes requires special treatment which makes usual marketing practices unsuitable for these products”.

The Code, summarised on pages 10 and 11, spells out which marketing practices should be discontinued.

Since its adoption, the Code has been re-affirmed by the World Health Assembly (WHA) on at least 19 occasions and new resolutions with the same legal status as the Code have been adopted to clarify certain provisions and to attempt to keep up with changing products and practices.

SCOPE

BTR 2010 covers promotion for products under the scope of the International Code of Marketing of Breastmilk Substitutes. The scope includes infant formula, follow on formula, complementary foods when marketed for babies below 6 months, feeding bottles and teats

Practices involving products which do not come under the scope of the Code but which undermine breastfeeding or practices which give rise to conflicts of interest are reported in a “Stretching the Rules” section under each company.

Executive Summary

“Breaking the Rules – Stretching the Rules 2010” (hereinafter “BTR”) is an assessment of marketing trends of the major infant food and feeding bottle manufacturers in relation to the International Code of Marketing of Breastmilk Substitutes and relevant World Health Assembly resolutions.

Companies must *“ensure that their conduct at every level conforms to”* the International Code and subsequent resolutions (the Code) regardless of whether a country has implemented the Code through national legislation or not. In 2010, WHA again adopted a resolution which *“calls on infant food manufacturers and distributors to comply fully with their responsibilities under the Code and subsequent WHA resolutions”*. (WHA 63.23 [2010])

IBFAN is a watchdog, not the keeper of companies. BTR 2010 is far from a comprehensive list of Code violations. In fact, it is very clear that this collection of evidence reflects only the tip of the iceberg of what really happens in the marketplace. Companies cannot claim ignorance of what their marketing staff do. They cannot wait for IBFAN monitors to find evidence of corporate malpractice before taking action. BTR 2010 is a mirror of those practices. The baby food industry would do well to look at itself in that mirror.

Overall assessment. The baby food market exceeds US\$31 billion per annum according to global marketing reports. Double-digit growth is forecast for several regions up to US\$38.7 billion by 2015. Hence the pressure to increase market share is intense. Even by governments (see New Zealand box). There is also pressure on governments not to regulate the market. Although 77% of countries have taken some action to implement the Code, monitoring and enforcement are still inadequate, particularly in countries where both laws and legal systems are weak. Weak laws have allowed inappropriate marketing practices to prevail. Only effective national legislation, properly enforced, can prevent artificial feeding from competing unfairly with breastfeeding.

Marketing trends. As patterns started emerging from the collated Code violations, some marketing trends which have developed over the past three years are highlighted in this summary.

- **Health facilities, especially those which are not Baby Friendly, are still the preferred avenue** for companies to reach mothers and babies. In maternities the “target group” is concentrated and health workers can usefully multiply promotional messages and give the much sought after ‘medical endorsement’ of the product. Prescription pads with formula pack shots to tick are used all over the Middle East. Many private clinics and hospitals still receive secret donations of free formula. There are promotional brochures and leaflets in places where pregnant women and new mothers can pick them up. In return, for the staff, there are services, sponsorship and gifts.

“A kilo of infant formula is worth ten times the value of a kilo of milk powder, so it’s obvious which product New Zealand should be selling,” says Economic Development Minister Gerry Brownlee.

New Zealand earned more than \$750 million from milk formula exports in 2009.

*Radio New Zealand News
29 October 2010*

“We visited 30 health facilities and in most of them found tins of donated formula, with a ‘Medical Sample’ label, as well as feeding bottles, in quantities sufficient to feed more than 100% of all the babies there.”

Ana Vasquez Gardini,
Director of CESIP Peru

quoted in
“Lactancia Interrumpida”, Carretas,
5 Aug 2010

■ **New branding: “premiumisation”.** Several companies have started branding some products with fancy labels such as “Gold” and “Premium”, setting off a trend of supposedly high-grade formulas. Mead-Johnson, Nutricia and Wyeth started the trend which quickly caught on. Now Nestlé as well as Friesland and others have climbed on the bandwagon. There is now *Nan Gold* and *Friso Gold* making more claims and commanding higher prices. It is insidious because until recently, only breastfeeding was the “Gold” standard. In Singapore, ‘premium’ cereals are the rage. In China, foreign brands occupy 65% of the premium powdered milk market.

■ **Digital and Direct Marketing.** Companies have jumped right into the online branding spree which is less costly than print advertising. They know that mothers spend much more time online nowadays and have searched for ways to ‘catch’ them early by establishing Baby & Mother Clubs to build a database for contact. Once a pregnant woman has signed up for a Baby Club, the company will maintain her interest and build brand loyalty. That is done by a carefully timed and personalised sequencing of gifts like booklets, product samples, baby record or photo books combining email and direct marketing.

One marketing company designing such a strategy for Heinz in the UK bemoaned the fact that infant formula was “*one of the most tightly regulated food categories*” and that a way had to be found to reach mothers despite the ban on promoting formula before 6 months. If mums could be persuaded to simply click a box online saying they wanted information about milk, that meant to Heinz, that it could promote formula and other products: “*our way of conforming to the legislation*”.

Wyeth (now owned by Pfizer) has a similar approach to absolve itself. Mothers are asked to read a paragraph on ‘breast is best’ and then must click “*I confirm I have read and understood this information*” before being led into pages on ‘eye health’, ‘supplemental feeding’ and other promotional sites.

■ **Engaging mothers to promote products online to other mothers.** Social marketing by way of blogging, twittering, buzzing and the like are new marketing tactics used by companies to offer mothers of babies material incentives in order to propagate positive messages about a product or brand.

A monitor reported that Medela recruits mothers to post messages about their products on parenting blogs, message forums and on-line parenting groups. “*They are essentially using mothers to recommend and sell their products, including bottles and teats.*”

■ **Claims Galore.** Current diversification of brands runs circles with functional claims. Prebiotics, probiotics, bifidus, lutein, DHA, AA, Optipro, LCPUFA, immunofortis, Omega 3 and lactoferrin are just some examples of complex scientific words meant to impress and confuse at the same time. They idealise

“ *A formula-fed baby consumes 13 to 15 kg of formula in the first six months*” said Mario Tavera of UNICEF, Peru. *Families who cannot afford the cost (on average 1,600 Soles = US\$ 575) are forced to over-dilute the formula or use other milks, or introduce other foods before six months, thus leading to malnutrition, allergies and even death, because of diarrhoea.*”
Physiologically, “No more than 3% of newborns need formula””

“Lactancia Interrumpida”, Carretas, Peru, 5 Aug 2010

“The evidence for effectiveness of DHA addition to formula for term babies in terms of improved long term mental development is weak at best ... until stronger data are available I would opt for a view that the effects of DHA on mental development are not sufficiently documented to establish public health policy.”

Ricardo Uauy PhD., MD
 London School of Hygiene & Tropical Medicine, May 2010



In 2010, a WHA resolution urges governments “to end inappropriate promotion of food for infants and young children and to ensure that nutrition and health claims shall not be permitted... except where specifically provided for, in relevant Codex Alimentarius standards or national legislation.”

WHA 63.23 [2010]

products by claiming that these additives enhance the immune system, improve eye sight, prevent infection, reduce the risk of allergy, and so forth. In reality such claims are misleading and mostly unsubstantiated. They have the effect of devaluing breastfeeding and home-prepared family foods. Such marketing can also create costly dependency on processed packaged foods.

There is obviously much money in “claims”. Companies are fighting the conclusions of the European Food Safety Authority (EFSA) which disqualify the vast majority of claims submitted for approval. A central requirement of any health claim is that a product confers a health advantage. Since breastmilk substitutes can never confer such an advantage over breastfeeding, and since artificial feeding undoubtedly increases mortality rates, infectious diseases, chronic and auto-immune diseases, such claims are inherently deceptive.

Synthetic DHA (promoted by Martek) is now added to 90% of US formula. But there are also risks. In the US, 98 reports have been made to the Food and Drug Administration of adverse reactions to synthetic DHA enriched formulas – which some call ‘diarrhoea formulas’ and they should carry warnings rather than claims.

■ **Sponsorship and conflicts of interest.** The majority of national paediatric associations have become quite dependent on the largesse of companies (BTR reports on 4 specific associations which are actually endorsing products). There are promising developments at the international level with the International Pediatric Association addressing the need to restrict the promotional activities of sponsors at meetings. In the U.K., the Royal College of Midwives ended advertising for breastmilk substitutes in its journals while in other countries, health professionals are forming coalitions to address marketing concerns. The law in India forbids funding of health professional meetings. If only more countries would take similar action.

■ **Evidence from Europe.** A great many reports came from Europe and this shows that the European Directive (the basis for most laws in the E.U.) is too weak to sufficiently protect breastfeeding. The scope of the Directive is narrower than the International Code. Although most EU Member States have adopted the WHO recommendations for exclusive breastfeeding for 6 months, companies promote complementary foods routinely as of 4 months. They use the Directive as a model for accession countries and places beyond, such as eastern Europe and Central Asian republics. Adequate space has been allotted to this evidence since there is no reason at all for European babies to receive less protection than infants in the developing world. They suffer just as much from diarrhoea, respiratory infections and otitis. Furthermore, the new selling tactics used in the North are likely to be exported to developing countries and it is better to be forewarned.

“ Regarding ethical codes and governance, IPA will be reviewing its policy in relation to the kinds of financing we are open to... Companies working in the tobacco, fire arms or alcohol industries are, understandably, banned from being supporters. Companies that produce breastmilk substitutes for infants are strictly banned, since their activities conflict with our goals on exclusive breastfeeding for babies. ”

Excerpt Message from the President
Dr. Chok Wan CHAN
President of the International Pediatric
Association (IPA), 2008

SPONSORSHIP

“As a profession we have only ourselves to blame. If we sell space on our conference programmes and within the conferences itself, to such transnational companies, of course they will take maximum advantage of this. They have products to sell, positioning to maintain, and finance houses watching their bottom lines. Of course they will give the impression that they are “moving towards healthy and sustainable nutrition for all”, in partnership with the profession. Of course if we let them, their public affairs people will deeply penetrate conferences, and will charm, confuse or co-opt nutrition professionals. This is their job”.

Dr. Carlos Monteiro
University of São Paulo, Brazil

- **Incentive schemes.** For the first time in years, ICDC uncovered solid evidence of incentive schemes by at least two companies (Wyeth-Pfizer and Dumex-Danone) in order to increase the volume of sales. Such schemes and quotas for marketing personnel are prohibited under Article 8.1 of the Code.
- **More trends in marketing.** Supermarket chains have taken to advertise all formula brands in their catalogues, often with special offers as shown in the illustration below representing a huge advertisement by a chain in United Arab Emirates. Since supermarkets are distributors they must also abide by the International Code and abstain from promoting any breastmilk substitutes.



Supermarket handouts and junk mail are starting to advertise their entire range of baby food including infant formula.

Stretching the Rules

The “*Stretching the Rules*” part of the BTR exposes and analyses borderline marketing techniques used by companies to get around the Code’s restrictions. Such techniques used loopholes in the Code or new products and practices to reduce breastfeeding rates and duration. Their ultimate purpose is to expand the market for the companies’ products.

- **Education.** Parents have a right to information free from commercial influence. Nobody should be misled by the justifications of companies claiming they “*need to educate mothers*” about “*the correct use of infant foods*” or even about “*how to breastfeed properly*”. These are lame excuses for promotion. Education is the role of educators, health workers and mother-support groups who have no vested interest in a particular product or brand. It is not the role of companies. Their only role is to produce safe products; to inform consumers honestly (not promotionally) about the composition and use of these products, through straightforward, simple labelling and factual, scientific product information for professionals. The Code protects ALL mothers and babies, including those fed on formula.

- **The push for toddler milks.** Nowhere is “*Stretching the Rules*” more significant than in the push for toddler milks. Not many countries have laws which cover this product category and companies do a hard sell on them. Toddler milks, also known as growing-up milks (GUMs), are expected to experience the highest growth among all formula products in the coming years. It is common for GUMs to have very similar brand names and logos so as to deliberately resemble the company’s infant formula and follow up formulas which cannot be promoted. Advertising and other promotion of these milks will cause confusion and undermine breastfeeding, justifying the move by some countries to include them in the scope of their law.



Toddler milks: Expensive and unnecessary Just like follow-up milks 20 years ago, toddler milks have been invented to bypass restrictions on the promotion of infant formula. As shown in this advertisement in Indonesia (above), the label design, colour schemes and illustrations of the 2-3-4 growing-up milks are almost identical to the infant formula label on the left.

Conclusion

BTR 2010 shows that companies are not letting up in the promotion of baby foods. If anything, their practices are becoming more insidious and promotion is very often riding on the coattails of breastfeeding. Policy intervention in the form of strong laws may help redeem the situation.



WHO

The International World Health

“Inappropriate feeding practices lead to infant malnutrition, morbidity and mortality in all countries, and improper practices in the marketing of breastmilk substitutes and related products can contribute to these major public health problems.”
– Code Preamble

SUMMARY

The International Code was adopted by the World Health Assembly on 21 May 1981. It is intended to be adopted as a minimum requirement by all governments and aims to protect infant health by preventing inappropriate marketing of breastmilk substitutes.

Member States are urged to strengthen implementation of the International Code of Marketing of Breastmilk Substitutes and subsequent relevant Health Assembly resolutions by scaling up efforts to monitor and enforce national measures in order to protect breastfeeding while keeping in mind the Health Assembly resolutions to avoid conflicts of interest

WHA 61.20 [2008]

SCOPE

The Code covers the marketing of all breastmilk substitutes (Article 2). These include:

- infant formula (including so-called ‘special’ baby milks such as ‘hypo-allergenic’ formula, preterm milks and others);
- follow-up milks;
- baby foods and drinks marketed for use before the baby is 6 months old such as cereals, jarred and canned foods, biscuits, teas, juices and water, and
- Feeding bottles and teats.

Articles 2, 3 and WHA 54.2 [2001]

The above items are hereinafter referred to collectively as “products”.

PROVISION OF CLEAR INFORMATION

Information and educational materials on infant and young child feeding should include clear and consistent information on all the following points:

- a) the benefits and superiority of breastfeeding;
- b) maternal nutrition and the preparation for and maintenance of breastfeeding;
- c) the negative effect on breastfeeding of introducing partial bottle feeding;
- d) the difficulty of reversing the decision not to breastfeed; and
- e) where needed, the proper use of infant formula.

When such materials contain information about the use of infant formula, they should include:

- the social and financial implications of its use;
- the health hazards of inappropriate foods or feeding methods;
- the health hazards of unnecessary or improper use of infant formula and other breastmilk substitutes.

- No pictures or text which may idealise the use of breastmilk substitutes.
Articles 4.2 and 7.2
- Health workers, parents and other caregivers must be provided with information that powdered infant formula may contain pathogenic microorganisms and must be prepared used appropriately.
WHA 58.32 [2005]

NO PROMOTION TO THE PUBLIC

There should be no advertising or other form of promotion of products. There should be no point-of-sale advertising, giving of samples or any other promotional device to induce sales directly to the consumer at the retail level, such as special displays, discount coupons, premiums, special sales, loss-leaders and tie-in sales. Marketing personnel should not seek direct or indirect contact with pregnant women or with mothers of infants and young children.
Article 5

There should be an end to inappropriate promotion of food for infants and young children.
(WHA 63.23 [2010])

NO GIFTS TO MOTHERS OR HEALTH WORKERS

Manufacturers and distributors should not distribute to pregnant women or mothers of infants and young children any gifts which may promote the use of products. No financial or material inducements to promote products should be offered to health workers or members of their families.
Articles 5.4 and 7.3

Financial support and other incentives for programmes and health professionals working in infant and young child health should not create conflicts of interest. Research on infant and young child feeding which may form the basis for public policies should contain a declaration relating to conflicts of interest and be subjected to independent peer review.
WHA 49.15 [1996] and WHA 58.32 [2005]

NO PROMOTION TO HEALTH CARE FACILITIES

Facilities of health care systems should not be used to promote products. Nor should they be used for product displays or placards or posters concerning such products, or for the distribution of materials bearing the brand names of products
Articles 6.2, 6.3 and 4.3

NO PROMOTION TO HEALTH WORKERS

Information provided to health professionals by manufacturers and distributors should be restricted to scientific and factual matters, and should not imply or create a belief that bottle feeding is equivalent or superior to breastfeeding. Samples of products or equipment or utensils for their preparation or use, should only be provided to health workers for professional evaluation or research at the institutional level.
Articles 7.2 and 7.4

Code & Subsequent Assembly Resolutions



NO FREE SAMPLES OR SUPPLIES

Product samples should not be given to pregnant women or mothers of infants and young children. Free or low-cost supplies of products are not allowed in any part of the health care system.

In emergency relief operations, donated supplies should only be given for infants who have to be fed on breastmilk substitutes. Such supplies should continue for as long as the infants concerned need them and not be used as a sales inducement.

Note: Articles 6.6 and 6.7 of the Code have been superseded by WHA 39.28 [1986], WHA 45.34 [1992] and WHA 47.5 [1994].

National and international preparedness plans and emergency responses need to minimize the risks of artificial feeding, by ensuring that any required breastmilk substitutes are purchased, distributed and used according to strict criteria.

WHA 63.23 [2010]

NO PROMOTION OF COMPLEMENTARY FOODS BEFORE THEY ARE NEEDED

It is important that infants be exclusively breastfed for 6 months and only receive safe and appropriate complementary foods thereafter. Every effort should be made to use locally available foods.

Marketing of complementary foods should not undermine exclusive and sustained breastfeeding. Breastfeeding should continue for up to 2 years and beyond.

Code Preamble, WHA 39.28 [1986], WHA 45.34 [1992], WHA 47.5 [1994], WHA 49.15 [1996], WHA 54.2 [2001]) and WHA 58.32 [2005]

ADEQUATE LABELS: CLEAR INFORMATION, NO PROMOTION, NO BABY PICTURES

Labels should provide information about the appropriate use of the product, and not discourage breastfeeding. Infant formula containers should carry a clear, conspicuous and easily readable message in an appropriate language, which includes all the following points:

- the words "Important Notice" or their equivalent;
- a statement about the superiority of breastfeeding;
- a statement that the product should only be used on the advice of a health worker as to the need for its use and the proper method of use; and
- instructions for appropriate preparation, and a warning of the health hazards of inappropriate preparation.

Neither the container nor the label should have pictures of infants, or other pictures or text which may idealise the use of infant formula. The terms 'humanised', 'maternalised' or similar terms should not be used.

Articles 9.1 and 9.2

Nutrition and health claims shall not be permitted for foods for infants and young children, except where specifically provided for, in relevant Codex Alimentarius standards or national legislation.

Where applicable, information that powdered infant formula may contain pathogenic microorganisms and must be prepared and used appropriately should be conveyed through an explicit warning on packaging.

WHA 58.32 [2005] & WHA 63.23 [2010]

FOOD SAFETY & QUALITY

The Codex Alimentarius Commission must continue to improve the quality standards of processed foods for infants and young children and promote their safe and proper use at an appropriate age, including through adequate labelling, consistent with the International Code, resolution WHA 54.2 and other relevant resolutions of the Health Assembly

(WHA 55.25 [2002])

Nutrition and health claims are not permitted unless allowed by national legislation.

(WHA 58.32 [2005])

WHO/FAO guidelines on safe preparation, storage and handling of powdered infant formula should be applied and widely disseminated in order to minimize the risk of bacterial infection and, in particular, ensure that the labelling of powdered formula conforms with the standards, guidelines and recommendations of the Codex Alimentarius Commission.

(WHA 61.20 [2008])

Note: FAO/WHO Guidelines for the safe preparation, storage and handling of powdered infant formula are obtainable from <http://www.who.int/foodsafety/publications/micro/pif2007/en/index.html>

COMPANIES MUST COMPLY WITH THE INTERNATIONAL CODE

Monitoring the application of the International Code and subsequent Resolutions should be carried out in a transparent, independent manner, free from commercial influence.

(WHA 49.15 [1996])

Independently of any other measures taken for implementation of the Code, manufacturers and distributors should be responsible for monitoring their marketing practices according to the principles and aim of the Code and take steps to ensure that their conduct at every level conforms to all provisions above.

(Article 11. 3)

Note: For the full text of Code and resolutions, see: www.ibfan.org/English/resource/who/fullcode.html

"...In view of the vulnerability of infants in the early months of life and the risks involved in inappropriate feeding practices, including the unnecessary and improper use of breastmilk substitutes, the marketing of breastmilk substitutes requires special treatment, which makes usual marketing practices unsuitable for these products" – Code preamble