

# Stretching the Rules 2014

*Evidence of Violations of the International Code of Marketing of Breastmilk Substitutes and subsequent resolutions compiled from January 2011 to December 2013*



*International Baby Food Action Network*

**CODE VIOLATIONS** • ABBOTT  
ARLA • ASPEN • AVENT • BARE •  
BREASTFLOW • CELIA • CHICCO  
• DANONE • DOCTOR-BABY • DR.  
BROWN'S • FONTERRA • FRIESLAND  
• HEINZ • HERO • HIPP • HUMANA  
• JAPLO • LIPTIS • MAM • MEAD  
JOHNSON • MEDELA • NESTLÉ •  
NOVALAC • NUK • PFIZER/WYETH  
• PIGEON • **CODE VIOLATIONS** •  
ABBOTT • ARLA • ASPEN • AVENT  
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BABY • DR. BROWN'S • FONTERRA •  
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• PIGEON • **CODE VIOLATIONS**

# Executive Summary

*Breaking the Rules, Stretching the Rules 2014* is a collection of evidence showing non-compliance with the International Code and subsequent WHA resolutions endorsed by all Member States of the World Health Organization. As more fully described in the Introduction, the report is a worldwide listing of Code violations recorded over the past three years. It does not give a complete picture of each company but it shows a “helicopter view” of global marketing practices. While it is still only the tip of the iceberg, the helicopter touch-downs show undeniable evidence in pictures and text of promotional tactics that compete with breastfeeding.

This summary highlights the **marketing trends** over the past 3 years.

■ **Overall Assessment. Competition has increased and breastfeeding declines as a result.** The market is so profitable that further acquisitions have led to more concentration, leaving two global leaders neck and neck: Nestle and Danone. Smaller companies are just as aggressive and the lucrative Chinese market attracts new export investments (e.g. Canada, Ireland). This bodes ill for infant health. Rather than abide by international recommendations, companies use new public relations methods to avoid national regulations. They are pushing new products and have even admitted to using bribery to get a foot in the door of hospitals, still the most effective way of gaining new consumers. For example, in 2013, to increase sales in Tianjin, Danone’s Dumex was exposed for bribing 116 doctors and nurses in 85 medical institutions in just one city alone.

■ **Chasing dragon profits.** Most baby milk companies are targeting China’s lucrative USD 12.4 billion infant formula market. Potential consumption is projected to hit USD 25 billion by 2017. Companies battle to corner market share (16 million babies born in 2011) and as demand exceeds supply for imported products, prices are jacked up. Enterprising traders have been scouring the shelves in nearby Hong Kong, New Zealand and further afield, even resulting in shortages in Europe and the US. The escalating price of infant formula sparked an investigation by the competition authority, the Chinese National Development and Reform Commission (NDRC). In 2013, six companies were fined USD 108 million for price-fixing. Five of them are in this report: Mead-Johnson, Abbott, Dumex, Friesland and Fonterra. Both Wyeth and Dumex immediately cut their formula prices by 11 to 20%.



Chinese baby showing off imported formula.

“When the water starts boiling, it is foolish to turn off the heat.”

Nelson Mandela

“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



Sign at Hong Kong airport. Anyone taking more than two cans of infant formula out of Hong Kong faces a fine of USD 64,000 and 2 years jail (as of March 2013).

Wyeth and its then-owner Pfizer, were fined more than USD 45 million in August 2012 over violations of the U.S. Foreign Corrupt Practices Act (FCPA). They were charged with bribing officials outside the United States, including those in state-owned Chinese hospitals, to recommend Wyeth's products. Bribed officials also provided access to records of new births to be used for marketing purposes (a well known industry practice). In China's 2013 NDRC crackdown, Wyeth/Nestle cooperated with the authorities and were exempted from punishment.

“In the US a study calculates 13 billion dollar savings in healthcare costs annually if exclusive breastfeeding rates went up to 90%.”

One World Asia  
11 Dec. 2013

- **Social Media – a new heyday for marketing.** Social media - Twitter, Facebook, YouTube, Instagram, Google+, etc. – provide a new avenue for companies to advertise products on electronic communication channels. These mobile and web-based technologies use ‘behavioural targeting’ offering a plethora of opportunities for companies to interact directly with customers and unsuspecting consumers. Popular bloggers are roped in to endorse products and thus influence their huge following. Advancing their electronic marketing even further, companies are developing mobile software applications (known as “apps”) that millions can download onto their mobile phones, tablets, laptops and PCs.

Companies use these apps as direct promotional tools. Several apps are purportedly designed to “help” pregnant women and new mothers. Special offers, discounts, contests, product launches and campaign announcements are now available to tech-savvy young mothers and their families.

“Those who suggest that direct advertising has no negative effect on breastfeeding should be asked to demonstrate that such advertising fails to influence a mother’s decision about how to feed her infant.”

WHO: Health Implications of Direct Advertising of infant formula, Doc WHA45 1992, Rec 1

- **The New Jewel in the Crown: Growing-up milks (GUMs).** Baby food companies maintain GUMs are not covered by the Code but the scope of the Code is clearly wide enough to include them. GUMs or toddler milks are used by many companies to cross-promote infant formulas and follow-up milks. Aggressive marketing has made this the best-performing segment within the overall market. GUMs lead the growth of the baby food market, approaching a value sales gain of 17% in 2012, followed by 12% for follow-up milks. Toddler milk now accounts for one-third of the global milk formula market by value.

Extensive advertising and promotion dollars are lavished on this substantial market segment and this is commensurate with the many violations we received. These violations are described in this report as inappropriate marketing. (We have set aside part of the company reports to focus on inappropriate marketing). In October 2013, the European Food Safety Authority said that “growing-up formula does not bring additional value to a balanced diet”. GUMs are “no more effective in providing nutrients than other foods in the normal diet of 1 to 3 year olds”. Advertising on TV, YouTube and in print media should be banned.



Cross promotion in Kuwait showing GUM pack shots while the infant formula and follow-up milk are represented by Lex the lion, the Wyeth mascot. In other words, the label of GUM promotes the others. Hence, such cross-promotion violates the Code. (Especially since growing-up milk 3 starts at 12 months, an age where breastfeeding is still recommended.)



- **Sponsorship.** Thanks to the internet and social media, evidence of companies blatantly giving sponsorship to health professionals are now more visible in the public domain. In the past, the information regarding such practice was often heard of but seldom seen; in this day and age, photos are uploaded on social media for all to see. Doctors, nurses, midwives, nutritionists are the most targeted groups with air tickets and expenses for expensive conferences, gifts including top of the line laptops, lucky draws and the like. We report with photo evidence from unexpected corners like UAE, Turkey and Iraq.

Sponsorship of professional associations seems to be increasing. At the 20th IUNS International Congress on Nutrition in Spain 2013, Abbott, Nestlé, Danone, Wyeth, Hero, Mead Johnson and Friesland Campina all paid sponsorship fees ranging from EUR40,000 to 75,000. Thus, companies “benefit significantly from exposure to an interested, relevant and influential audience in an informal yet informative environment away from the competition of everyday distractions”. (Quoted from IUNS Congress page offering space to corporate sponsors)

Nearly all companies now have Nutrition Institutes. Nestlé, Danone, Heinz, Friesland and Abbott use them to sponsor nutrition programmes both for health workers and the public. They present themselves as partners to “support” national health programmes and claim they have nothing to do with marketing.

- **If you cannot beat them, join them!** Infant formula makers have always marketed their products with messages that suggest that their products are nearly as good as breastmilk and some even giving the impression their formulas are better than breastmilk. The common trend is to say that the particular formula is “closer than ever to breastmilk” or “inspired by breastmilk”. Wyeth, now owned by Nestle, started a new product line called **Illuma**, a “human affinity formula”. Product promotion praises the virtues of breastmilk and then carries on with a story about how they have spent years on research and “*learnt from the breast*” to find a concoction that includes a few nutrients also present in breastmilk.

- **Jumping on 1000 days bandwagon.** The 1,000 days between a woman’s pregnancy and her child’s 2nd birthday is a critical period for child’s long term development. UNICEF and WHO have launched a global campaign for health and development through adequate nutrition during the critical “1000 days window of opportunity”. Several baby food companies saw a golden marketing opportunity in this campaign. They could join in the chorus and yet skew it into a promotion opportunity for their products. Some companies have literally hijacked the campaign from the health and development bodies and are running with it. Both Nestlé and Danone have co-opted the slogan of the first 1000 days Nestlé launched its own first 1000 days advertising

*“We should ensure that mothers are given the right message and that the efforts of government to promote breastfeeding are not nullified and made fruitless by the selling of infant formula by these manufacturers ... the International Code of 1981 is absolutely vital in this respect.”*

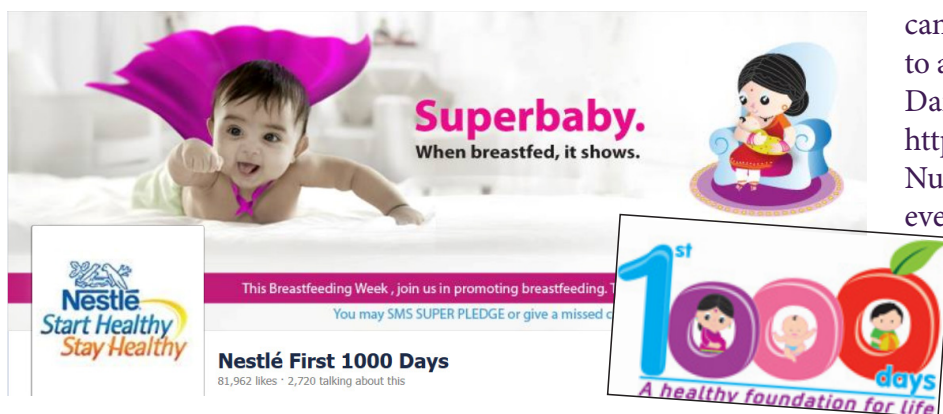
Prof Olivier de Schutter,  
UN Special Rapporteur  
on the Right to Food

World Breastfeeding Conference,  
India, 2012

*“When companies adhere to the Code of Marketing, it will be easier for mothers to make an informed choice. No formula can substitute the importance of breastmilk for children’s survival, growth and development. ”*

France Begin  
UNICEF Nutrition Advisor  
for East Asia and the Pacific  
May 2012





Danone's baby logo. In Malaysia, Nestle has pushed the boundaries campaign!

campaign starting in India and Chile to associate itself with the UN message. Danone registered the domain name <http://www.first1000days.ie/> under its Nutricia subsidiary. In Brazil, Danone even developed a special product "Milnutri", a combination of a thousand (mil) and nutrition. It specifies no particular starting age and is heavily promoted on a video. The video ends with even further – it has a "1500 days"

- **Encouraging Mixed Feeding.** In their pursuit to increase sales, formula companies have recently become bolder by suggesting to mothers that they can do both – formula feed and breastfeed at the same time. Mothers find such a proposition tempting, combining the best of both worlds whereby they can continue to breastfeed and enjoy the "perceived" convenience and 'freedom' of formula feeding without having to worry about not giving the best.

Abbott's **Similac for Supplementation** is one such product. The product tagline targets mums, indicating that "8 OUT OF 10 MOMS who supplemented with formula agreed that it helped them continue to feed breastmilk." Gerber also actively promotes mixed feeding: **Gerber Good Start Soothe** is the solution for excessive crying; **Good Start Gentle** will help to reach "supplementing goals in 1 to 14 days." Mums who buy into such advertising gimmicks are easily trapped into thinking that they will be able to maintain milk supply by supplementing. The opposite is true. Once a breastfeeding mother starts to supplement, her milk supply will automatically go down because of the baby's reduced suckling. A sinister but predictable outcome from such a supposedly "helpful" product.

**Conclusions: blame marketing.** The Global Trends in Exclusive Breastfeeding rates (UNICEF 2012) are on the rise, but the proportion of breastfeeding mothers in East Asia fell from 45% in 2006 to 29% in 2012. In Indonesia the figures are 10% down. In the Philippines only 17% are now breastfeeding. We can squarely put much of the blame on marketing: companies are paying incentives to health workers in most countries to promote the use of formula. In China, according to a Save the Children report (2013) 25% of mothers received gifts, while 40% were given samples, all in violation of the Code.

Sadly, the latest reports from China reveal that the authorities are now investing heavily (nearly USD 5 billion!) in subsidising just six of their own formula companies. The subsidies are to improve quality standards so as to guarantee the safety of Chinese products and restore consumer confidence. If only part of those billions were to go into the promotion of breastfeeding, China could improve the health and wellbeing of its infants as well as reduce costly imports.

**Laws in action.** On a positive note, we are starting to receive copies of letters from companies and distributors admitting and apologising for transgressing national laws. It proves that laws are necessary for corporate accountability and that, generally, companies do behave better when governments show they are serious about enforcing their laws. ■