

# V

## REINSTATING THE NESTLÉ BOYCOTT (1988)<sup>vii</sup>

*It sometimes proves necessary for those who are concerned about social responsibility issues to have credible sanctions available in order to keep the seriousness of the issues and of the dialogue clear...*

*We will use that credible sanction – today we are announcing boycotts against both Nestlé and American Home Products .... until such time as the companies have fully complied with the WHO/ UNICEF International Code of Marketing of Breast-milk Substitutes.*

– Janice Mantell, ex. Director of ACTION

<sup>vii</sup> Based on

- a. ACA's letter of 55<sup>th</sup> May 1988 to Sen. Edmund Muskie, Chairman, NIFAC, rebutting his arguments and repeating the warning of reinstating the Boycott if free supplies were not stopped.
- b. "The Boycott Is Back" *ICCR Brief*, Vol 17, No. 8, 1988
- c. *The Milk State*, paper presented by Patricia Young at the ICCR Formula Summit Meeting, May 1998

On October 4, 1988, exactly four years after the termination of the Nestlé Boycott, Action for Corporate Accountability (successor to INFAC) announced the reinstating of the Boycott against. Research conducted in 42 countries by ACA and IBFAN had revealed that Nestlé was going back on its promise and dumping free supplies of its milk powder in hospitals in Third World countries including China. The Boycott was expanded to include the second largest infant food manufacturer in the world - American Home Products - that was also consistently violating the Code.

### **The interim period**

In 1984, the 37th World Health Assembly renewed its call for the implementation of the code, a call that was repeated with every subsequent WHA Resolution. In addition, it deliberated in weaning foods, and emphasised the use of "foods of local origin" for this in Resolution 37.30.

In 1985, IBFAN set up the International Code Documentation Center (ICDC) in Penang, Malaysia, to monitor Code implementation as well as train governments and activists in understanding the Code and monitoring compliance. As a result of its workshops in Africa, the African, Caribbean and Pacific group of countries called on EC member states to implement the Code and prevent unethical promotion of infant milks by corporations headquartered there.

WHO/UNICEF called a Committee of Experts which recommended the end to all free and low-cost supplies of infant milks to hospitals and maternity wards.

In 1986, the 39<sup>th</sup> WHA also adopted a Resolution

calling for a ban on free and subsidised supplies of baby milks to hospitals and maternity wards. At the same time, the European Parliament voted to include most of the provisions of the Code in a draft directive.

In the period 1987-1988, IBFAN/ICDC monitoring revealed that baby food companies were flooding health facilities with free and low cost milks, especially in developing countries, and thereby violating the Code. Nestlé was once again implicated in this is "dumping". ICDC published the first *State of the Code by Country*. Seven countries (all developing countries) had implemented the Code as law, and other developing countries were in the process of doing so. The 41<sup>st</sup> World Health Assembly noted with concern "continuing decreasing breastfeeding trends in many countries." (Resolution WHA41.11) The UK government announced a ban on free and low-cost supplies.

It was in this context that ACTION gave Nestlé and Wyeth/AHP time till October to end their free and low-cost supplies to health facilities, or face consumer action.

### **Nestlé "fails" to live up to its pledge**

"Nestlé has failed to live up to the principles that its representatives pledged to support in their 1984 agreement", said Douglas Johnson, ACTION's national chairman, adding

*Nestlé continues to supply infant formula to hospitals for the purpose of inducing sales. Nestlé uses this effective marketing device even where use of infant formula is dangerous and in spite of the world's health authorities calling for its ban.*

Nestlé argued that “dumping” was not scientific or quantifiable, that the International Code allowed companies to give free supplies to hospitals, and finally, that Nestlé was not obliged to implement the Code.

## **Dumping passports to death**

Millions of infants die every year due to malnutrition and disease related to hazards of bottle feeding. Besides providing adequate nutrition, breastmilk also contains anti-infective agents that protect babies against many common diseases which can be fatal to them. Dr. Raj Anand, a paediatrician from India, explains the problem:

*In the hands of the poor, the feeding bottle often becomes a passport to death for the young child. In developing countries, infants breastfed for less than six months (or not at all) are five to ten times more likely to die in the second six months than babies who are breastfed for six months or more.*

While it is true that dumping does not have a “scientific” definition, nor is it quantifiable, the two popular meanings in the context of Nestlé’s actions are:

### **How dumping works**

The manufacturers encourage the introduction of formula in the newborns by giving free or low-cost supplies in maternity hospitals. We believe that the introduction of bottles in neonatal wards interferes with successful breastfeeding... by prevent breastfeeding education and initiation.

– Dr. Raj Anand

- unloading in a heap or mass, implying larger than average or larger than necessary quantity, and
- the practice of a first world entity (usually a corporation or a government) making readily available in the third world, a product, which, although it serves the purposes of the donor, is neither safe nor necessary for use under conditions in the third world.

Nestlé’s actions constituted dumping in both its meanings.

## **The International Code and provision of free or low-cost formula to hospitals and maternity wards**

Nestlé tried to argue the Code allowed manufacturers to give free or low-cost supplies of infant formula to hospitals and maternity wards. While it is true that Art. 6.6 of the Code does not expressly forbid this, it concludes with the sentence: *Such donations or low price sales should not be used by manufacturers or distributors as a sales inducement.* However free donations such as Nestlé’s donations end up as sales inducements as mothers and babies get hooked on to artificial feeding by the end of their stay in hospital. In addition, free donations end up by turning doctors, nurses and other workers in the health care system into promoters of artificial feeding.

According to James Grant of UNICEF,<sup>13</sup>

*The Report of the 1985 Consultation of Experts concludes in paragraphs 18 and 19 that “the routine availability of breastmilk substitutes... should not be permitted in maternity wards and hospitals. Maternity wards and hospitals should not be recipients of free or subsidised breastmilk substitutes.*

WHO Guidelines, in para 47 state:

*Since the large majority of infants born in maternity wards and hospitals are full term, they require no nourishment other than colostrum during their first 24-48 hours of life - the amount of time often spent by a mother and her infant in such an institutional setting. Only small quantities of breastmilk substitutes are ordinarily required to meet the needs of a minority of infants in these facilities and they should be available in ways that do not interfere with the protection and promotion of breastfeeding for the majority.*

These guidelines were adopted by the 1986 World Health Assembly as Resolution 39.28, calling for an end to free supplies of infant formula to maternity wards and hospitals.

## **WHA Resolutions are binding on baby food manufacturers including Nestlé**

Among these promises made by Nestlé when the Boycott ended in 1984, was the pledge that Nestlé would abide by whatever WHO/UNICEF decided while clarifying the supplies issue.

The 1986 WHA Resolution clearly states that the small amounts of breastmilk substitutes needed for the minority of infants who require them in maternity wards and hospitals be made available through normal procurement channels and not through free or subsidised supplies. James Grant of UNICEF also stated that UNICEF is “indeed concerned about the evidence indicating continued indiscriminate distribution of infant formula to maternity wards and hospitals. We recognise the detrimental effects

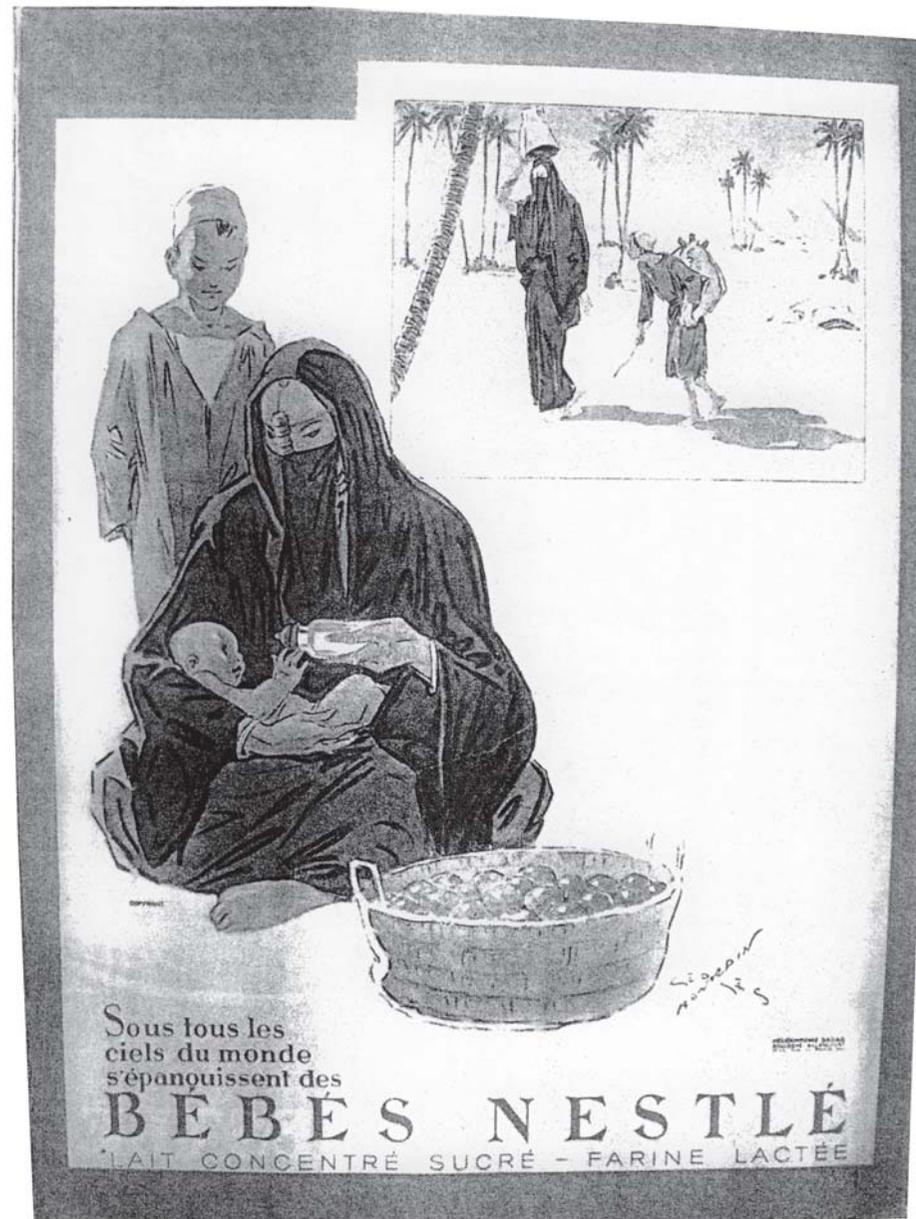
of these supplies on the initiation and maintenance of breastfeeding. For this reason, we have consistently advocated that this practice be stopped....”

The announcement of the reinstating of the Boycott received immediate support from countries including Australia, Malaysia, Kenya, Swaziland, Mauritius, Liberia, Philippines, Thailand, Austria, Belgium, France, Germany, Sweden and the United Kingdom.

<sup>13</sup> Letter to ACTION dated 15<sup>th</sup> April 1988.



Cartoon: Sarah Guthrie, Seg Cartoons



## ***Strengthening infants' rights***

In 1989, the member states of the UN adopted the Convention on the Rights of the Child.

### ***Breastfeeding and the Convention on the Rights of the Child***

Art. 24 of the Convention on the Rights of the Child recognises the child's right "to the enjoyment of the highest attainable standard of health". It calls upon member states to "pursue full implementation of this right and, in particular, shall take appropriate measures to", among other things, "diminish infant and child mortality" and "to ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of ... the advantages of breastfeeding ..."

Following the UN Convention for the Rights of the Child, the Innocenti Declaration, signed by 32 countries, called on all Governments to adopt the International Code as a minimum requirement in its entirety and to adopt imaginative maternity legislation by 1995. Heads of state at the World Summit for Children endorsed the Innocenti Declaration.

### ***Protecting, Promoting and Supporting Breastfeeding: four targets of the Innocenti Declaration***

- Appointment of a national breastfeeding coordinator of appropriate authority, and establishment of a multisectoral national breastfeeding committee;
- Ten Steps to Successful Breastfeeding (the Baby-Friendly Hospital Initiative) practised in all maternity facilities;

- Global implementation of the International Code of Marketing of Breast-Milk Substitutes and subsequent relevant World Health Assembly Resolutions in their entirety;
- Enactment of imaginative legislation protecting the breastfeeding rights of working women; and establishment of means for enforcement of maternity protection.

In 1990, the 43<sup>rd</sup> World Health Assembly reiterated the call for banning free and low cost supplies of baby milks to hospitals through Resolution 43.3, noting that, in spite of its 1986 resolution, "free or low-cost supplies continue to be available to hospitals and maternities."

The 47<sup>th</sup> World Health Assembly adopted Resolution 47.5 calling for an end to free and subsidised supplies in all parts of the health care system; for care in accepting donations for emergency relief and for complementary feeding to be introduced from about the 6<sup>th</sup> month. For the first time the US supports a resolution which reaffirms support for the International Code and subsequent, relevant resolutions. Resolution WHA47.5

The 49<sup>th</sup> World Health Assembly adopted Resolution 49.15 calling for independent monitoring, free from commercial influence; for measures to control marketing of complementary foods and for health professionals to be wary of accepting commercial sponsorship.

In 1998, for the first time a Resolution was not tabled at the World Health Assembly in a reporting year. Instead, WHO proposed a series of meetings looking at "removing obstacles to full implementation of the International Code of Marketing of Breastmilk Substitutes and its subsequent resolutions by all countries."

In 1991, UNICEF and WHO launched James Grant's brainchild - the Baby Friendly Hospital Initiative (BFHI) - aimed at transforming maternal and child health practices. UNICEF's State of the World's Children informed that reversing the decline in breastfeeding could save 1.5 million lives. They called on companies to end free supplies of baby milk to hospitals and maternity wards worldwide by the end of 1992 so that health facilities could follow the 10 Steps to Successful Breastfeeding that are the hallmark of BFHI.

### ***Ten steps to successful breastfeeding***

- 1) Have a written breastfeeding policy that is routinely communicated to all health care staff.
- 2) Train all health care staff in skills necessary to implement this policy.
- 3) Inform all pregnant women about the benefits and management of breastfeeding.
- 4) Help mothers initiate breastfeeding within half-hour of birth.
- 5) Show mothers how to breastfeed and how to maintain lactation even if they should be separated from their infants.
- 6) Give newborn infants no food or drink other than breast milk, unless medically indicated.
- 7) Practise rooming-in – allow mothers and infants to remain together – 24 hours a day.
- 8) Encourage breastfeeding on demand.
- 9) Give no artificial teats or pacifiers (also called dummies or soothes) to breastfeeding infants.
- 10) Foster the establishment of breastfeeding support groups and refer mothers to them on discharge from the hospital or clinic.