



Good Food, Good Life

**Leading the way: Responsible  
Marketing of Breast Milk Substitutes**  
2017 Report



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## Our aim: providing optimal nutrition in a responsible way

Optimal nutrition for mothers and babies during the first 1000 days of life is crucial as it lays the foundation for a healthier future.

This starts with breastfeeding as breast milk provides the best start for infants. This is why we are committed to promoting, protecting and supporting breastfeeding. When mothers cannot or decide not to breastfeed, infant formula is currently the only safe alternative as recommended by the WHO. Our goal is to provide safe and high quality nutrition for non-breastfed or partially breastfed babies.

We have implemented industry-leading policies and systems for the responsible marketing of breast milk substitutes in accordance with the recommendations of the WHO Code. Compliance with this Code is important to us. We believe that good business is compliant business.

Our values are rooted in respect. Compliance with the WHO Code is an expression of respect that all of our employees are accountable for. We are proud to lead the industry in this regard.



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## Purpose of this report

We are committed to report transparently on our compliance with our policies and national legislation implementing the WHO Code.

This document is a key component of our WHO Code Management system, derived from the FTSE4Good Breast Milk Substitutes (BMS) inclusion criteria that we have deployed across the Nestlé group.

Our management system helps us detect instances of non-compliance with our policies on the marketing of breast milk substitutes. When we find non-compliances, we stop them and implement corrective actions. We also use this information to improve our approach to the responsible marketing.

This report provides an overview of non-compliances attributable both to Nestlé and to third-parties in direct contractual relationship with Nestlé. It also outlines the

key events of the past year and will serve as a tool for measuring our progress over time<sup>1</sup>.

Transparency is one of the pillars of our WHO Code Management System and it is an important principle to demonstrate accountability and build trust, both internally and externally.

This report is a tangible example of how we demonstrate transparency and we believe that sharing our experience can be useful to others.

**This report evaluates our performance, outlining the key events of the past year and serves as a tool for measuring progress over time.**



<sup>1</sup> It is not intended to give any enforceable rights to third parties.

## Raising industry standards

The WHO published its Code on the marketing of breast milk substitutes in 1981. Shortly after, in 1982, Nestlé became the first company to voluntarily implement the code through a detailed corporate Policy, applicable to the whole Nestlé group and to our relations with third parties.

Our Nestlé Policy and Procedures have evolved over time. In 2011 they were updated to reflect the FTSE4Good criteria, which we were the first company to meet.

The FTSE4Good criteria on the marketing of BMS focus on countries that have the highest rates of child malnutrition and child mortality.

We base the principles that we apply daily to our marketing of breast milk substitutes on these criteria:

- 80% of all countries are defined as higher risk in terms of infant mortality and malnutrition;
- For these higher risk countries, our Policy and Procedures define specific rules that we abide by, going beyond local legal requirements when these are less strict. In higher risk countries, Nestlé does not promote infant or follow on formulas for children under 12 months of age;
- In lower risk countries, we abide by local regulation and laws on the marketing of breast milk substitutes.

The requirements for the FTSE4Good BMS Marketing Criteria continuously evolve over time. They propose a

phased approach, representing practical steps a company can take towards meeting the WHO Code. FTSE4Good Index Criteria are based on “challenging but achievable” requirements, based on international standards, and informed by consultation.

The main reason for taking this global approach is that the WHO Code (and its subsequent WHA resolutions) are non-binding recommendations to UN member states and are not enforceable laws. More than 35 years after its adoption, only 35 countries have implemented into law all the recommendations of the WHO Code.

That is why we support countries as they translate the recommendations of the WHO Code into national regulations: we always advocate for clear rules enabling optimal nutrition for mothers and babies.

Our objective is to transform the industry in terms of better Code compliance, so that common rules apply to all companies, both large and small.

**We are proud of our inclusion in the FTSE4Good Index and that we contribute to improving industry standards on the responsible marketing of breast milk substitutes.**



FTSE4Good



# Our 2017 achievements: more robust systems

We have significantly increased internal and external awareness of instances of non-compliance around the world, reflecting the underlying robustness of our compliance framework. We continuously evolve and improve our systems and corporate policies on the responsible marketing of breastmilk substitutes.



# The release of our updated Policy and Procedures

In 2017, we released our updated [Policy and Procedures](#) as we took into account:

- Direct feedback from key stakeholders (FTSE4Good, Access to Nutrition Index – ATNI);
- Experience from our internal market audits, external verifications and changes in the external environment;
- The consolidation of our guidelines and instructions.

The new Policy and Procedures expand the scope of products covered by the rules on the marketing of breast milk substitutes to include some products designed for babies suffering from specific health risks<sup>2</sup>.

We have also improved transparency on our actions, releasing a public description of our complete compliance

framework, which also defines management responsibility. We publicly disclosed standards regarding:

- Donations (or low-cost supplies) for use in emergency situations and;
- Our guidelines for the sponsorship of healthcare professionals to support their continuous professional development.

The world is changing fast. Digital marketing is now a common practice and we have adapted our rules accordingly to fulfil our commitments. Reflecting the practices we have followed ever since e-commerce emerged as a route to market, we have clarified that our policy applies to all electronic forms of communication, including digital platforms.

<sup>2</sup> Allergies, constipation and low hygiene.

# A unique tool in the industry: the Code Room

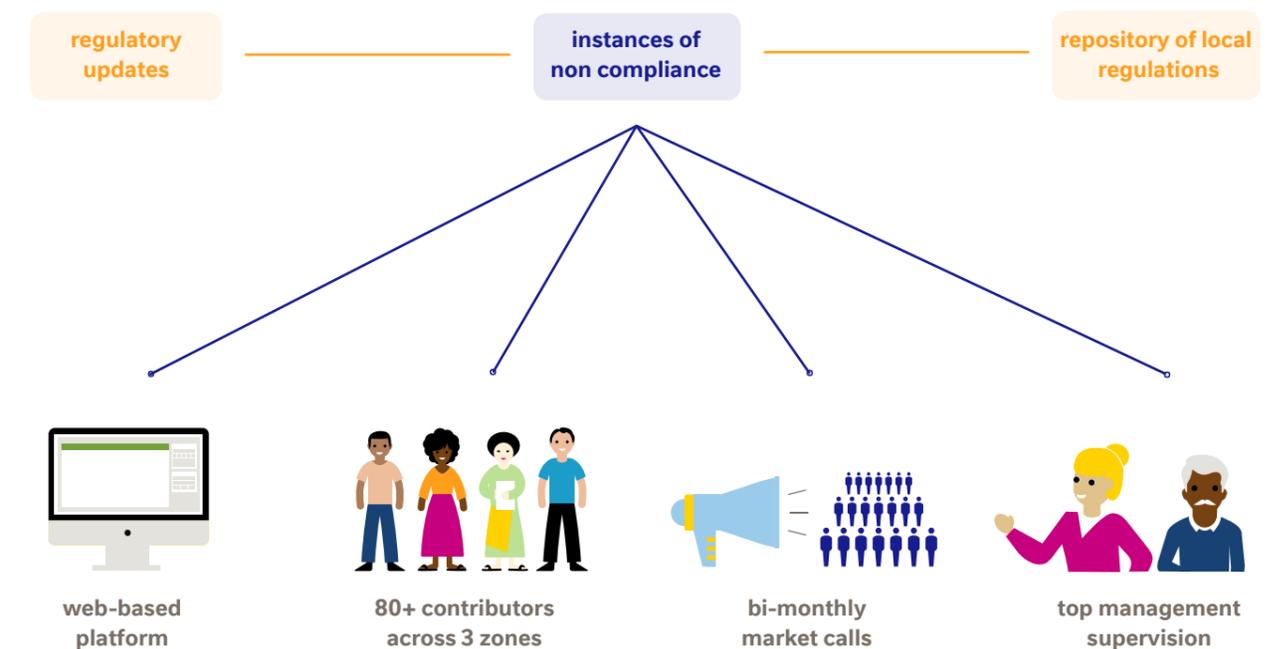
Early 2017 we released a new version of the Code Room, our unique tool to oversee WHO Code Compliance.

The Code Room is a web-based platform dedicated to WHO Code-related matters and organized around three pillars:

- Reporting local regulatory initiatives implementing the WHO Code (first pillar);
- Reporting instances of non-compliance (second pillar), asking our delegates to signal cases they find in their market;
- Repository of local legislation implementing the WHO Code (third pillar), in order to be clear about the mandatory requirements we need to apply in all markets.

Each market has appointed a Code Room delegate, in charge of reporting information related to the three pillars. On a regular basis, conference calls are organized to foster sharing of experience in the markets and learning on the reporting of instances of non-compliances.

We encouraged greater use of the Code Room tool in 2017 to increase transparency and identify both actual and potential instances of non-compliance with our policy and our underlying procedures. As a result, reporting has increased and has led to a greater number of matters being raised in this report compared to previous years. There has also been a noticeable improvement in the effective management of these issues at market level.



# Conclusions from our 2017 findings

We promote a culture of trust that enables our employees to speak up. This helps us build industry-leading policies, systems and tools and to support breastfeeding through responsible marketing practices.



# Overall results<sup>3</sup>

The improvements we have made to the compliance framework increased participation from countries in reporting instances of non-compliance. This has enhanced our visibility and allowed us to take appropriate action.

The release of the updated Policy and Procedures and the revamping of the Nestlé Internal Audit manual were major steps toward improving our compliance framework.

In addition, a wider and more systematic use of our Code Room has led to improvements in the efficiency of our internal monitoring through more visibility of potential or actual instances of non-compliance with our policy or procedures at market level.

Our 2017 compliance record reflects this, with 103 instances of non-compliance reported, versus 46 cases in 2016. There was also an increase in the volume of reported external allegations (21 cases) and the volume of instances detected through internal monitoring activities (54 cases).

However, the number of cases reported from other sources of information (internal and external audits and grievance mechanisms) did not change significantly compared to 2016.

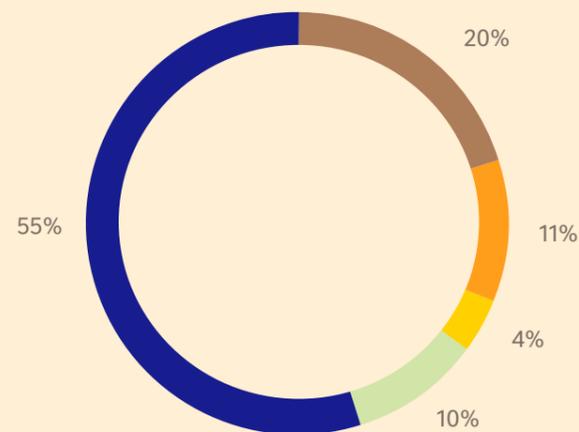
When we observed deliberate and severe breaches of the rules, we took disciplinary actions. In 2017, **9 disciplinary actions** (i.e. dismissals, warning letters) were issued to employees or third parties in our direct sphere of influence.

**These trends show the determination of our markets to proactively tackle instances of non-compliance, rather than expecting internal or external assessments to address them.**

<sup>3</sup> Please refer to the appendix for details

## Overall results

Internal monitoring	<b>55%</b>
External allegation	<b>20%</b>
External verifications	<b>11%</b>
Grievance mechanisms	<b>4%</b>
Nestlé Internal Audits (NIA)	<b>10%</b>



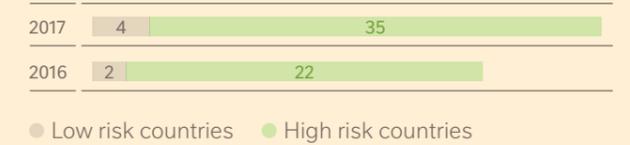
## Geographical results

39 countries reported instances of non-compliance vs. 24 in 2016 and 28 in 2015.

Most of the instances of non-compliance were reported in Africa and Asia - 20% and 31% respectively. The same volume of instances of non-compliance were reported in the Latin America/Caribbean region (18%) and the Middle- East (17%). Finally, 13% of instances were

reported in Europe, mainly by higher risk countries. These results reflect the geographic spread of higher-risk countries (defined by FTSE4Good) across the world.

### Number of reporting countries

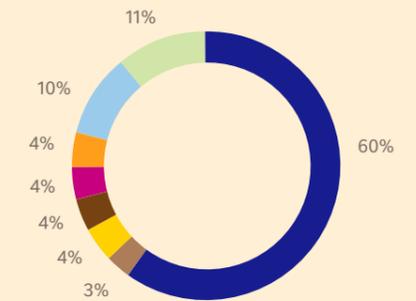


## Main types of instances of non-compliance

In 2017, 60% of instances of non-compliance are related to art.5. of the Nestlé Policy and Procedures, on General Public and Mothers.

They consisted of:

- Promotions at point of sale (24%),
- Special display (17%),
- Advertisement to the general public (15%) or
- Contact with pregnant mothers (4%).



General public and mothers (art.5)	<b>60%</b>
Healthcare workers (art.7)	<b>11%</b>
Information & Education (art.4)	<b>10%</b>
Healthcare system (art.6)	<b>4%</b>
Persons employed by manufacturers and distributors	<b>4%</b>
Labelling (art.9)	<b>4%</b>
Nestlé policy - Training not completed	<b>4%</b>
Quality (art.10)	<b>3%</b>

Instances related to relationships and engagement with the healthcare system and workers (including detailing activities) accounted for 24% of the instances of non-compliance.

**The majority (56%) of instances of non-compliance were related to activities by third parties that have direct relationships with Nestlé.**

## Root causes – Complexity of the rules, high turnover and fierce competition between trade partners

In 2017 we collected and examined the root causes collectively identified by our markets when managing instances of non-compliance.

In 44% of cases, a lack of awareness of the rules by third parties was cited as the root cause. The complexity of the rules is challenging and underlines why proper training is crucial. It is often not easy for our third party employees to deal with different sets of rules on the marketing of breast milk substitutes. Frequently the requirements from the authorities (local law) differ from the rules implemented by Nestlé (often stricter) or those from our competitors.

These different yardsticks explain why some third parties develop resistance to implementing our rules when the law is softer. They have no incentive to put more effort

into compliance in a context of strong competition amongst retailers. This root cause explains 8% of the instances of non-compliance.

In 24% of the cases, Nestlé employees cited lack of awareness as the root cause. This confirms that we must continue to prioritize training our people as well as our third parties, in particular with respect to newly hired employees.

Finally, "personal interest" emerged this year as a root cause, explaining 6% of the cases. It refers to deliberate breaches of the Nestlé Policy and Procedures motivated by the potential benefits of improved sales performance. Dismissals or warning letters were issued in all of these cases.

# Fostering shared responsibility

13 different articles of the WHO code stipulate that BMS manufacturers and distributors of their products share the same responsibilities. Nestlé and civil society organizations share concerns that trade partners across the distribution channels are responsible for the majority of reported instances of non-compliance. We believe responsible marketing of BMS is a shared responsibility and working together, we can make a big impact on the health of future generations.



# Fostering shared responsibility

According to the WHO Code (and our Nestlé Policy and Procedures), trade partners operating across distribution channels have the same responsibility as manufacturers such as Nestlé to market breast milk substitutes responsibly.

The Code defines a distributor as a person, corporation or any other entity in the public or private sector engaged in the business (whether directly or indirectly) of marketing at the wholesale or retail level a product within the scope of this Code. A "primary distributor" is a manufacturer's sales agent, representative, national distributor or broker.

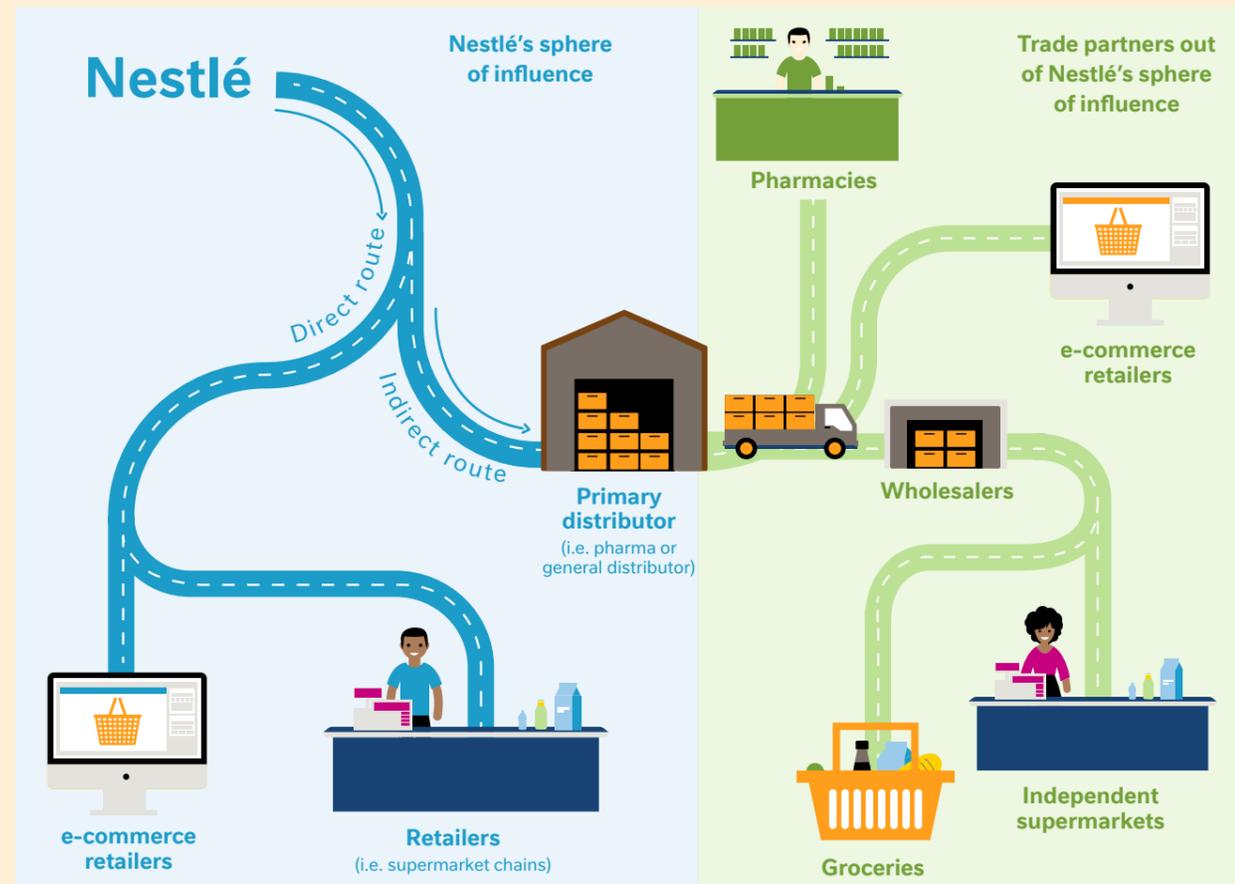
In higher-risk countries, it is our responsibility to provide regular training to help third parties, with whom we have a direct service relationship, to comply with our Policy and Procedures and national legislation implementing the WHO Code. We believe that responsibility for implementing adequate and responsible marketing practices should be

shared with all those involved along the different routes to market, between Nestlé and our consumers, as required by the WHO Code.

In this regard, our monitoring of WHO Code Compliance demonstrated that a majority of deviations are caused by business partners out of Nestlé's sphere of influence. This limits the strength of our Compliance framework.

We support national laws and regulations that ensure the WHO Code applies equally to all parties involved in the marketing of breastmilk substitutes.

The different routes to markets and players – sharing responsibilities across the channels



# Our solutions

We must maintain our policies and translate them into business practices in our markets. We are implementing this approach globally, adapting to the local legislative and commercial context.

All instances of non-compliance which are reported in this record have been corrected. When we observed deliberate and severe breaches of the rules, we took exemplary actions such as dismissals, warning letters against employees or third parties in our direct sphere of influence.

### The basics

Through our Policies and Procedures and the WHO Code Management System, we have introduced standard procedures that frame our relationship with the trade partners.

Fostering long lasting improvement in our distribution channels





## Conclusion: how do we lead the industry?

We value the trust our consumers place in us, and it is our responsibility to respect this trust by acting in their best interests at all times. We are transparent on our practices to demonstrate accountability and build trust, both internally and externally.

Compliance with the law and our internal policies as well as accepted international standards (such as the WHO Code) is fundamental to all of our activities.

We have implemented a comprehensive WHO Code Management system aligned on FTSE4Good criteria to safeguard the trust of our consumers and other stakeholders by ensuring we market and sell our products responsibly.

Every year we publicly report our record on WHO Code compliance: it encompasses the number of instances of compliance that we detected through our internal and external systems, the root causes we identified and the corrective actions we implemented.

This year, we have improved the robustness of our systems, which helped us to gain increased visibility over monitoring activities in the markets. However, we acknowledge that we need to continuously improve in

order to meet the expectations from all our stakeholders. Our top management is closely involved to make this continuous improvement happen.

We acknowledge that the training of our staff and third-party trade partners is the main challenge. Specific attention is required when our products are sold through distribution channels out of our sphere of influence. Active support from the distribution and retailing industry is key for driving improvements towards responsible marketing practices.

By transparently sharing our experience, we believe we can inspire a change across the industry and foster collaboration with civil society organizations and governments.

We will continue to play a leading role through constructive engagement to do all we can to contribute to a healthier future together.

Share with us your feedback on this report and tell us about instances of non compliance with our Policy and Procedures implementing the WHO Code

[www.nestle.com/info/contactus/contactus](http://www.nestle.com/info/contactus/contactus)



# Appendix

To fulfil our public commitment to support breastfeeding and protect it by implementing industry leading policies, we have a set of mechanisms in place to ensure compliance, and to quickly detect and address any instances of non-compliance.

Our compliance record is based on:

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**Monitoring systems: we voluntarily submit our practices for verification to ensure compliance with the Policy and Procedures, as well as all local measures implementing the WHO Code, regardless of whether or not a governmental monitoring system is in place:**

**Internal Monitoring:**

performed by Nestlé staff during routine work (e.g. visits to retailers, review of activities, etc). We acknowledged 57 instance of non-compliance across 30 countries detected by internal monitoring activities, out of which 41 are attributable to third party in a direct relationship with Nestlé.

The main types of instances of non-compliance were:

- Promotion at Point of sale (discount, rebate etc...) (20);
- Advertisement to the general public (10);
- Special displays (gondola end...) (9).

During internal monitoring activities in Sub-Saharan Africa, a Nestlé employee implemented a promotional activity at a customer's point of sale. This has been sanctioned by a warning letter.

**Internal Audits:**

internal audits are conducted each year in a number of lower and higher-risk countries in which we operate to verify our adherence to our policies, procedures and national legislations implementing the WHO Code. In 2017, 22 countries (incl. 18 in higher countries and four (4) in lower risk countries) were audited by Nestlé corporate auditors. Internal Audits detected a total of ten (10) instances of non-compliance with the Nestlé Policy and Procedures and/or local Codes. Eight (8) out of these ten (10) instances were attributed to Nestlé and two (2) were attributed to third-parties in direct contractual relationships with Nestlé.

**External Audit and Verifications:**

these are performed by Bureau Veritas (commissioned by Nestlé) and PricewaterhouseCoopers – PwC (commissioned by FTSE4Good every 18 months).

In 2017 FTSE4Good confirmed Nestlé's compliance with its 104 rigorous criteria, during the BMS Index Verification assessment. It highlighted five (5) instances of

non-compliance to be remedied, two (2) were attributed to distributors for failing to provide materials and annual reminders on WHO Code compliance to retailers in Thailand and Nigeria. The remaining instances, attributed to Nestlé, related to the supply of samples to healthcare professionals (1) and to the display of products in health-care facilities (2).

Bureau Veritas reviewed compliance with the Nestlé Policy and Procedures and/or local codes in 3 countries (Ethiopia, Turkey and Cambodia) in 2017.

Six (6) instances of non-compliance were identified by Bureau Veritas: five (5) were attributed to Nestlé and related to the medical detailing materials to HCPs (2), donation of equipment or materials to HCPs or institutions (1), improper trainings (1) and sponsorship of HCPs (1).

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**Grievance mechanisms: Internal and external grievance mechanisms are widely accessible, so that both our employees and external stakeholders can raise concerns about our business practices:**

**Internal mechanisms:**

- WHO Code Ombudsperson System: it allows all employees of the Nestlé Group, in both lower and higher risk countries, to alert the company of potential instances of non-compliance in line with our Policy and Procedure and/or local legislation, and seek advice or raise concerns with regards to the marketing of infant nutrition products. They can do this in an anonymous and confidential way outside the line management structure. The Group WHO Code Ombudsperson is the Executive Vice President Human Resources and Business Excellence, who is a member of the Executive Board and who chairs the Global Code Compliance Committee. The Country WHO Code Ombudspersons and the Group WHO Code Ombudsperson are not involved in the day-to-day management of our infant nutrition business.

- Integrity Reporting System (IRS): enables our employees in higher and lower-risk countries to report confidentially and anonymously, if they choose to, via phone message or web form, any illegal or non-compliant behavior they observe.

**External mechanisms:**

- Tell us: confidential platform available on all markets' and Nestlé Global websites to all of our stakeholders with a dedicated communication channel for reporting potential instances of non-compliance with our Corporate Business Principles, policies and applicable laws.

Four (4) cases were reported through **internal and external Grievance mechanisms** mainly in Southeast Asia, in the rest of Asia and Sub-Saharan Africa. Out of these four (4) cases, one incidence of systematic non-compliant practices was reported to the Local WHO Code Ombudsperson in South-East Asia: a Special Investigation was led by Nestlé Internal Audit and set up corrective actions (i.e. reshaping the Professional Merit Scheme). Immediate disciplinary actions were undertaken leading to the departure of some members of the staff, the issuance of a warning letter and the reinforcement of training for the local team. A specific external audit has been commissioned (September 2018) to follow-up on the corrective actions.

- Direct correspondence: External stakeholders can also share their concerns via email or letters. In 2017, 21 external allegations were reported from the following sources:
  - The national breast milk substitutes manufacturers' Industry Associations (8). The industry associations can act as a mediator between manufacturers to arbitrate compliance issues. In South-East Asia and Latin America they reported instances of non-compliance mainly about special displays or promotions at point of sales. One of the cases reported in South-East Asia, led Nestlé Infant Nutrition (NIN) to issuing a written warning to a distributor. Also, in North Africa, two (2) employees were dismissed after the Industry Association reported a case of sales inducement to healthcare professionals.
  - Competitors (8). On a regular basis, competitors report instances of non-compliance to Nestlé. In 2017, this happened mainly in Latin America, Eastern Europe and South East Asia about sales inducements to healthcare professionals, non-compliant educational materials and sampling of in-scope products to healthcare professionals.

- NGO/NPOs: in 2017, the International Baby Food Action Network's (IBFAN) published its Breaking the Rules, Stretching the Rules 2017 report. The report is published every three years and reports detected instances of non-compliance initiated and implemented by all breast milk substitutes manufacturers over that period. Out of 161 allegations addressed to Nestlé and Wyeth, we assessed that 129 (80%) were actually compliant with the local legislation and/or Nestlé Policy and Procedures. We acknowledged three (3) instances of non-compliance requiring immediate remediation. In addition, we acknowledged five (5) instances of non-compliance attributed to third parties, six (6) cases which had already been addressed before the release of the report and 14 incidences where responses to allegations had already been provided to IBFAN during the last three years covered by the report. Our response to IBFAN is accessible [online](#).
- The public authorities (1). In Latin America, Health Authorities instructed Nestlé to correct product labels which had unreadable mandatory statements.
- Consumers (1). One instance of non-compliance was reported in Europe by consumers protesting on Facebook because bloggers (hired by Nestlé) unintentionally communicated about infant formula (instead of growing-up milk only). The posts were removed and training procedures to external agencies were strengthened.



Good Food, Good Life