



Nestlé SA

Independent Assurance of Compliance with the WHO

International Code of Marketing of Breastmilk Substitutes

In China (September 2013)



Move Forward with Confidence



Independent Assurance Statement by Bureau Veritas

Introduction

Bureau Veritas has been commissioned by Nestlé S.A. to provide independent assurance of Nestlé China's compliance with the World Health Organisation (WHO) International Code of Marketing of Breast-Milk Substitutes (1981) and subsequent World Health Assembly (WHA) resolutions as defined by the FTSE4Good inclusion criteria for the Marketing of Breast-milk Substitutes¹ (herein referred to as the 'WHO Code') and the 'Administrative Measures for Marketing of Breast-milk Substitutes' 1995 (herein known as the Local Code) in China. This follows similar work previously conducted by Bureau Veritas for Nestlé SA in other global operations.

Scope of Work and Methodology

The assurance was conducted in China between 26th August and 14th September 2013, by two assessors from Bureau Veritas UK Limited, supported by three assessors from Bureau Veritas China.

Preceding the assurance activities in China, Bureau Veritas conducted the following activities:

- completed a gap analysis of the WHO Code and Local Code to consider where the scope of the Local Code differed from the WHO Code;
- requested a list of Nestlé Nutrition employees with responsibilities for the sale of infant nutrition products in China and details of local healthcare facilities, healthcare professionals, and business partners in the country;
- identified a local NGO concerned with the protection, promotion and support of breastfeeding in China; and
- determined a schedule of external stakeholder interviews and visual assessments to take place in China between 2nd and 12th September 2013.

During the assurance Bureau Veritas:

- selected 41 Nestlé employees for interview and review of their associated records, as part of its evaluation of Nestlé China's internal processes for managing compliance with the WHO Code in China;
- undertook 34 interviews with a comprehensive range of key external stakeholders including a NGO, business partners and healthcare professionals (HCPs). Due to external factors beyond our control, Bureau Veritas had difficulties organising the HCP interviews independently, therefore 80% of the meetings were arranged with the assistance of Nestlé China;
- selected and visited 7 healthcare facilities and 43 retail locations to visually assess compliance with the WHO Code, with particular reference to articles relating to the promotion of designated products and interactions with the general public and the healthcare system. On request of the HCPs Bureau Veritas met with the majority of interviewees outside of their place of work.

¹ FTSE4Good Inclusion Criteria for the Marketing of Breast-milk Substitutes explicitly prohibits promotion of complementary foods for infants under 6 months, and the promotion and advertisement of infant formula and follow-on formula products for infants under the age of 12 months in high risk countries.



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The following is a summary of key findings from interviews, observations and document reviews.

Nestlé China

Violations against the WHO Code observed in the trade by the field sales team are communicated to the retailer using the 'letter to the trade', a letter which reinforces Nestlé's position and requests the retailer to stop the promotion on BMS. The violation is then corrected and reported to the regional sales managers. Whilst a copy of the letter to the retailer is kept at the regional office, the report is not sent to the Code Compliance Manager as per Nestlé China's internal procedure for Monitoring and Reporting (PROC 20). This represents a minor non-conformance against the Nestlé China Procedure 20.

The Code Compliance Committee has been established to reinforce the local governance structure. Nestlé China's internal procedure for Monitoring and Reporting (PROC 20) requires that the committee meets every two months to discuss WHO code compliance issues across the business. On review of the recorded minutes, the last Code Compliance Committee was held in March 2012, indicating that the committee had not convened in over a year. This signifies a minor non-conformance against Nestlé China's Procedure 20.

A charitable donation of 150 cases of BMS for humanitarian purposes was made to a Government authority in June 2013 following an earthquake. A letter of thanks was received from the Government, along with an acknowledgment to demonstrate receipt of goods; however there was no formal letter of request obtained prior to the donation of the BMS. While this donation has been genuinely made and officially acknowledged by the Government, from Nestlé China's internal procedure viewpoint there was a shortcoming, in following the internal procedure for Free and Low Price supplies for humanitarian purposes (PROC 12), which requires that all requests for free or low-price supplies must be made in writing. This represents a minor non-conformance.

A clinical manual produced by Nestlé China for HCPs on premature baby nutrition was found to contain product information regarding paediatric specialities for preterm & low weight babies as well as science based information on infant feeding and breastfeeding; however the manual did not have the required breastfeeding support message or a tracking number. This represents a minor non-conformance against article 7.2 of the Nestlé Policy and Instructions, which requires that all information which covers BMS intended for HCPs should mention the information specified in Article 4.2 of WHO Code about the benefits and the superiority of breastfeeding and have a tracking number or 'print code' for traceability purposes.

Feeding advice relating to paediatric specialities for preterm and low birth weight babies was observed on Nestlé China's consumer website, a website which had been developed to share only educational and informational material relating to pregnancy, child development and general nutrition. This represents a minor non-conformance against Article 5.1 of the WHO Code which prohibits any promotion of BMS to consumers.

Business Partners of Nestlé China

Bureau Veritas interviewed one distribution partner of Nestlé and Nestlé's sole merchandising partner. Both business partners are considered to be operating in line with the requirements of the WHO Code and no incidences of non-compliance were identified.

Government

Bureau Veritas was not able to meet with any government representatives during the audit.

Non-Governmental Organisation

Bureau Veritas was able to speak with a representative of a non-governmental organisation in Beijing; the meeting was organised independently by Bureau Veritas. The representative communicated that there had been no violations from Nestlé over the past year, and that they viewed Nestlé as compliant with the Local Code. However, the representative highlighted concerns that merchandisers in the supermarkets could be promoting designated products privately. This was a concern they held for all IF manufacturers, including Nestlé. The representative was unable to provide any evidence to substantiate this concern.

Healthcare facilities and professionals

No incidences of non-compliance were identified.

Retail

A decoration branded with a Nestlé that is used for both infant formula and growing-up formula (growing-up formula is out of the scope of the Code) without a Growing up Milk or stage 3 designations was observed in the middle of the infant formula aisle in a supermarket in Jinan. The material represents a minor non-conformance against Article 5.3 of the WHO Code which prohibits any point of sale promotion of BMS.

Shelf talkers branded with Nestlé's stage 3 growing up formula (an out of scope product) were observed to be placed under Nestlé's BMS in a supermarket in Jinan. The promotional slogan on the shelf talkers related to the stage 3 growing up formula, however the stage description ('stage 3') on the shelf talkers was obscured by the price tags. The promotional slogan, in the context of the hidden stage descriptor, could be perceived as idealising the use of the entire Nestlé product range, including the BMS. This represents a minor non-conformance against Article 5.3 of the WHO Code which prohibits any point of sale promotion of BMS.

Whilst completing the market visit, Bureau Veritas identified two discounts in the trade on Nestlé BMS:

- 1) A 10% discount on one Nestlé BMS brand was verbally offered to Bureau Veritas during a visit to a baby store in Wuhan
- 2) In one supermarket in Wuhan, a price tag for one brand of Nestlé BMS was observed with two prices - a regular price of RMB 89, and a member's price of RMB 84.60.

As per our review of Nestlé China's documentation and records, those discount offers are attributable to the stores' own initiatives. These observations of discounting represent a minor non-conformance against Article 5.3 of the WHO Code, which prohibits any activities at the point of sale, such as discounting to induce a sale of BMS.

Bureau Veritas opinion

From our assurance activities, evidence and observations, it is Bureau Veritas opinion that:

- Five minor non-conformances identified during the management system audit at the Nestlé China Head Office, and the one minor non-conformances observed during the retail assessment were attributable to the actions of Nestlé China and are considered to be isolated incidences.
- Two of the minor non-conformances against the WHO Code observed during the retail assessment were attributable to the actions of third party retailers.
- No evidence came to our attention to indicate that Nestlé China is systematically operating in contravention of the WHO Code in China.

Bureau Veritas recommendations

Detailed findings and recommendations from our assurance activities have been provided to Nestlé S.A. and Nestlé China as part of an internal Management Report. As a priority, Bureau Veritas suggests that Nestlé China should implement the recommendations made in the Internal Management Report. Specifically Nestlé China should:

- Take immediate action to correct the non-conformances identified in the management system review and during the retail assessment, and conduct an investigation into the root cause of the issues and implement appropriate corrective actions.
- Update its internal policy and procedures documents to ensure that they accurately reflect the observations and recommendations made in our Management Report.

Limitations

Visual inspections of healthcare facilities, retail outlets and external stakeholder interviews were limited to the cities of Jinan, Qingdao and Wuhan. The geographical size of China must be accounted for and noted that the assessments made cannot be representative of the country as a whole.

Due to circumstances outside Bureau Veritas control, Bureau Veritas was unable to obtain appointments with a sufficient number of HCPs, therefore Nestlé China had been resorted to for the organisation of the majority (80%) of the HCP meetings. This in turn compromises the independence which Bureau Veritas usually maintains in its approach.



This limited assurance is not intended to provide a definitive opinion as to whether or not Nestlé China complies with the WHO Code in China. Consequently, neither the assurance conducted by Bureau Veritas nor this statement constitutes a guarantee by Bureau Veritas that infringements against the WHO Code have not taken place.

Statement of independence, impartiality and competence

Bureau Veritas is an independent professional services company that specialises in quality, environmental, health, safety and social accountability with over 180 years history in providing independent assurance services.

Bureau Veritas has implemented a Code of Ethics across its business which ensures that all our staff maintains high standards in their day to day business activities. We are particularly vigilant in the prevention of conflicts of interest.

Bureau Veritas has a number of existing commercial contracts with Nestlé. Our assurance team does not have any involvement in any other projects with Nestlé outside those of an independent assurance scope and we do not consider there to be a conflict between the other services provided by Bureau Veritas and that of our assurance team.

Our team completing the work for Nestlé has extensive knowledge of conducting assurance over environmental, social, health, safety and ethical information and systems, and through its combined experience in this field, an excellent understanding of good practice in corporate responsibility, assurance and the WHO Code. The work has been led and reviewed by lead assurers.



Bureau Veritas UK Ltd

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