



***Nestlé Brazil
Independent assurance of compliance
with the World Health Organisation
(WHO) International Code of Marketing
of Breast Milk Substitutes (1981) and
subsequent World Health Assembly
(WHA) resolutions***

September 2009



Introduction

Bureau Veritas has been commissioned by Nestlé S.A. to provide independent assurance of Nestlé Brazil compliance with the World Health Organisation (WHO) International Code of Marketing of Breast Milk Substitutes (1981) and subsequent World Health Assembly (WHA) resolutions (herein known as the WHO Code) and the Brazilian Lei No. 11.265 Regulamenta a comercialização de alimentos para lactentes e crianças de primeira infância e também a de produtos de puericultura correlatos (herein known as Lei 11.265). This follows similar work previously conducted by Bureau Veritas for Nestlé in other global operations.

Scope of Work and Methodology

The assurance was conducted in Brazil between 24 August and 4 September 2009 by three assessors from Bureau Veritas UK Limited. The team has extensive experience of undertaking WHO Code compliance related work and was supported by a representative of Bureau Veritas' São Paulo office.

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

- completed a Gap Analysis of the WHO Code and Lei 11.265 to consider where the scope of Lei 11.265 differed from the WHO Code;
- requested a list of Nestlé Brazil employees, hospitals and healthcare professionals, distributors and retailers from Nestlé Brazil;
- identified other external stakeholders (through the Bureau Veritas office in São Paulo) and local NGOs concerned with the protection, promotion and support of breastfeeding; and
- independently determined a schedule of interviews to take place in Brazil between 24 August and 4 September 2009.

During the assurance Bureau Veritas:

- undertook 27 interviews with a comprehensive range of key external stakeholders (multilateral organisations, NGOs, distributors, healthcare professionals). Nestlé was not disclosed as the client in order to avoid bias during interviews, neither was Nestlé Brazil informed in advance of who would be interviewed (except where stated);
- selected and visited 12 healthcare facilities, 1 congress and 115 retail locations to visually assess compliance with the WHO Code and Lei 11.265, with reference to articles relating to labeling and promotion of products; and
- selected Nestlé Brazil staff and records for respective interview and review, as part of its evaluation of Nestlé Brazil's internal processes for managing compliance with the WHO Code and Lei 11.265 within Brazil.

Findings

The following is a summary of findings from interviews and document review undertaken with a range of key stakeholders.

Healthcare facilities and professionals



Evidence gathered through interviews with healthcare professionals (HCPs) and observations made by Bureau Veritas within healthcare facilities indicate that Nestlé are operating in compliance with the WHO Code and Lei 11.265 within Brazil.

Evidence from interviews and observations indicate that there is no systematic distribution of free samples by Nestlé or other IF manufacturers in Brazil. The majority of HCPs stated that it was rare for them to receive free samples, and when they did, it was because of the release of a new infant formula product. Anecdotal evidence suggests Nestlé has a good reputation amongst HCPs, with a number of doctors commenting on the knowledge and professionalism of Nestlé delegates.

There was no evidence to suggest that Nestlé engage in the promotion of IF products in healthcare facilities. No examples of promotional material were observed in doctors consulting rooms or in public waiting areas. However a number of other IF manufacturers were found to be distributing promotional 'stickers' for HCPs to give to patients. These stickers clearly display the brand name and give a telephone hotline that parents can call to get access to a particular IF product.

Multilateral organisations/NGOs

A number of organisations with an interest in the WHO Code and Lei 11.265 were interviewed during the assessment period. Evidence from the interviews suggested that there are no significant issues of non-compliance by Nestlé in Brazil. While there was some skepticism around the practices of all the multinational firms in the IF market, none of the organizations were aware of any systematic distribution of free samples to doctors, and product labeling was generally perceived to be satisfactory.

Two organizations, however, noted a lack of Ministry of Health labeling on supermarket shelves where there is an offer for powdered milks and follow-up formulas, a contravention of Lei 11.265. This corresponds with Bureau Veritas' findings in the market.

Government Officials

During the time spent in Brasília, Bureau Veritas was able to secure an interview with a representative from ANVISA (Agência Nacional de Vigilância Sanitária). The spokesperson stated that overall the performance of IF manufacturers in Brazil was mixed, but added that levels of compliance had improved since Lei 11.265 was passed in 2006.

Retailers (Supermarkets and Pharmacies)

Visual observations suggested that there is no systematic promotion by Nestlé Brazil of Breast Milk Substitutes (BMS) through in-store advertisements, coupon redemption schemes, promotional pricing or any other promotional devices. Consistent pricing and labeling was evident at all but one retailer visited.

An isolated occurrence of promotion of a Nestlé product was observed at one supermarket. An end of aisle gondola display indicated that NAN 2 Pro 400g was available for a special offer price of R\$14,99. The occurrence was brought to the attention of Nestlé Brazil, who immediately contacted the supermarket to highlight the requirements of the WHO Code and Lei 11.265 and removed the promotion from the shop floor. Bureau Veritas was satisfied with the response and concluded that no further action was required.



A number of supermarkets were observed offering promotions on Nestlé (and competitor) follow-up infant formulas and milk substitutes without an additional sign from the Ministry of Health as per the requirements of Lei 11.265. This is considered to be a systemic form of non-compliance amongst retailers in Brazil. Nestlé Brazil is addressing this issue positively by communicating the requirements of the WHO Code and Lei 11.265 across the supply chain, and asking for written confirmation from retailers that they understand and accept their responsibilities.

Distributors

The distributors interviewed demonstrated a good level of understanding of the requirements for marketing IF products within Brazil.

Nestlé Brazil

The requirements of the WHO Code and Lei 11.265 are well embedded throughout the business and Nestlé Brazil employees demonstrated a good understanding of the requirements it places on their day-to-day responsibilities.

No employee interviewed indicated that they were aware of any breaches of the WHO Code, and the Human Resources Department reported that no formal or informal disciplinary action had been taken regarding compliance with the WHO Code.

Medical Delegates and Field Operations Staff are evaluated on their understanding of the WHO Code through regular testing and review as part of their personal development programme. This is supported by a comprehensive system of training that incorporates a blended approach of videos, face-to-face interaction, and e-learning. The requirement for compliance with related legislation is also incorporated in the job description of all relevant personnel.

Bureau Veritas identified some areas of improvement relation to internal management systems that have been provided to Nestlé Brazil in a separate management report.

Bureau Veritas opinion

From our assurance activities it is our opinion that:

- No significant evidence came to our attention to indicate that Nestlé Brazil is systematically operating in contravention of the WHO Code or Lei 11.265 within Brazil;
- The observation concerning the supermarket promotion of NAN 2 Pro 400g was an isolated occurrence that is not attributable to Nestlé Brazil;
- None of the promotional materials observed during the assessment period were directly attributable to Nestlé Brazil; and
- Nestlé Brazil can be considered to be amongst the leading manufacturing companies with regard to WHO Code and Lei 11.265 compliance within Brazil.

Bureau Veritas recommendations

Detailed findings and recommendations from our assurance activities have been provided to Nestlé S.A. in the form of an internal Management Report.



As a priority recommendation, Bureau Veritas recommends that Nestlé S.A. should:

- Ensure that Nestlé Brazil implements the recommendations made concerning the application and adherence to its internal management system for WHO Code compliance.
- Encourage Nestlé Brazil to continue with its current level of communication with retailers on the requirements of the WHO Code, and its monitoring and reporting of retail initiated promotional activity which is considered to be in contravention of the WHO Code or Lei 11.265 within Brazil.

Limitations

- Stakeholder interviews were limited to São Paulo, Brasília, Jundiaí, Paranoa and their environs
- No interviews were conducted with mothers or their families
- All external stakeholders interviews were arranged by Bureau Veritas.

This limited assurance is not intended to provide a definitive opinion as to whether or not Nestlé Brazil complies with the WHO Code or Lei 11.265 within Brazil. Consequently, neither the limited assurance conducted by Bureau Veritas nor this statement constitutes a guarantee or assurance by Bureau Veritas that infringements against the WHO Code or Lei 11.265 have not taken place.

Statement of independence, impartiality and competence

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

Bureau Veritas has implemented a Code of Ethics across its businesses which is intended to ensure 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. This assurance assignment did not raise any conflicts of interest.

Bureau Veritas UK Ltd
London
September 2009

