

UK formula marketing practices

Quarterly round up from the
BFLG monitoring project

August 2008



Prepared by Baby Milk Action
on behalf of BFLG, a coalition of
22 health worker organisations
and mother support groups

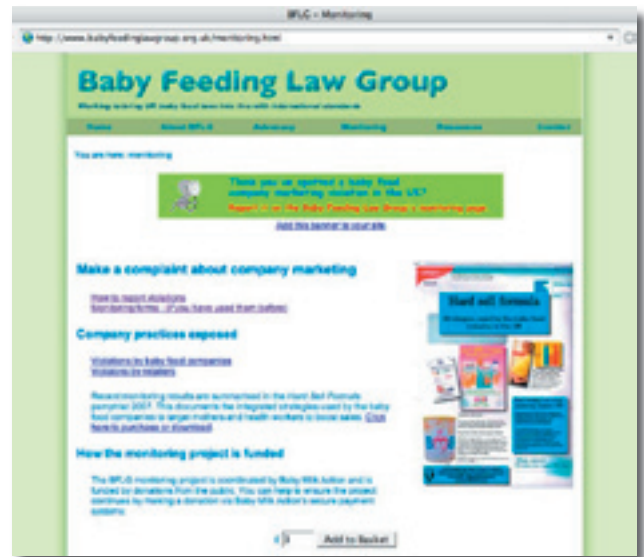
BFLG
Baby Feeding Law Group

The BFLG monitoring project

The Baby Feeding Law Group provides information and training to health workers and members of the public on how to monitor baby food marketing practices against international standards and UK legislation.

Monitoring results appear in this and other BFLG reports such as *Look What They're Doing in the UK*, *Hard Sell Formula* and *Protecting breastfeeding - Protecting babies fed on formula*.

The project began with the help of a grant from the King's Fund and is currently funded, at a low level, by donations from members of the public. The Project Coordinator also wishes to acknowledge the invaluable help of members of the public and health workers who submit evidence to the project.



Produced by Baby Milk Action for the Baby Feeding Law Group

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BFLG Member organisations

Association of Breastfeeding Mothers (ABM)
Association for Improvements in the Maternity Services (AIMS)
Association of Radical Midwives (ARM)
Baby Milk Action (BFLG secretariat)
Best Beginnings
Breastfeeding Community
Breastfeeding Network (BfN)
Community Practitioners and Health Visitors Association (CPHVA)
Food Commission
Lactation Consultants Great Britain (LCGB)

La Leche League Great Britain (LLLGB)
Little Angels
Midwives Information and Resource Service (MIDIRS)
National Childbirth Trust (NCT)
Royal College of Nursing (RCN)
Royal College of Midwives (RCM)
Royal College of Paediatrics and Child Health (RCPCH)
The Baby Café
UK Association for Milk Banking (U.K.A.M.B)
UNICEF UK Baby Friendly Initiative (BFI)
UNISON
Women's Environmental Network (WEN)

Law not working - little action taken

BFLG monitoring reports

This is the second quarterly monitoring report produced by Baby Milk Action on behalf of the Baby Feeding Law Group (BFLG). The report is divided into sections on the major companies operating in the UK. This report provides updates on action taken by the Trading Standards offices that are Home Authorities for the companies concerned and responsible for enforcing the *Infant Formula and Follow-on Formula Regulations* 1995 and 2007. New marketing practices that have been encountered since the May 2008 report are also given.

The reports are being sent to a review panel convened by the Food Standards Agency to evaluate the effectiveness of the Regulations and accompanying Guidance Notes. The BFLG and other health advocates made recommendations for improving both, but these were largely rejected. The United Nations Committee on the Rights of the Child and the UN Special Rapporteur on the Right to Food supported the call for the measures to be brought into line with the *International Code of Marketing of Breastmilk Substitutes* and subsequent, relevant Resolutions of the World Health Assembly.

For detailed analysis of the measures, what is required to bring them into line and the possible health and economic benefits of doing so, see the BFLG report *Protecting breastfeeding - Protecting babies fed on formula*, and its line-by-line analysis which were submitted to the FSA consultation.

Only two Trading Standards offices responded

The May 2008 report was sent to LACORS and the Trading Standards Home Authorities as an agreed way to raise concerns. At the time of writing responses have been received from just two Home Authorities (responsible for Nestlé and Wyeth/SMA). LACORS also responded with the suggestion that a summary table be included in future reports. This is included as an appendix to this report.

Limited action on Nestlé

Nestlé is not currently in the mass formula market in the UK, marketing only specialised formulas. However, it is believed to be preparing the way to enter the mass market (though it told Trading Standards this is not the case). For several years it has been distributing a video to health workers without having the written authorisation from the Secretary of State required by the *Infant Formula and Follow-on Formula Regulations* 1995 and 2007. When it was launched, Baby Milk Action queried whether Nestlé had the necessary authorisation to distribute the video and found that it did not, though apparently it tried, unsuccessfully, to obtain this retrospectively. Following the last report, we have been informed that the Home Authority has: *"written to the company stating that they need to obtain approval from the Department of Health."*

While it is welcome that Trading Standards has taken this up with Nestlé, it is indicative of the problems with the enforcement system that Nestlé has been operating outside the

law until now and is simply being given another chance to gain approval, allowing, perhaps, more years of delay.

No action on Wyeth/SMA

The Home Authority for Wyeth/SMA is taking no action over any of the cases featured in the May report. Again this demonstrates how the law is failing to protect mothers and babies.

It is a particular concern that Trading Standards is reluctant to take action over idealizing claims on labels, such as 'easily digested' and 'new improved protein balance'. These are clearly promotional, rather than providing useful, factual information to parents and carers. Nor is the Home Authority prepared to take action over images. These images do not fulfil the permitted purpose of identifying the product or providing information on preparation. Further, it suggests there is no legal requirement that companies provide substantiation to health workers for information they claim is 'scientific and factual'.

Guidance Notes to the Regulations are apparently worthless - no action if they are broken

The Home Authority for Wyeth/SMA did concede that the provisions of the Guidance Notes may have been breached by point-of-sale promotion, but stated:

It may not comply with good practice in the guidance notes, but it does not infringe the 2007 Regulations. Therefore enforcement action cannot be taken.

The Government did suggest that the Guidance Notes would be enforced and would go some way to meet stakeholders concerns about the loopholes in the law. This is not the reality.

Advertising Standards Authority - still waiting

The Guidance Notes attempt to ascribe a role to the ASA in regulating advertising but the ASA said during the consultation on these: *"The FSA's interpretation of an advertisement is broader than the Advertising Codes, the ASA has no role in maintaining standards in these areas."*

Various cases have been reported to the ASA. As yet the only ruling received regarding advertisements described in these reports is the rejection of 109 complaints about a Wyeth/SMA advertisement, as already mentioned in the May 2008 report.

Baby Milk Action has made the point to the ASA and its independent adjudicator that the Advertising Codes suggest that advertisements should be 'decent, honest and truthful' as well as 'legal'. The World Health Assembly marketing requirements were adopted as minimum standards and under Article 11.3 companies are called on to abide by these measures independently of government measures. The ASA refuses to even investigate the majority of cases reported to it regarding breaches of the International Code on the grounds the UK law either permits such practices or is ambiguous.

Danone

Brands: Aptamil, Cow & Gate, Milupa

Snapshot

Danone UK address:

Danone UK,
PO BOX 4261,
Reading,
RG8 9ZZ,
UK.

Trading Standards Home Authority

Wiltshire County Council is responsible for Milupa and Cow&Gate, which is owned by Danone.

Recent UK action

No response has been received from the Trading Standards Home Authority about any action taken over the cases highlighted in the May 2008 report. Shortly before this report was finalised the designated contact indicated someone else is now responsible.

A response is awaited from the Advertising Standards Authority (ASA) regarding the Aptamil advertisement shown in the last report and the new 'laughing babies' advertising described here. The ASA¹ ruled against a Cow&Gate follow-on formula advertisement containing the claim: "Our range of follow-on milks all contain a bunch of goodies called prebiotics to help build natural defences."

Other developments

Danone purchased NUMICO, the owner of Nutricia, Milupa and Cow&Gate brands, in 2007, has promised the International Baby Food Action Network (IBFAN) a 'root and branch review' of NUMICO practices, but the launch of new campaigns is a bad sign.

Waiting for action on advertising and promotion

No action has yet been reported on the advertisements and promotion featured in the May 2008 report. Most advertising for Cow & Gate and Milupa brands promotes formula suggesting that it builds a babies immune system and protects



against infection. In truth babies fed on the formula are more likely to become sick and to be hospitalized than babies who are breastfed.

For the details of the promotions shown here, see the May 2008 report.

Information about any action taken about these and the later advertisements shown will be given in the next update.



1. http://www.asa.org.uk/asa/adjudications/non_broadcast/Adjudication+Details.htm?Adjudication_id=41915

Exploiting the follow-on formula loophole

This full-page advertisement shown right appeared in *Prima Baby Magazine* in September 2008. It is targeting mums and mums-to-be with the Aptamil logo used on a range of formulas. It encourages pregnant women to contact the company for information on infant care via the website (where the full range of formulas is promoted) or by the telephone careline (where inaccurate and unsafe information about formula is given - see May 2008 report).

As an inducement to contact the company, mothers are offered a 'free huggable bear'.

Why a formula company should wish to target pregnant women and promote the brand name used for its infant formula is not difficult to understand. However, as the words 'follow on' appear beneath the Aptamil name, the company is able to argue that it is not advertising infant formula and so is not breaking the law.

The infant formula is shown right and it is clear that the advertisement reflects the label in style, text and colouring. The company expects the addition of the words 'follow on' in small print is enough to discourage action and, in the past, Trading Standards and the Advertising Authority have indeed refused to act over such advertisements.



It remains to be seen whether the provisions of the Guidance Notes will be sufficient to prompt action as these say that advertisements must not feature a brand name associated with an infant formula. It would be better to prohibit direct contact as the BFLG has already recommended.

Guidance Notes

67. Any general advertisement placed by a manufacturer **must not feature a brand name, trade mark, business name or logo uniquely associated with an infant formula or mention breastfeeding.** If this advertisement includes a response mechanism this must be of an 'opt-in' type, so that only parents or carers actively requesting information on infant formula milks can be sent this information and nothing else. **Attempting to solicit requests for information, providing information on products outside the scope of the initial enquiry or making undue references to proprietary infant formula brand names in a response to a request for product information is considered advertising and is not permitted under regulation 21. [emphasis added]**

Infant formula and follow-on formula regulations

Follow-on formula advertising shall : "(a) be designed to provide the necessary information about the appropriate use of the product so as not to discourage breast feeding; **2007 and (almost identical) 1995 regulations.**"



In July, under the Cow & Gate formula brand, Danone launched television and internet advertisements (below) promoting bottle feeding as providing 'Key nutrients', 'Healthy digestion' and 'Natural defences'. These claims are not supported by the evidence and undermine breastfeeding. In reality, formula lacks key constituents found in breastmilk, formula-fed infants are more likely to suffer - and be hospitalised - with gastroenteritis than breastfed babies, and their natural defences are compromised as they do not have the immediate and developmental protection provided by breastmilk.



The advertisement refers to 'follow-on milk' in the small print and the pack of formula shown has a number 3 on it, rather than the number 1 or 2 used on the infant formula (which has the same Cow & Gate branding).



Token reference to follow-on milk has been sufficient in the past to dissuade Trading Standards and the ASA from acting. It remains to be seen whether the provisions in the Guidance Notes will prompt action this time.

Gifts to mothers

There is no indication of action being taken over the branded gifts being distributed by Danone, such as the cow soft toy shown in the May report and again here.

The new Aptamil advertisement shown on the previous page offers a polar bear soft toy, so obviously the company has not been dissuaded from offering inducements to mothers to contact the company.

Internet promotion

The May 2008 report showed how Danone advertises on the internet and in published materials and advertisements to encourage parents to visit the website.

Since the May report, Danone has attempted a viral marketing campaign, using an on-line version of the television advertisement pictured on the last page. The advertisement shows babies laughing, something which is contagious to the viewer and was inspired by one of the most popular video clips on youtube. The strategy is to encourage parents to visit the site to view the clip, which includes the idealizing messages about bottle feeding previously described. The website promotes the full range of Cow & Gate formulas, including infant formula.



with their baby even more closely.

Plus, if you're planning to go back to work, it'll be essential to get your baby used to bottlefeeding and being fed by someone other than you. If you're new to bottlefeeding, our downloadable step-by-step guide will show you what to do. You may also find our guide to expressing milk useful too.



Danone encourages mothers to visit its websites and call its telephone 'carelines' for information on infant feeding. It was documented in the BFLG report *Protecting breastfeeding - Protecting babies fed on formula* how incorrect information on reconstituting formula is given on the Aptamil and Cow & Gate telephone lines.

Retail promotion

There has been no response from Trading Standards regarding point-of-sale promotion shown in the May 2008 report.

The information on the Aptamil 'experts in infant nutrition' website about bottle feeding undermines breastfeeding by highlighting how others can feed and 'bond' with the baby. It suggests that bottle feeding will become essential for working mothers and undermines breastfeeding again by suggesting that mothers who express milk feed this in a bottle, which is not recommended due to the different sucking reflexes that can lead to lactation being compromised (cup feeding is recommended). Danone states on the Aptamil site:

Your guide to bottlefeeding
Feeding your baby by bottle can really help take the pressure off, allowing the responsibility of night feeds to be shared. This also gives dads a great opportunity to bond



Supermarkets and other retail outlets continue to ignore the instruction in the Guidance Notes (section 53 - see box on the next page) that infant formula and follow-on formula be displayed in separate locations.

The promotion left was spotted in Tesco in Haddington, East Lothian on 9 June 2008.

Guidance Notes

53. In relation to in-store presentation, companies must ensure that they are clearly differentiated in order to avoid any risk of confusion and that:

- ‘shelf-talkers’ (attachments that add a company’s logo or sales message to the edge of a shelf) and other in-store promotional devices for follow-on formula must not be used in the vicinity of infant formula.
- Follow-on formula should be located at a different part of the store to infant formula. If this is not possible they should be clearly separated in physical location.

Supermarkets reduce the price of damaged infant formula or that which is close to its use-by date, as these examples of Aptamil and Cow & Gate infant formula in the Co-op Aberystwyth (30 May 2008) demonstrate. Price reductions have been a breach of the regulations since 1995 so there is



little excuse that such discounts still occur. On past experience local Trading Standards officers will ask for reduced-price formula to be removed, but it is likely to take prosecutions for supermarkets to ensure that all managers are aware of the law.



Labelling

No action has been reported by Trading Standards regarding formula labels that have been on the market and, for over a year, in breach of the labelling provisions of the 1995 Regulations, which remain in force, and of the 2007 Regulations, which are due to come into force in 2010.

Full details were given in the May 2008 report. It seems to have been accepted by Trading Standards that it is a breach of the law to claim that a formula contains ‘prebiotics’, but these and other claims continue on Aptamil and Cow & Gate brands of formula despite the company being told by the FSA in 2006 that only claims in Annex IV to the law are allowed.

Promotion to health workers

In advertisements targeting health visitors Danone refers to ‘prebiotic oligosaccharides’. The term ‘prebiotics’ is non-compliant with the regulations and is a health claim. The term ‘oligosaccharides’ is permitted. The ASA has already ruled against the claim that Cow & Gate formula supports the natural immune system (see May 2008 report), but Danone repeats the claim. Unfortunately the ASA refuses to investigate advertising

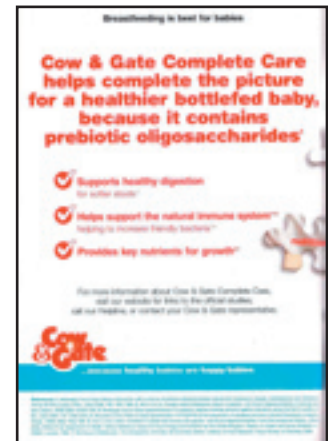


Goodnight milks

No action has, as yet, been reported on Goodnight milks. The name itself is an idealizing claim, as it suggests the milk is necessary for babies to sleep through the night. See May 2008 report for further details.

aimed at health workers so it falls to Trading Standards to act.

This advertisement states under the required “Breastfeeding is best for babies” text : “Cow & Gate Complete Care helps complete the picture for a healthier bottlefed baby, because it contains prebiotic oligosaccharides.” This is misleading. It would be more accurate and useful to inform health workers that formula continues only a small fraction of the oligosaccharides found in breastmilk.



If the references are taken to be the scientific and factual information (as the misleading claims cannot be) then this content makes up just **13% of the area of the advertisement.**



The advertisement with the bib also contains **87% idealizing promotion**, including claims about ‘prebiotics’, softer stools and reduced crying. Such claims make a mockery of the “Breastfeeding is best for babies” notice. This appears above the claim: “7 out of 10 babies with minor digestive problems have happy tummies thanks to Cow & Gate Comfort” which implies the formula should be used to treat stomach upset.

The Aptamil advertisement shown here also promotes prebiotics and the idealizing made-up name used for them by Danone: ‘Immunofortis’.



Health workers are implored to “count on Aptamil First”. Before breastmilk? Scientific references make up 4% of the advertisement, **the promotion claims cover 96% of the area.**

Heinz

Brand: Nurture (was Farley's)

Snapshot

Heinz/Farley's UK address:

HJ Heinz Company Ltd
South Building
Hayes Park
Hayes
Middlesex
UB4 8AL

Trading Standards Home Authority

London Borough of Hillingdon, Environmental
Health Department.

No response has been received from the Home
Authority regarding the examples featured in
the May 2008 report.



The range of formulas is shown above, demonstrating how Heinz has packaged the formulas to be cross-promotional through the common brand name and styling.

It has also disregarded the recommendation to provide correct information on how to reduce the risk to infants from possible intrinsic contamination with harmful bacteria.

Guidance Notes

24. [Extract] The Agency recommends that these instructions should include information noting that:

- Powdered infant formulae and follow-on formulae are not sterile, and as such can contain harmful bacteria. It is therefore important to be very careful when preparing formula to reduce the risks. Boiled tap water (not bottled water) cooled for no more than 30 minutes should be used to prepare infant feeds.

New non-compliant labels launched

The May 2008 described how Heinz updated the Farley's label in 2007, but still did not comply with the provisions of the *Infant Formula and Follow-on Formula Regulations 1995*. It also anticipated the 2007 Regulations by adding a prominent banner claim that the formula contains 'Omega LCPs'.

Heinz has relaunched its formula, but instead of taking the opportunity to comply with the labelling provisions of the 1995 or 2007 Regulations and the Guidance Notes, it is breaking them in various ways.

Guidance Notes

51. manufacturers should ensure the following when drafting infant formula and follow-on formula labelling:

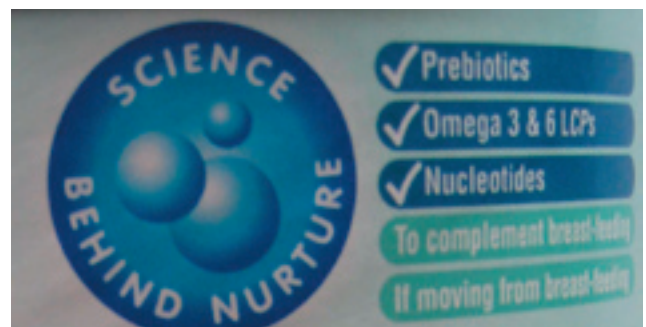
- the specific terms 'infant formula' and 'follow-on formula' should be clearly featured on the packaging, in a font size no smaller than the brand name.
- Infant formula and follow-on formula are fundamentally different and information on labels, such as pictures and blocks of text should differentiate between them (Appendix III).
- The colour scheme used for infant formula packaging should be clearly different to the colour scheme of follow-on formula packaging. Using different shades of the same colour is not acceptable as it may lead to confusion.

Heinz instructs parents to let water cool for 30 minutes, which may be taken as the minimum time. The position of the FSA and World Health Organisation is that it should be no more than 30 minutes to ensure the water is above 70 deg. C, the temperature necessary to kill contaminants such as *Enterobacter Sakazakii*.

Idealising claims on labels

Heinz includes claims prominently on the label as a promotional device, including the claim that the formula contains 'prebiotics', which is not one of those permitted by Annex IV referenced by both the 1995 and 2007 Regulations.

It was stressed to Heinz by the FSA in 2006 that only those claims on the permitted list are allowed. The fact that Heinz has used the prebiotics claim despite this shows that the law is not being enforced and Heinz has judged that it can disregard this and other provisions with impunity.



Another example of idealizing text on the label is:

Why Heinz Nurture Newborn?

Giving your newborn Heinz Nurture Newborn infant milk will give you the reassurance that your baby is getting total nutrition. Heinz has developed with baby nutrition experts a range of infant milks and follow-on milks that put the Science Behind Nurture. For more information about Heinz Nurture total nutrition call our Heinz Careline or visit our website www.heinzbaby.co.uk/nurture

It is, of course, highly misleading for Heinz to refer to its formula as ‘total nutrition’ when formula does not contain many of the components found in breastmilk.

This same misleading approach is taken in the television advertising campaign launched by Heinz. The advertisement pictures a follow-on formula (specifically, the third tin in the identically-labelled tins shown on the previous page) and makes reference to this in small print at the bottom of the screen in an attempt to circumvent the restriction on infant formula advertising.

However, the advertisement promotes the brand name and packaging and the Heinz website with the full range of products. The slogan is: “New Nurture helps nourish, protect and develop your baby.”



The voice over to the advertisement states:



As it grows, a baby needs a special combination of nutrients to sustain the incredible growth in its brain, body and immune system. To provide for those three essential aspects of growth Heinz

created new Nurture an advanced complete follow-on formula to help nourish, protect and develop your baby.

Heinz plays very strongly on the idea that infants fed on the formula will be protected. But, again, formula does not provide what is essential as infants fed on formula are more likely to suffer from short and long-term illness. They are more likely to be hospitalised with gastroenteritis. They are also at risk from possible intrinsic contamination as Heinz has not given the necessary information on reducing this risk.

The media launch is backed by point-of-sale promotion with Heinz shelf talkers announcing the ‘New’ product. The shelf talkers picture the follow-on formula, but are placed with the full range as with this example in Boots, Chelmsford (24 August).



Targeting health workers

A similar approach is taken with the campaign targeting health workers. The following example is addressed to health visitors, with the suggestion that the formula is “a new arrival offering constipation relief.”



It also promises percentage reductions in other illnesses. Other than the statutory required “breastmilk is best for infants”, there is no clear indication that the claims are not relative to breastmilk. The relevance of the studies cited for these figures requires analysis, but the Advertising Standards Authority refuses to investigate such advertisements.

Outrage at price increases

In the BFLG report *Protecting breastfeeding - Protecting babies fed on formula*, an example given was of Heinz promoting its formula to health workers as ‘The Best Formula At The Best Price’.

The new Nurture formula has ingredients that were not contained in the previous ‘Best Formula’, again showing that while ‘best’ is used to imply ‘close’ to breastmilk, this is not the case as every few years another ingredient will be added and the previous formula will be portrayed as a poor choice.

The new formula is typically £ 3.00 more expensive per tin than the old formula, showing the company has also dropped its much-publicised ‘commitment to fair prices.’

Of greater concern is the fact that the old formula was withdrawn as the new formula was launched.

Parents that may have budgeted for the ‘best price’ formula would have suddenly found themselves facing a far higher bill for feeding their child.

Snapshot

Hipp's UK address:

HiPP UK Ltd
165 Main Street
New Greenham Park
Newbury
Berks
RG19 6HN

Trading Standards Home Authority

West Berkshire Council.

No response has been received from the Home Authority regarding the examples featured in the May 2008 report.

Non-compliant labels continue

As stated in the May 2008 report, Hipp claimed to be working with the Food Standards Agency to bring in labels compliant with the *Infant Formula and Follow-on Formula Regulations 2007*. The current (and past) labels are in breach of both these provisions and those of the 1995 Regulations. However, no action has been taken to require Hipp to relabel or recall the non-compliant products, nor has legal action been taken, despite the fact the current labels were put on the market AFTER the FSA reminded Hipp of the law's provisions.

Labels contradict the guidance to parents from FSA and WHO on how to reconstitute formula safely.

Goodnight milk promotion

Hipp continues to promote its Goodnight milk with idealizing claims that it will help babies to sleep through the night. An example from March 2008 was given in the last report, but clearly no action has been taken by the Home Authority as the same advertisement appeared in the September 2008 edition of *Prima Baby* magazine.

This undermines breastfeeding, with its claims "Now everyone can get a good night's sleep." It also describes the formula as: "the ideal end to a busy adventure filled day."

Other advertising

A response is still awaited over other Hipp advertising exposed in the May 2008 report, such as it encouraging parents to join the Hipp baby club and visit the Hipp website, where the full range of formula is promoted.

Now everyone can get a good night's sleep!

HiPP ORGANIC

HiPP Organic Good Night Milk Drink

The special blend of high quality organic Follow-on milk and organic cereals make HiPP Organic Good Night Milk Drink satisfyingly creamy and the perfect complement to your little one's bedtime routine!

Suitable from 6 months to 3 years of age as an alternative to the evening Follow-on milk feed or meal – the ideal end to a busy, adventure filled day!

For more information about feeding your baby, visit www.hipp.co.uk

Now available in selected Asda, Boots, Tesco and Waitrose stores.

IMPORTANT NOTICE: HiPP Organic Good Night Milk Drink is suitable for use from 6 months onwards and is designed to be used just once a day. Please check your baby's health after the first feed as usual and introduce a cup or feeder as soon as possible. The Department of Health recommends exclusive breastfeeding for the first 6 months. Breast milk should be gradually reduced and replaced with formula milk over the next 6 months.

Contact us: HiPP UK Ltd, New Greenham Park, Berkshire, RG19 6HN. HiPP Information Line 0841 252 1311 www.hipp.co.uk

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Join today at www.hippbabyclub.co.uk or call 0841 252 1311

Snapshot

Nestlé's UK address:

Nestlé UK
St. George's House
Park Lane
Croydon
CR9 1NR

Trading Standards Home Authority

London Borough of Croydon.

The Home Authority has responded on the examples in the last report.

Nestlé video distributed in breach of law

The Home Authority has stated to us: *"Nestle have informed me that they have no intention at present of entering the mass market with their infant formula."*

The evidence, as presented in the May 2008 report, suggests otherwise.

Part of Nestlé's campaign involves the distribution of a video to health workers, which is ostensibly about breastfeeding. The Home Authority stated to us: *"I have viewed the video material and, in fact, the content is strongly pro-breastfeeding. There is no mention of infant formula in the video whatsoever."*

However, health experts who have viewed the video take a different view as they find that it is subtly undermining of breastfeeding in the way it highlights possible difficulties.

The video was launched at a Royal College of Midwives Conference by a midwife called Chris Sidgwick. At that time Baby Milk Action queried whether Nestlé had the necessary approval from the Secretary of States as required by the *Infant Formula and Follow-on Formula Regulations 1995* (the same provisions are in the 2007 version) and understood this had been sought, but not given. This has been confirmed by the Home Authority, which stated:

The video was sent to the DOH in 2005, but you are correct in stating that formal approval was never given. I have now written to the company stating that they need to obtain approval from Sheela Reddy at the DOH.

So despite being in breach of the regulations for three years, it seems Nestlé has simply been asked to try again to obtain the required approval rather than being told to withdraw the item and submit to sanctions for going ahead without approval.

The role of Nestlé materials

As the May 2008 report related, Chris Sidgwick was lead author of a pro-Nestlé article published by the *British Journal of Midwifery*. Baby Milk Action was given substantial right to reply due to inaccuracies in the article. The article, which calls on health workers to accept Nestlé sponsorship, continues to be distributed by Nestlé - without the right to reply.

The invitation to the authors was made by Nestlé's Corporate and Healthcare Relations Manager, Zelda Wilson, who works closely with Chris Sidgwick. Both briefed a student committee at Sheffield University on 31st January 2008 on behalf of Nestlé, alongside staff from Nestlé's Public Relations firm, Webber Shandwick, in an attempt to stop students criticising Nestlé practices and promoting a boycott of the company's products. At that meeting Zelda Wilson was asked about branded gifts, such as pens and calendars, that, like the video, carry the Nestlé name. The official minutes state that she said the company distributes such items: *"to keep the company name and products in people's mind."*

So while Nestlé is basing its approach to UK health workers on materials ostensibly to do with breastfeeding and other aspects of infant care, by its own admission its branding is to promote the company name and products.

Training days for health workers

The Home Authority raised the forthcoming training days for health workers, referred to in the May 2008 report, and states:

The study days in October are not organised by Nestle, but by an organisation called HCP Study Events. However, the events are supported by a grant from the Nestle Nutrition Institute. This grant is given to HCP Study Events to spend without prejudice or influence on educational initiatives for healthcare professionals

The proprietor of HCP Study Events is one Chris Sidgwick. The lead speaker at the October event is one Zelda Wilson. None of the connections to Nestlé are declared, other than the sponsorship.

The Home Authority states: *"I intend to refer this matter to the Food Standards Agency for an opinion on whether or not this sponsorship breaches the regulations."*

Nestlé hypoallergenic formula

The 'hypoallergenic' claim is illegal in North America, but the Home Authority suggests it is approved by an EC Directive (the term itself does not appear in the Directive and the BFLG has previously written to the government arguing it is illegal). The Home Authority states that no objection has been made by the FSA to the use of the claim, but we do not believe it has been approved in the UK and ask the review to ensure mothers and babies receive the same protection as those in North America.

Wyeth

Brand: SMA

Snapshot

Wyeth's UK address:

Wyeth
Huntercombe Lane
South Taplow
Maidenhead
Berkshire
SL6 OPH

Trading Standards Home Authority

Buckinghamshire County Council.

The Home Authority has responded to the examples in the May report.

BFLG in its submission to the consultation on the Guidance Notes suggested that this be quantified to make it clear that the bulk of the advertising space is given to this information, rather than the 0 to 15% that is typically the case at present.

The advertisements shown in the May 2008 report, over which the Home Authority indicates it will take no action, are ostensibly for follow-on milk, but direct people to the smanutrition.com website where the full range of products is promoted. The advertisements do not 'supply only factual information' as specified by the Guidance Notes, but are dominated by promotional messages that have zero scientific and factual contents, such as: "With ready-made SMA Progress you'll be out the door in no time (Okay, 3 hours)" and "You gave up your career, your social life and your figure. Then came Baby's first words 'Dada'."

There is a clear failing of the regulatory system as no action is to be taken over these and similar advertisements.

Guidance Notes

49. Companies will also need to ensure that carelines, websites or mother and baby clubs, and **any advertisements for these means of communication, supply only factual information** to consumers and health care professionals and, where they constitute advertising comply, with those controls outlined in paragraphs 47, 48 and 54 -70. **[emphasis added]**

When advertisements refer to these means of communication they are required to 'supply only factual information'. Strangely, if the website reference were removed so the advertisement promoted only follow-on formula, it could be argued there is no requirement for it to be factual (though we argue as it promotes an infant formula brand name it is actually illegal in any case). Formula has been described as a 'nutritional medicine', but the current reality is that companies are being allowed to advertise it like it was confectionery or shampoo, using humour rather than information.

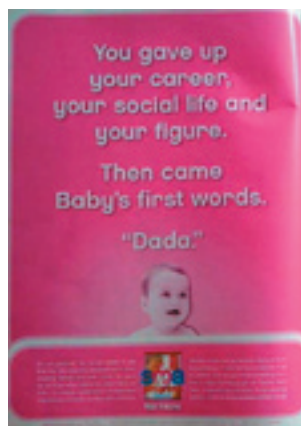
Careline promotion

The September 2008 edition of *Prima Baby* magazine (see next page) includes a promotion for the SMA careline, which encourages mothers to call for answers to questions such as: "At what age should I stop giving a bottle?" This shows how the advertising and carelines are aimed at promoting bottle feeding, as the assumption in the question is that every mother will bottlefeed at some time.

As an inducement to call the Careline, the first 200 callers in August and September are offered an SMA-branded baby towel. Article 23 (2) of the *Infant Formula and Follow-on Formula Regulations* is clear that branded gifts such as this are not permitted (see next page and front cover).

In other words, the magazine and television advertising, the direct targeting of mothers, the inaccurate and idealizing information on websites and telephone carelines, the promotional claims on labels will all continue under the current regulatory framework. The only apparent possibility of action is on labels when the provisions of the 2007 Regulations supercede those of the 1995 Regulations that remain in force until 2010.

Company advertising encourages parents to visit company websites and call telephone carelines. The Guidance Notes are clear that advertisements for these means of communication should be restricted to scientific and factual matters. The



on Formula Regulations 1995 or 2007.

The Home Authority stated: “New improved protein balance - the 1995 regulations permitted reference claims relating to the special composition of infant formula in the cases listed in annex IV of the 1991 directive . Adapted protein was in the list. As a result, the reference to protein was accepted under the 1995 Regulations.”

Yet it is the claim “Adapted protein” (not ‘new improved protein balance’) that is permitted by the Regulations and only then if the condition specified is satisfied: “Adapted protein: The protein content is lower than 0,6 g/100 kJ (2,5 g/100 kcal) and the whey protein/casein ratio is not less than 1,0.”

The Wyeth/SMA claim is not based on satisfying these conditions, but changes it says it has made to the types of whey protein (an increase in the amount of alpha-lactalbumin (alpha-protein)). So the annex IV condition has been misapplied. The wording used, in any case, is not that sanctioned by the regulations. We continue to argue that Wyeth/SMA is in breach of the regulations and, if it was the company that attempted to use annex IV as justification, has done so incorrectly. It would be interesting to know if FSA has given an opinion on this.

Regarding some of the other label items highlighted in the May 2008 report, the Home Authority stated:

Easily digested - this was not considered to be a compositional claim under the 1995 Regs and was therefore permitted. It may be prohibited under the 2007 Regs if it is seen as a health or nutrition claim. But since the label you feature is the label that was produced before the 2007 Regulations came into force, it is permitted to continue under the transition arrangements.

‘Love the milk you give’ and ‘Gold’ - considered to be too subjective to successfully prove in a criminal court that it idealises the product.

The Home Authority also dismisses complaints about the images used on the infant formula label.

Infant Formula and Follow-on Formula Regulations

17 (3) The labelling of an infant formula shall not include—

(a) any picture of an infant; or

(b) any other picture or text which may idealise the use of the product,

but may include graphic representations for easy identification of the product or for illustrating methods of preparation.

The image of a mothers face on the label does not fit within the ‘graphic representations’ that are permitted by the Regulations, so, we suggest, comes within the ‘any other picture or text’ provision. However, the Home Authority has simply stated: “A mother’s face - this is not prohibited.”



The advertisement above from *Prima Baby* (September 2008) offers mothers a free baby towel branded with - and so promoting - the SMA name used for Wyeth infant formula.

Infant Formula and Follow-on Formula Regulations

23 (2) No manufacturer or distributor of any infant formula shall provide for promotional purposes any infant formula free or at a reduced or discounted price, or **any gift** designed to promote the sale of an infant formula, to—

(a) the general public;

(b) pregnant women;

(c) mothers; or

(d) members of the families of persons mentioned in subparagraphs (b) and (c),

either directly, or indirectly through the health care system or health workers.

(emphasis added)

No Home Authority action on labels

The Home Authority has said it will take no action over the claims, images and text highlighted in the May 2008 report.

That report suggested that the claim: “New improved protein balance:” is non-compliant as it is not included in the annex of permitted claims referenced by the *Infant Formula and Follow-*



If this is a correct interpretation of the law, then this aspect of it should be changed in the review as such images serve no purpose other than to promote the product.

The Home Authority disputed that the letter M in the SMA logo, launched when Wyeth was told by the FSA to remove the 'now even closer to breastmilk claim', represents a breastfeeding mother.

The Home Authority stated: *"Logo - again, it is too subjective. I have done several straw polls and some people simply see an M and not a breast feeding mother. If there is reasonable doubt, a prosecution would not succeed. For this reason, enforcement action is not considered appropriate."*

Baby Milk Action has suggested to the Home Authority that it request from Wyeth the design brief for the logo. If the company had only intended the letter M to be represented, it would have used only a letter M, without the additions that give the appearance of a breastfeeding mother. Why else are the blobs there if not to represent heads?

Home Authority says substantiation for 'scientific and factual' information is unnecessary

The May 2008 report noted that when Wyeth/SMA has been invited to provide scientific substantiation for its claims for review by a committee of one health trust it has apparently been reluctant to do so.

The Home Authority responded to this by stating: *"Lack of provision of scientific substantiation - since the manufacturer has no legal obligation to provide this information, it is not in breach of the Regulations."*

This presumably means that although companies are limited to providing scientific and factual information to health workers they are not obliged by the Home Authority to provide any substantiation that the information is indeed scientific

and factual. This seriously undermines the use of the term 'scientific and factual' in the Regulations, which needs to be reviewed.

Home Authority says infringement of Guidance Notes is insufficient for legal action

Regarding the point-of-sale promotions shown in the May 2008 report, the Home Authority concedes that these may possibly be a breach of the Guidance Notes, but suggests that breaching the Guidance Notes is no grounds for taking action:

It may not comply with good practice in the guidance notes, but it does not infringe the 2007 Regulations. Therefore enforcement action cannot be taken.

Given that the Government gave repeated assurances that the Guidance Notes would meet some of the concerns raised by the Baby Feeding Law Group and other stakeholders, it is disappointing to learn that infringement of the Guidance Notes appears to be meaningless from the point of view of enforcement.

New Regulations prompt MORE promotion

Wyeth/SMA already has an advertising contract of £3 million according to *Marketing* magazine. The new Regulations have not resulted in any change to this, but have prompted Wyeth to seek an agency to INCREASE direct marketing to parents, such as this flier found in a health clinic in May 2008, which targets pregnant women and encourages them to join the SMA Baby Club. Seeking direct contact is prohibited by the World Health Assembly marketing requirements and in some other countries.

Marketing reports (30 May 2008):

LONDON - SMA Nutrition, the baby milk formula brand, is on the hunt for an agency to handle its direct marketing account.

The Wyeth-owned breast milk supplement has approached a number of undisclosed agencies with a view to holding chemistry meetings later this week.

According to an SMA spokeswoman, the company plans to shortlist 20 agencies for the brief, with a result expected in July. Publicis, which secured the £3 million SMA advertising account in April last year, is not affected by the review.

The successful agency will promote the formula in the wake of impending plans to implement a European directive limiting the approved health claims formula brands can make and preventing them advertising directly to parents.

As we have seen, advertising directly to parents remains all too commonplace.



Table of examples featured in reports

Generally reference is made to the Guidance Notes accompanying the *Infant Formula and Follow-on Formula Regulations*, which, in turn, reference specific provisions. Articles of 1995 Regulations still in force are also referenced. Hi-resolution images are available from mikebrady@babymilkaction.org on request.

Company	Product	Details	Report	Reg.	Enforcement action
Danone	Cow & Gate brand, site and careline	'Immune system under construction' - <i>Practical Parenting</i> and <i>Mother and Baby</i> March 2008 editions	Pg. 4 May '08	GN 67 et al	Response awaited. ASA ruling in 2006 against similar claims.
Danone	Aptamil brand, site and careline	'Your baby's natural immune system' - <i>Practical Parenting</i> and <i>Mother and Baby</i> March 2008 editions	Pg. 5 May '08	GN 67, 70 et al	Response awaited. ASA ruling in 2006 against similar claims.
Danone	Aptamil brand, site and careline	'IMMUNOFORTIS' promotion - television advertisement, terrestrial and cable channels (e.g. Channel 4, 3 May) and website.	Pg. 5 May '08	GN 67, 70 et al	Response awaited. ASA investigating.
Danone	Aptamil brand, site and careline	Fliers offering 'expert advice' and a free gift - an Aptamil-branded soft toy. <i>Mother and Baby</i> and <i>Pregnancy and Birth</i> March 2008, <i>Prima Baby</i> September 2008.	Pg. 5 May '08 Pg. 5 Aug. '08	GN 67, 77 et al	Response awaited.
Danone	Aptamil brand, site and careline	Fliers offering 'expert advice' and a free gift - an Aptamil-branded soft toy. <i>Mother and Baby</i> and <i>Pregnancy and Birth</i> March 2008, <i>Prima Baby</i> September 2008.	Pg. 5 May '08 Pg. 5 Aug. '08	GN 67, 77 et al	Response awaited.
Danone	Cow & Gate brand, site and careline	Pictures pregnant woman and offers Cow & Gate branded soft toy free gift- <i>Mother and Baby</i> March 2008	Pg. 6 May '08	GN 67, 77 et al	Response awaited.
Danone	Cow & Gate infant formula and site	'Cow & Gate for your new arrival' internet advertisement (implicitly this is promoting the infant formula for use from birth). Ran in January 2008 - example from www.gurgle.com	Pg. 6 May '08	Art. 21 2007 Art. 15 1995	Response awaited.
Danone	Cow & Gate brand, site and careline	Gift bags distributed in supermarkets such as Sainsbury's in September 2007 with materials promoting brand, site and careline. Formula on display was follow-on formula, but infant formula brand promoted.	Pg. 6 May '08	Art. 19(e) 1995	Response awaited.
Danone	Cow & Gate goodnight milk, site and careline	Booklets distributed through Boots outlets (examples found in April 2008). Flier distributed by Morrisons supermarkets in March 2008. Name is a claim.	Pg. 7 May '08	GN 67, 77 et al	Response awaited.
Danone	Cow & Gate Comfort 1 infant formula	Labelling has idealizing claims, text and images. Labels do not provide information that powdered formula is not sterile and how to reduce risks as called for in GN 24. Labels available in the shops.	Pg. 7 May '08	Art. 13 1995 Art. 17 2007	Response awaited.
Danone	Aptamil First infant formula	Labelling has idealizing claims, text and images. Labels do not provide information that powdered formula is not sterile and how to reduce risks as called for in GN 24. Labels available in the shops.	Pg. 8 May '08	Art. 13 1995 Art. 17 2007	Response awaited.
Danone	Cow & Gate brand, site and careline	Advertisement featuring laughing babies, with the claims that Cow & Gate formula provides for: "Key Nutrients, Healthy Digestion, Natural Defences". Website and cable and terrestrial television (eg Channel 4, 2 July 2008).	Pg. 5 & 6 Aug. '08	GN 67, 77 et al	Registering case with this report. Already reported to ASA. ASA ruling in 2006 against similar claims.
Danone	Aptamil range	Website promotes the full range of formula and contains an article promoting bottle feeding as convenient, with harmful breastfeeding information.	Pg. 6 Aug. '08	GN 67 et al	Registering case with this report.

NOTE: All these cases are believed to be actionable under the current enforcement system, but the willingness of authorities to act may be compromised by the loopholes that exist in the regulations which companies see as allowing them to promote formula brand names if specific mention is made to the follow-on formula in the range. The limited restrictions on follow-on formula advertising, based on experience so far, makes it hard for authorities to act on blatant idealizing promotions that undermines breastfeeding.

Company	Product	Details	Report	Reg.	Enforcement action
Danone	Aptamil infant formula.	Shelf talker promoting the infant formula as 'great value' in Tesco, Heddington on 9 June 2008. Infant formula and follow-on formula are not displayed separately in the store.	Pg. 6 Aug. '08	GN 53 et al	Local action may have been taken in this specific case, but the problems is widespread.
Danone	Aptamil infant formula.	'Benefits of IMMUNOFORTIS prebiotics' advertisement in <i>RCM Journal</i> in April 2008. The claim is not the permitted list. This and other information is not 'scientific and factual'.	Pg. 8 May '08	GN 54 et al	Response awaited. ASA refuses to investigate such cases.
Danone	Aptamil infant formula.	'Why you can count on Aptamil First' advertisement in <i>Community Practitioner</i> in August 2008. Claims are not the permitted list. This and other information is not 'scientific and factual'.	Pg. 7 Aug. '08	GN 54 et al	Registering case with this report. ASA refuses to investigate such cases.
Danone	Cow & Gate infant formula	'What every midwife should know' - misleading advertisements in <i>RCM Journal</i> in April 2008. Information is not 'scientific and factual'.	Pg. 8 May '08	GN 54 et al	Response awaited. ASA refuses to investigate such cases.
Danone	Cow & Gate infant formula	Misleading advertisements in <i>Community Practitioner</i> in August 2008. Information is not 'scientific and factual'.	Pg. 7 Aug. '08	GN 54 et al	Registering case with this report. ASA refuses to investigate such cases.
Danone	Aptamil infant formula and Cow & Gate infant formula	Price reduction in Co-operative Supermarket, Aberystwyth, 30 May 2008.	Pg. 7 Aug. '08	Art. 19 1995 Art. 23 2007	Local action may have been taken in this specific case, but the problems is widespread.
Heinz	Farley's infant formula	Labels contain idealizing text and images. Labels do not provide information that powdered formula is not sterile and how to reduce risks as called for in GN 24. Labels available in the shops.	Pg. 9 May '08	Art. 13 1995 Art. 17 2007	Response awaited. Products have now been replaced by Heinz Nurture.
Heinz	Heinz Nurture infant formula	Labels contain idealizing text and images. 'Prebiotic' claim breaches 1995 and 2007 Regulations. Labels do not provide information that powdered formula is not sterile and how to reduce risks as called for in GN 24. Labels available in the shops.	Pg. 8 Aug. '08	Art. 13 1995 Art. 17 2007	Registering case with this report.
Heinz	Heinz complementary foods	Promoted for use from 4 months of age on labels and in an advertisement in <i>Practical Parenting</i> April 2008. This undermines government recommendations on exclusive breastfeeding.	Pg. 9 May '08	-	Response awaited. Unregulated area, though breaches Department of Health policy.
Heinz	Heinz Nurture brand and site.	"New Nurture helps nourish, protect and develop your baby." Television advertisement promoting Nurture formula misleadingly as 'complete' for providing for 'essential aspects' of infant development. Cable and terrestrial television (eg During 'Live at the Apollo' on Dave cable TV on 5 August 2008.	Pg. 8 Aug. '08	GN 67 et al	Registering case with this report. Separately reported to ASA.
Heinz	Heinz Nurture range	Promoted with Heinz "NEW" shelf talkers in supermarkets, which are placed with the full range of formulas (though picturing only the follow-on milk). Example from Boots - Chelmsford (24 August),	Pg. 8 Aug. '08	GN 53 et al	Registering case with this report.
Heinz	Heinz Nurture brand and site.	"A new arrival offering constipation relief" advertisement with idealizing claims that undermine breastfeeding, in <i>Community Practitioner</i> in August 2008.	Pg. 8 Aug. '08	GN 54 et al	Registering case with this report. ASA refuses to investigate such cases.
Hipp	Hipp infant formula	Labels contain idealizing images. Labels do not provide information that powdered formula is not sterile and how to reduce risks as called for in GN 24. Labels available in the shops.	Pg. 10 May '08	Art. 13 1995 Art. 17 2007	Hipp has informed Baby Milk Action it is discussing the labels with the FSA.
Hipp	Hipp Goodnight milks, Hipp website and careline.	'Now everyone can get a good nights sleep', idealizing advertisement promoting the formula brand name, website and Information Line. In <i>Mother and Baby</i> magazine March 2008 and <i>Prima Baby</i> magazine September 2008.	Pg. 11 May '08 Pg. 10 Aug. '08	GN 67 et al	Response awaited.
Hipp	Hipp website and careline.	'Treasure the Moment' Baby Club promotion in <i>Mother and Baby</i> magazine March 2008. Promotes the Hipp formula website and offers a free gift of webspace for a blog.	Pg. 10 May '08	GN 67, 77 et al	Response awaited.

Company	Product	Details	Report	Reg.	Enforcement action
Hipp	Hipp complementary food	'Why is Hipp organic mum's choice?' advertisement for complementary foods in <i>Pregnancy and Birth</i> , March 2008. Undermines exclusive breastfeeding to 6 months by promoting complementary foods for use from 4 months.	Pg. 11 May '08	-	Response awaited. Unregulated area, though breaches Department of Health policy.
Nestlé	Nestlé HA formula	The brand name 'hypoallergenic' is idealizing. It is prohibited in North America due to parents mistakenly using such formula for feeding infants with allergies to cow milk constituents, prompting cases of anaphylactic shock. Despite the term 'hypoallergenic' the formula is not suitable for infants who suffer from allergy - the intended purpose of the formula is to reduce the risk of an allergy developing. Annex IV to the Regulations allows a claim about: "reduction of risk to allergy to milk proteins" if certain criteria are satisfied, but the term 'hypoallergenic' is not on the permitted list.	Pg. 12 May '08	Annex IV	The Home Authority has stated that the labels were agreed in discussion with Nestlé.
Nestlé	Nestlé brand name	A video, ostensibly to promote breastfeeding, has been distributed to health workers, despite Nestlé failing to gain required approval for the item in 2005. Health experts have criticised the content of the video. Nestlé has said the purpose of gifts is to keep the company name and products in people's minds.	Pg. 12 May '08	Art. 21 (3) 1995 Art. 23 (4) 2007	The Home Authority has confirmed that Nestlé tried and failed to gain approval in 2005 and has asked it to try again.
Nestlé	Nestlé-sponsored training days	Nestlé is sponsoring training days to be held in October promoted, organised and run by people with whom it is closely associated, including a Nestlé Nutritionist. While the sponsorship is indicated, the conflicts of interest have not been revealed.	Pg. 12 May '08 Pg. 11 Aug. '08	Reqd.	The Home Authority has stated that Nestlé told it the organiser HCP Health Care is the organiser of the events. Nestlé did not admit to its connections to the proprietor or main speaker.
Wyeth	SMA brand and website	'You'll be out of the door in no time' advertisement in <i>Practical Parenting</i> , March 2008. Promotes the SMA brand, SMA Progress follow-on milk and the SMA website, where all formulas are promoted..	Pg. 14 May '08	GN 67 et al	The Home Authority has stated that it will take no action over this advertisement
Wyeth	SMA brand and website	'You give up your career' advertisement in <i>OK</i> magazine, April 2008. Promotes the SMA brand, SMA Progress follow-on milk and the SMA website, where all formulas are promoted..	Pg. 14 May '08	GN 67 et al	The Home Authority has stated that it will take no action over this advertisement
Wyeth	SMA brand and website	Television advertisement in which a father offers to help his wife with night feeds. Promotes the SMA brand and website.	Pg. 14 May '08	GN 67 et al	The ASA has rejected complaints from Baby Milk Action and 108 others about this advertisement.
Wyeth	SMA Gold infant formula and others in the range	Labels carry idealizing text and images, including: "New improved protein balance", "Easily digested", "Love the milk you give", "Gold", a mothers face and a breastfeeding logo. Labels do not provide information that powdered formula is not sterile and how to reduce risks as called for in GN 24. Labels available in the shops.	Pg. 15 May '08	Art. 13 1995 Art. 17 2007	The Home Authority has stated that it will take no action over any of these issues. The permitted claim of "adapted protein" has been used to excuse the "new improved protein balance" claim when it has a specific and different meaning specified in the regulations.

Company	Product	Details	Report	Reg.	Enforcement action
Wyeth	SMA brand	Point-of-sale promotion in Morrisons, Aberystwyth, 10th November 2007 and Babies-R-US 21st January 2008.	Pg. 16 May '08	Art. 19 1995 Art. 23 2007	The Home Authority stated: <i>"It may not comply with good practice in the guidance notes, but it does not infringe the 2007 Regulations. Therefore enforcement action cannot be taken."</i>
Wyeth	SMA infant formula	'The Alpha Protein benefits of SMA Gold are clear' advertisement in <i>RCM Journal</i> in April 2008 to encourage health workers to promote the 'new improved protein balance' claim to parents. Wyeth has been reluctant to provide substantiation when asked by a Primary Health Care Trust.	Pg. 14 May '08	GN 54 et al	The Home Authority stated: <i>"Lack of provision of scientific substantiation - since the manufacturer has no legal obligation to provide this information, it is not in breach of the Regulations."</i>
Wyeth	SMA brand, site and careline	'We're here for you' advertising feature in <i>Prima Baby</i> magazine, September 2008. Implies that all mothers need to bottle feed their babies and promotes the SMA site where all formulas are advertised.	Pg. 13 Aug. '08	GN 67 et al	Registering case with this report.
Wyeth	SMA brand, site and careline	'An important delivery' flyer found in a clinic in May 2008 (details on file). Targets pregnant women with the brand name and encourages them to visit the SMA site where all formulas are advertised.	Pg. 13 Aug. '08	GN 67 et al	Registering case with this report.

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The law isn't working - little action taken

This is one of a series of reports showing some of the methods the main baby milk companies in the UK are using to promote their products. They boost sales by undermining breastfeeding and idealising their products. Parents that use formula are misled.

Companies are advertising on television and in magazines.

They encourage parents to visit websites which suggest their products protect against infection, help in the development of intelligence, ensure babies sleep through the night and relieve constipation.

They provide free gifts if mothers join baby clubs to receive company promotional materials.

They use telephone 'carelines' to idealize their products and undermine independent advice from health workers.

They compete to have the most appealing cuddly animal images on their labels and the most impressive sounding ingredients. But they do not warn that powdered formula is not sterile or the simple steps required to reduce health risks.

The examples selected for this report are not necessarily the worst cases of companies undermining breastfeeding and misleading parents who use formula. They have been selected because they are believed to break the UK *Infant Formula and Follow-on Formula Regulations*. These are weak measures that allow many other aggressive practices to take place.

To date, the Regulations have not been enforced - since being introduced in 1995 there has only been one prosecution, for illegal advertising. Though successful, similar practices continue unpunished.

This edition examines what action was taken by Trading Standards offices and the Advertising Standards Authority over the cases highlighted in the May 2008 report. Sadly, this can be summarised as virtually none so far, though most Home Authorities still need to respond. One Home Authority dismissed all cases regarding the company it is responsible for, saying nothing could be done even against those cases it accepts may be breaches of the Guidance Notes that accompany the Regulations.

Find out more about the monitoring project coordinated by Baby Milk Action on behalf of the Baby Feeding Law Group at www.babyfeedinglawgroup.org.uk

You can denounce aggressive marketing practices via the website. You just might find your information used in a future report!