

Nestlé reported to UK Advertising Standards Authority over marketing of 'hypoallergenic' formula



Nestlé, the world's largest food company, has been reported to the UK Advertising Standards Authority (ASA) over its marketing of Nan HA 'hypoallergenic' infant formula for using claims that Baby Milk Action describes as 'misleading and dangerous'. Legal action was taken by authorities in the US over similar claims after infants suffered anaphylactic shock after being fed on the formula and Nestlé is prohibited from using the 'hypoallergenic' claim there.

The advertisement for Nan HA in the British Journal of Midwifery, July 2004, is headlined "**Nan HA, the starter infant formula of choice that significantly reduces the risk of allergy**". Nan HA is described as 'hypoallergenic,' a claim that is prohibited in North America because it is without scientific substantiation and considered to be deceptive or misleading. Nestlé claims in the advertisement that the "exclusive use of a hydrolysed formula is recommended" to reduce the risk of developing an allergy. Nan HA is not a 'hydrolysed' formula, but a 'partially hydrolysed' formula, which is a very different product. The Food Standards Authority has warned against using partially hydrolysed formula with allergic infants because of the risk of a reaction. (see notes).

When Nan HA was first launched in the UK, nine leading health bodies (see notes) wrote to the Minister of Health about the potential risks to health of the claims made in the name of the product and the accompanying promotion materials. Nestlé said it would add warning labels to products stating "**may cause an allergic reaction if given to an infant with diagnosed allergy to cow's milk. Do not use to feed an infant who is allergic to cow's milk.**" The first part of this warning is missing from the advertisement, which suggests health workers call Nestlé for further information on Nan HA. No warning at all appears in the information materials provided to health workers. The information materials suggest Nan HA is superior to breastfeeding by, for example, claiming it provides 'optimal brain and visual development' and 'optimal bone mineralisation'.

In considering the advertisement and the material provided to health workers, the ASA has been asked to rule on a leaflet provided alongside the Nan HA material entitled 'Nestlé and the marketing of infant formula' which contains claims similar to those discredited in an earlier ruling.

Patti Rundall, OBE, Policy Director of Baby Milk Action said: "**We don't know if the ASA will take up the case, but we have asked it to take immediate action to stop this misleading and dangerous promotion while it investigates. In the last case we took the ASA about Nestlé's untrue claims over its marketing of breastmilk substitutes in developing countries the ASA took 2 years to uphold all of our complaints as Nestlé repeatedly appealed against the draft ruling. The European Commission is currently revising the rules on claims that can be made about foods. Since the UK Government professes to be concerned about misleading claims and about the low levels of breastfeeding, it should urge the Commission to ban these claims throughout the European region.**" (see notes)

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Notes for editors

1. Scans of the materials and a photograph of Nestlé's promotional stand at a recent Allegy UK event are available from Baby Milk Action.
2. The Food Standard Agency states on its website: *"If your baby is diagnosed with a cows' milk allergy, your GP might prescribe hydrolysed milk formula for her. You shouldn't give her partially hydrolysed formula or soya formula without consulting your GP, because babies with cows' milk allergy might react to these types of formula.[emphasis added]."*
3. The Health Groups who have written to the Minister are: Association of Breastfeeding Mothers, Association of Radical Midwives, Baby Milk Action, Breastfeeding Network, Food Commission, La Leche League, Midwives Information and Resource Service, National Childbirth Trust and UNICEF UK Baby Friendly Initiative (see press release at <http://www.babymilkaction.org/press/press2aug02.html>)
4. Briefing papers on health claims and policies from Baby Milk Action and the International Baby Food Action Network (IBFAN) can be found at <http://www.babymilkaction.org/policy/policyindex.html> and <http://www.babymilkaction.org/update/update31.html#44>.
5. The International Code of Marketing of Breastmilk Substitutes was adopted by the World Health Assembly in 1981 as a 'minimum requirement' to be implemented in its 'entirety' by all countries. Under Article 11.3 manufacturers and distributors of products within the scope of the Code are required to ensure their activities at every level comply, independently of government measures. Subsequent Resolutions address questions of interpretation and changes in scientific knowledge and marketing practices. Company policies are very different from the Code and Resolutions, for example, referring only to infant formula. In the latest monitoring report produced by the International Baby Food Action Network (IBFAN) Breaking the Rules, Stretching the Rules 2004, containing results from 69 countries, Nestlé was found to be responsible for more violations than any other company. For this reason and its leading roll in opposing government implementation of the Code and Resolutions, Nestlé is the target of a boycott in 20 countries.
6. On 12 May 1999 the Advertising Standards Authority upheld all of Baby Milk Action's complaints against a Nestlé anti-boycott advertisement in which the company claimed that it markets infant formula 'ethically and responsibly'. The ruling provoked an angry response from Nestlé Chief Executive, Peter Brabeck Letmathé, who held a press conference in the UK prior to its official announcement to lambast his critics, including the UN Children's Fund (UNICEF) (see Mr Nestlé gets angry - Independent on Sunday, 9 May 1999). Nestlé UK's Head of Corporate Affairs retired within a month of Mr. Brabeck's visit and it is believed that the UK subsidiary was instructed to launch baby foods on the UK market and not to be scared off by the strong support for the boycott. The first attempt, which began with the launch of the Junior range of foods for infants over one year of age using logos used for products for younger children, became a public relations disaster for the company as health campaigners denounced a fruit bar with a higher sugar content than a kit-kat and a biscuit containing sesame seeds, a known allergen. The products were removed from the market. The UK baby milk market is valued at £150 million per year and that of complementary foods at £157 million.
7. In July 2003, Graham Crawford, Chair of the UK industry body, the Infant and Dietetic Food Association, claimed that UK regulations on the marketing of baby milks are making it difficult for Nestlé to enter the market and called for them to be scrapped. Mr. Crawford was appearing in court over illegal advertisements placed by Wyeth/SMA in parenting magazines. Wyeth was convicted of a 'cynical and deliberate breach of the regulations'.
8. The World Health Assembly discussed infant and young child nutrition at its meeting during the week of 17 May. Enterobacter Sakazakii contamination of powdered formula and the long-term health disadvantages of artificial feeding are key issues the industry did not wish to be addressed. Surveys, following the death of an infant in Belgium from meningitis attributed to contaminated Nestlé formula, have found a high proportion of tins of formula are contaminated during the manufacturing process after pasteurisation. At its recent AGM, Nestlé refused to unilaterally provide warnings on its labels (see Baby Milk Action press release 22 April).

Convention on the Rights of the Child as they permit advertising of infant formula through the health care system, and of follow-on general public and do not address the marketing of feeding bottles and teats.