



***Nestlé Ecuador
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***

August 2009



Introduction

Bureau Veritas has been commissioned by Nestlé S.A. to provide an independent assurance of Nestlé Ecuador SA (Nestlé Ecuador) 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 Ecuadorian Ley de Fomento, Apoyo y Protección a la Lactancia Materna (Ley no. 101) (herein known as Ley 101). This follows similar work previously conducted by Bureau Veritas for Nestlé in its other global operations.

Scope of Work and Methodology

The assurance was conducted in Ecuador between 13 and 24 July 2009 by two assessors from Bureau Veritas UK Ltd with extensive experience of undertaking WHO Code compliance related work, supported by a representative of Bureau Veritas' Ecuador office.

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

- ▶ completed a Gap Analysis of the WHO Code and Ley 101 to consider where the scope of Ley 101 differed from the WHO Code;
- ▶ requested a list of Nestlé Ecuador employees, hospitals and health professionals, distributors and retailers from Nestlé Ecuador;
- ▶ identified other external stakeholders (through the Bureau Veritas office in Ecuador) and local NGO's concerned with the protection, promotion and support of breastfeeding; and
- ▶ independently determined a schedule of interviews to take place in Ecuador between 13 – 24 July 2009.

During the assurance Bureau Veritas:

- ▶ undertook twenty-eight interviews with a comprehensive range of key external stakeholders (multilateral organisations, NGOs, distributors and healthcare professionals[HCP]). Nestlé was not disclosed as the client in order to avoid bias during interviews neither was Nestlé Ecuador informed in advance of who would be interviewed (except where stated);
- ▶ selected and visited eighteen healthcare facilities and fifty-two retail locations to assess compliance visually with the WHO Code/Ley 101 with reference to articles relating to labeling and promotion of products; and
- ▶ selected Nestlé Ecuador staff and records for respective interview and review, as part of an evaluation of Nestlé Ecuador's own management system documentation relating to compliance with the WHO Code and Ley 101.

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 HCP and observations made by Bureau Veritas within healthcare facilities indicate that many IF manufacturers appear to be regularly operating in contravention of the WHO Code within Ecuador.

All HCP interviewed stated that most IF manufacturers regularly provided them with samples of Breast-Milk Substitutes (BMS) products. At eleven of the healthcare facilities visited, in contravention of Articles 5.2 and 7.4 Bureau Veritas was shown both full sized and sachet sized samples of IF products from a range of manufacturers. **None** of the samples observed by Bureau Veritas were Nestlé products.

70% of HCPs interviewed explicitly stated that Nestlé medical delegates did not provide any samples of IF products (eight also indicated an opinion that they considered Nestlé medical delegates to be the most professional and ethical with regards WHO Code compliance). Two HCPs indicated that they had received samples from Nestlé in the past but these statements were not supported by any objective evidence.

Within consultation rooms visited several examples of materials were observed by Bureau Veritas which we consider to contravene Article 6.3. **None** of the examples observed related to propriety Nestlé brands covered by the WHO Code.

Statements made by some HCPs in Cuenca indicate that IF manufacturers often offer incentives for the sole promotion of their products. This was not in relation to Nestlé and statements made were not supported by any documentary evidence.

Multilateral organisations/NGOs

Due to events outside of Bureau Veritas control we were unable to meet with any representatives of Ecuador's Pediatrician Associations. One Multilateral Organisations/NGOs with an interest in the WHO Code were interviewed during the assessment period. The organisation is the Ecuadorian affiliate of IBFAN and as such has an informal role in monitoring WHO Code compliance within the country.

The organisation stated that it was their opinion that non-conformance by all IF manufacturers was widespread within Ecuador. The main non-conformances were stated by this organisation to be the free giving of samples and the widespread promotion of products covered by the WHO Code. The organisation did state awareness during the interview that it was Nestlé Ecuador's practice to not give free samples of IF and that in their opinion this policy appeared to be adhered to.

The organisation provided limited evidence of WHO Code contraventions being undertaken in Ecuador. Specifically regarding Nestlé activities in Ecuador, the organisation identified the



widespread use of the Nestum Blue Bear logo within HCPs offices as a contravention of the WHO Code. It is Bureau Veritas opinion that this example relates to an interpretation of the WHO Code articles regarding propriety brands and therefore do not constitute a contravention of the WHO Code.

Government Officials

At Bureau Veritas request Nestlé Ecuador arranged a meeting with the Ecuadorian Ministry of Health.

It is the opinion of the Ministry of Health that many of the IF manufacturers in Ecuador are in contravention of the WHO Code although some “more explicitly than others”. The giving of samples by IF manufacturers was stated as the most explicit contravention although during the interview an awareness of Nestlé Ecuador stated approach to not give free samples was evident and considered an area where Nestlé differentiates itself from its competitors.

Retailers (Supermarkets, Pharmacies and Baby Stores)

Visual observations indicate that there is no systematic promotion by Nestlé Ecuador of products covered by the WHO Code within Ecuador through in-store advertisements, coupon redemption schemes, promotional pricing or any other promotional devices. Additionally consistent pricing and labelling was evident at all retailers visited.

An isolated occurrence was observed in one supermarket where a shelf ticket for NAN Soy 400g indicated that the price of USD 9.27 was a “special offer” price. The same product and pricing was observed by Bureau Veritas in further outlets and the use of a “special offer” ticket was not evident. Further enquiries made by Bureau Veritas demonstrated that this occurrence was directly due to a mistake by the retailer in question and not a systematic approach by Nestlé Ecuador to market products in contravention of Article 5.3. The label in question was removed at the outlet on 23 July 2009.

Bureau Veritas also reviewed a number of Baby-care and parenting publications during the assessment period. None of the publications reviewed contained any promotion that can be considered to contravene Article 5 of the WHO Code.

Distributors

The distributor interviewed demonstrated a good level of understanding of the requirements for marketing BMS products within Ecuador.

Nestlé Ecuador SA

Nestlé Ecuador employees demonstrated that there was a good understanding of the WHO Code and Ley 101 and the requirements it places upon the completion of their day-to-day responsibilities which are well embedded throughout the organisation.

The Human Resources department indicated that no formal or informal disciplinary action had been taken regarding compliance with the WHO Code.



Nestlé Medical Delegates are evaluated on their understanding of the WHO Code on a regular basis and this is measured during their annual appraisal process. 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 relating to internal management systems that have been provided to Nestlé Ecuador in a separate management report.

Bureau Veritas opinion

From our assurance activities it is our opinion that:

- ▶ the observation concerning the labeling of NAN Soy 400g as a special offer was an isolated occurrence that is not attributable to Nestlé Ecuador
- ▶ the none of the free samples or promotional materials observed during the assessment period were attributable to Nestlé Ecuador
- ▶ no other significant evidence (other than that described above) came to our attention to indicate that Nestlé Ecuador is operating in contravention of the WHO Code or Ley 101
- ▶ there is recognition amongst external stakeholders that Nestlé Ecuador can be considered to be amongst the leading manufacturing companies with regard to WHO Code and Ley 101 compliance in Ecuador

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 Ecuador implements the recommendations made concerning the application and adherence to its internal management system for WHO Code compliance.

Limitations

- ▶ Stakeholder interviews were limited to Quito and Cuenca and their environs
- ▶ Some additional stakeholders were identified but due to issues outside of Bureau Veritas control were unable to be interviewed, such as Paediatric Associations
- ▶ All external stakeholders interviews were arranged by Bureau Veritas with the exception of the Ministry of Health which was arranged by Nestlé Ecuador at Bureau Veritas' request.

This limited assurance is not intended to provide a definitive opinion as to whether or not Nestlé Ecuador complies with the WHO Code or Ley 101 within Ecuador. 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 Ley 101 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 almost 180 years history in providing independent assurance services.

Bureau Veritas has implemented a code of ethics across its businesses 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. This assurance assignment did not raise any conflicts of interest.

Bureau Veritas UK Ltd
London

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