



**Nestlé S.A.**

**Independent verification of Nestlé’s marketing practices in Myanmar against the Nestlé Policy and Procedures for the Implementation of the WHO International Code of Marketing of Breastmilk Substitutes**

***Move Forward with Confidence***



## **Independent verification report by Bureau Veritas**

### **Introduction**

Bureau Veritas has been commissioned by Nestlé S.A. ('Nestlé') to provide an independent verification of Nestlé's business in Myanmar ('the Market') on compliance with the Nestlé Policy and Procedures for the Implementation of the WHO International Code of Marketing of Breastmilk Substitutes – September 2017 ('the Policy') and the local legislation implementing the WHO Code in Myanmar. In Myanmar, the Government has implemented aspects of the WHO Code through *The Order of Marketing of Formulated Food for infant and Young Child (2014)* ('the local code').

Products covered in Myanmar by the Policy and the local code include infant formula, follow on formula, and complementary food products intended for infants aged between 0-24 months ('Covered Products').

This verification follows similar work previously conducted by Bureau Veritas for Nestlé in other global operations.

### **Scope of Work and Methodology**

The verification was conducted in Myanmar between 2-13 December 2019, using two verifiers from Bureau Veritas UK Ltd ('Bureau Veritas') and a local verifier from Bureau Veritas Myanmar who also acted as a translator (as required).

During the verification, Bureau Veritas undertook the following activities:

- Visited the Market head office and the importer/distributor head office in Yangon city and the importer/distributor regional office in Mandalay city.
- Interviewed 13 employees and conducted a review of Nestlé documentation and records relating to specific areas of compliance with the Policy;
- Interviewed a selection of personnel from commercial partners: 13 employees from the importer/distributor, 5 employees from one third party agency.
- Interviewed 23 healthcare professionals ('HCPs'), 8 of which organised independently by Bureau Veritas, including Paediatricians, General Doctors, and Nurses. Due to specific circumstances in the Myanmar Market, we were unable to secure sufficient appointments with HCPs independently. As an exception Bureau Veritas took assistance from Nestlé Myanmar to organise additional interviews. This was done to supplement the number of independently and anonymously organised interviews. In the case of independently organised interviews, Nestlé was not disclosed as the client prior to the interviews in order to avoid bias during interviews, nor was the Market informed of who was interviewed;
- Visually assessed compliance with the Policy in 15 healthcare facilities (HCFs) and 93 retail locations including modern trade, pharmacies, and traditional trade. Bureau Veritas independently selected the locations that were visited in Yangon and Mandalay.

Any findings identified during the verification have been categorised as per the following:

**Non-conformance:**

- Any failure to follow a written requirement specified within the Policy
- A failure to achieve local legal or statutory requirements as per our interpretation
- A purposeful failure of the company to correct non-conformances

**Opportunity for Improvement:**

- A process/activity/document that, while currently conforming to the Policy and local code and directives, could be improved to further strengthen the Market's practices

The following is a summary of key findings which includes areas of good practices, non-conformances, and opportunities for improvement.

**Areas of good practice:**

1. Documentation maintained on trainings related to the local Code and Policy (including third parties) was noted as comprehensive;
2. The role of the ombudsperson within the organisation was well communicated through a variety of channels; and
3. During Health Care Facility visits, we saw no evidence of any Nestlé branded Covered Product samples or non-compliant Nestlé marketing materials relating to covered products.

**Non-Conformances:***1. Labelling requirements*

The labels for the Covered Product brands, namely Lactogen, NAN Optipro, and Cerelac infant cereals, in the market at the time of the audit included health claims. This finding has been classed a non-conformance against Chapter 3 Clause 5 of the local code, which prohibits the following with respect to labels: "(1) any medicinal, health or nutritional claims with regard to any nutrients or substance that is the essential composition or any ingredients, additives or any statement with similar meaning; and (3) 'The best food for children', 'The best milk for the brain development of your child', or descriptions which can effect similar meaning". Bureau Veritas noted that these labels reviewed had the necessary regulatory approvals in place and also that the updated compliant labels had been awaiting approvals since February/March 2019.

*2. Speaker contracts for events*

Nestlé engages HCPs as speakers to present scientific topics at the events and seminars. In the case of local HCPs engaged from Myanmar, the arrangement and payment of honorarium fee is done through a third party agency and it was noted that this is done without a pre-agreed written contract. Instead, there is an acknowledgement of receipt of payment received from HCPs. As per Article 7.5 of the Policy, which establishes that "The Guidelines for Sponsorship of Health Workers and Institutions for Professional Development and Scientific Research" should be followed, and as per section 4.4 of these guidelines, "Payments of fees to health workers who are providing genuine services as speakers, presenters or moderators at the Event are allowed on the basis of a written

contract with the company". This is noted as a non-conformance since the guidelines require a written contract to be in place, notwithstanding the perceived genuine nature of the services provided.

### 3. *Mandatory statements on information materials*

Bureau Veritas reviewed detailing materials being used by Nestlé medical delegates in Myanmar on a sample basis. Bureau Veritas found that one set of detailing material which was on complementary foods contained pack shots of the entire range, including Covered Products, but did not include all the mandatory statements as stipulated in the local code. This finding has been classed a non-conformance against Chapter 5 Clause 12(b) of the local code, which requires the following: "Whoever makes direct relationship with individual or group of people or public or through publication; or broadcasting of voice and images for nutritional education information in relation to infant or child shall include conspicuously: (4) description emphasizing the pregnant women and breast feeding mother to be fully nutritious and to prepare for breast feeding the baby." We note that the statements included in the relevant material aligned with Nestlé's guidelines for cereals; however, the local code does not distinguish between types of products for under 2 years old.

### 4. *Placement of 'New Label' Posters in marketplace*

During the marketplace assessment we noted several posters of A3 and A4 size placed in locations outside of stores as well as inside to notify about the new packaging for Lactogen 1 and 2. This has been noted as a non-conformance against Article 5.3 of the Policy which states, "Activities at the retail level aiming at promoting sales of infant formulas directly to the consumer are not permitted." Placement of posters outside the stores may be construed as promotion to consumers. More specifically, Nestlé's internal guidelines, the *Do's and Don'ts for Sales*, only allow "shelf markers of standard size announcing a new re-formulation or new packaging of an [infant formula]".

### 5. *Placement of Covered Products in retail*

During the marketplace assessment, Bureau Veritas visited 93 sales outlets for visual inspections. Out of these, we identified 2 instances of prominent display of Covered Products at the window/outside the retail stores as well as 1 case of advertised discount for multi-buys at a wholesaler location. These three instances are jointly classed as a non-conformance against Article 5.3 of the Policy, which prohibits "Activities at the retail level aiming at promoting sales of infant formulas directly to the consumer". We note that there was no evidence to suggest that the mentioned discount at the wholesaler was done at the request of the Market.

## **Opportunities for Improvement:**

### 1. *HCP detailing materials and events*

The market currently conducts both one to one detailing and regular group meetings, round tables both inside and outside of hospitals, sponsorships for seminars and conferences for HCPs in Myanmar. These are focused on non-Covered Products falling outside the scope of the local code. However, it was observed that materials used in these activities do include pack shots of the full range of products, including both Covered and non-Covered, usually on the closing page. This may be perceived as a communication on Covered Products for under 2 years of age.

Bureau Veritas understands that the Market has obtained prerequisite verbal approvals and confirmation on

conducting the HCP detailing as well as the scope of the local code from the relevant regulatory authority, however, in the absence of written and documented communication, Bureau Veritas recommends that the Market should remove pack shots of any Covered Products from presentations used for detailing and at events.

## *2. Third party communication*

Bureau Veritas reviewed a sample of contracts that the Market has with its commercial partners. It was noted that these did not make reference to the WHO Code/Policy/local code requirements. In cases where only purchase orders ('POs') were issued, the terms and conditions of the same do not make reference to these requirements either. The Market should ensure all contracts with commercial partners or POs issued to third parties conducting activities in relation to infant nutrition include clauses on the WHO Code/Policy/local code as per Nestlé's internal guidelines. We note that the relevant individuals from the third parties had undertaken the required WHO Code training and, with the exception of the e-commerce sites, had been notified of the requirements through the annual reminder to trade. The Market should also include any e-commerce sites within its annual reminder to trade communications.

### **Limitations**

Visual inspections of healthcare facilities and retail outlets, and external stakeholder interviews were limited to the cities of Yangon and Mandalay. Some of the statements made by external stakeholders are anecdotal and evidence may not be available to support their claims. Whilst the verification protocol is designed to provide an objective independent assessment, it remains that in some cases the verification of such statements is dependent solely on the credibility of the party presenting the evidence.

This statement is not intended to provide a definitive opinion as to whether or not the Market complies with the Policy or the local code. Neither the limited assurance conducted by Bureau Veritas nor this statement constitutes a guarantee or assurance by Bureau Veritas that infringements against the Policy and local legislation have not taken place.

It is also not within Bureau Veritas' scope of work to provide an opinion or assessment over the appropriateness of the Policy for the implementation of the WHO Code.

### **Statement of independence, impartiality and competence**

Bureau Veritas is an independent professional services company that specialises in quality, environmental, health, safety and social accountability with over 190 years history in providing independent assurance services.

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

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

The core team of Bureau Veritas UK has extensive experience of undertaking WHO Code assessment related work.

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



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**Bureau Veritas UK Ltd**

**London, 17 April 2020**