



**Nestlé**® Good food, Good life

# Leading the Way

Responsible Marketing  
of Breast Milk Substitutes  
2021 Report



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## Why we publish this report

Nestlé's purpose is to unlock the power of food to enhance quality of life for everyone, today and for generations to come. We are committed to providing optimal nutrition to infants and young children.

The nutrition mothers and babies receive during a child's early days has an important impact on their growth and development. Optimal nutrition in the first 1,000 days of life lays the groundwork for a lifetime of health. Breastfeeding is an essential part

of this—providing the best start for baby. In situations where breast milk is not available, the World Health Organization (WHO) recognizes infant formula as the only suitable alternative. At Nestlé, we support, promote and protect breastfeeding and commit to marketing our breast milk substitutes (BMS) in the most responsible way.

We implement industry-leading policies and systems to market BMS in accordance with the recommendations of the WHO International Code of Marketing of Breast-milk Substitutes (WHO Code) and support

exclusive breastfeeding for the first six months of life, followed by the introduction of adequate nutritious complementary foods, along with sustained breastfeeding, up to two years of age and beyond. Policy is important, but so too is a culture of compliance. At Nestlé, we strive for industry-leading, robust and independent governance systems to ensure compliance, with ultimate responsibility resting with Nestlé's Executive Board. These policies and systems are aligned with our values, driven primarily from respect, with the aim of supporting the health and nourishment of babies and young children.



# About this report

We developed our WHO Code Management System to ensure we market and sell our BMS responsibly—which is as important for us as a company as it is for our consumers and stakeholders who look for us to uphold the highest standards.

Nestlé became the first company to voluntarily implement the WHO Code by publishing our own policy on responsible marketing of BMS, applicable to the Nestlé group and third-party contracted partners—the Nestlé Policy and Procedures for the implementation of the WHO International Code of Marketing Breast Milk Substitutes (“Policy and Procedures”). Since 2009, we’ve reported annually on our compliance with the Nestlé Policy and Procedures to both transparently inform our stakeholders and be accountable for our actions and decisions.

We report on instances of non-compliance attributed to Nestlé and third parties with a direct contractual relationship with Nestlé. We do not report on non-compliance that occurs among third-party businesses without a direct contractual relationship with Nestlé.

**This report captures our efforts in 2021, including:**

**Cases of non-compliance found through monitoring and audits, such as:**

- Internal systems (grievance mechanisms, Nestlé Internal Audit)
- External systems (allegations, audits)



**WHO Code compliance record:**

- Non-compliance attributed to Nestlé
- Non-compliance attributed to third parties with a direct contractual relationship with Nestlé



**Root causes of non-compliance**



**Corrective actions to address non-compliance**



# 2021 performance at-a-glance

## A robust system recognized externally

**12**

point increase in Access to Nutrition Initiative (ATNI) BMS and Complementary Foods Marketing Index (57% in 2021 vs. 45% in 2018)

## Highly compliant

assessment of Nestlé in Mexico and the Philippines, two countries where BMS manufacturers' marketing practices were assessed by ATNI and FTSE4Good in 2020-2021



detected by our comprehensive WHO Code Management System, including internal monitoring and our whistleblowing system

## The main challenge: implementing compliance across distribution channels

**116**

cases of non-compliance detected across 37 countries



**23%**

of cases attributable to Nestlé

**26%**

of which were related to Information and Education (Article 4 of our Policy and Procedures)

**77%**

attributable to direct third parties

**75%**

of which were related to Advertisements, Special Displays or Promotions at point-of-sale (Article 5 of our Policy and Procedures)

# A conversation between Leanne Geale and a WHO Code Compliance Manager, Hegla De Los Santos

Everyone at Nestlé plays a critical role in compliance—no matter where they work or what their job is.

WHO Code Compliance Manager Hegla De Los Santos and Leanne Geale, Executive Vice President, General Counsel, Corporate Governance and Compliance, discussed the importance of compliance and what motivates them and their colleagues to prioritize this in their work every day.

**Hegla De Los Santos:** *Let's start with the basics. What is compliance? Why is it important to you and what we do at Nestlé, particularly when it comes to infant and young child nutrition?*

**Leanne Geale:** Compliance may sound complex, but it doesn't have to be.

At Nestlé, it means helping ensure we act in accordance with our values, which are rooted in respect, and doing the right thing. This is very important to me, as an area where I have worked for many years and across industries. In my role, I oversee compliance and help Nestlé operate ethically, which is intrinsic to our company.



**Leanne Geale**  
*Executive Vice President, General Counsel, Corporate Governance and Compliance*



**Hegla De Los Santos**  
*WHO Code Compliance Manager*

Nestlé knows breast milk provides the best nutritional start in life. We support exclusive breastfeeding in the first six months of life. We also recognize breastfeeding isn't always easy and for some, it isn't possible. It is our responsibility to provide necessary information on the appropriate use of infant formula, the only suitable alternative. We help our markets adhere to our Policy and Procedures as well as to local legislation.

*Hegla, you are at the heart of how this comes to life at Nestlé. How do you see it happening in your role?*

**Hegla:** Compliance with the WHO Code is the main thing I am responsible for. I work in the Caribbean region to help my colleagues understand Nestlé's Policy and Procedures and our internal standards, which are often stronger than those of local governments. I support my colleagues, answer any questions they may have on the topic and show them where to report any Code violations.

*On the topic of reporting, this report is a huge part of us being transparent on how we're doing. Why is this important to you, Leanne?*

**Leanne:** We know that our stakeholders—from parents to legislators, healthcare providers to non-governmental organizations (NGOs)—want

to understand how we operate in this area, and that is where this report comes in. Each year, we report on our compliance with our Policy and Procedures detailing instances of non-compliance and how we addressed them. This transparency informs our stakeholders and partners and demonstrates how important it is to our company to act responsibly when we market breast milk substitutes (BMS).

*When you reviewed this year's report, what stood out to you?*

**Hegla:** As someone who works closely with our WHO Code Management System, I found it interesting that 89% of the 116 cases of non-compliance reported in 2021 were detected by Nestlé's own system.

The report also shares how Nestlé addresses any issues and new ways the company improves on our compliance and responsible marketing. That makes me really proud to work for Nestlé and it also helps us learn from other parts of the world.

**Leanne:** I really appreciate learning from our colleagues in the markets and seeing how the actions we take as a result of any non-compliance add up to continuous improvement. The report details both our progress and the ways we and our direct partners push to do better.

*As a manager who is critical to our progress, can you share what motivates you to make compliance a priority every day at Nestlé?*

**Hegla:** I am driven by our focus and commitment to compliance because I know it helps protect breastfeeding and supports families. This, in my mind, sets Nestlé apart.

All our actions support Nestlé's Policy and Procedures and local legislation, as applicable, and, ultimately, promote and protect breastfeeding. This dedication to marketing our BMS responsibly builds a high level of confidence among our stakeholders and consumers.

*Is there anything about working in compliance in this area that makes it especially meaningful for you?*

**Leanne:** I'm a parent. While my children are now older, I, like every parent, remember vividly how concerned I was that my children were getting the nutrition they needed in those critical first years of life.

As a company that started with infant formula, we are grounded in a long history of supporting the nutrition and health of babies and young children. I feel honored to be a part of a company that takes this role so seriously. Nestlé—and each of us who works here—aims to do what is best for baby every day by operating with the utmost care and responsibility.

# Committing to compliance

The WHO Code is a set of recommendations for Member States of the WHO to regulate the marketing of BMS, feeding bottles and teats.

We welcome adoption of the WHO Code and offer our support to governments that translate the recommendations into national legislation.

We became the first company to voluntarily implement the WHO Code by publishing our own policy on responsible marketing of BMS, applicable to the Nestlé group and third-party contracted partners in 1982. Our policy, [Nestlé Policy and Procedures for the Implementation of the WHO International Code of Marketing Breast Milk Substitutes](#), reflects the FTSE4Good BMS Marketing Criteria for BMS manufacturers and distributors to meet the WHO Code recommendations.

The FTSE4Good BMS Marketing Criteria focus on countries with the highest rates of child malnutrition and child mortality. The principles, which are applied to our marketing of BMS, are based on the following criteria:

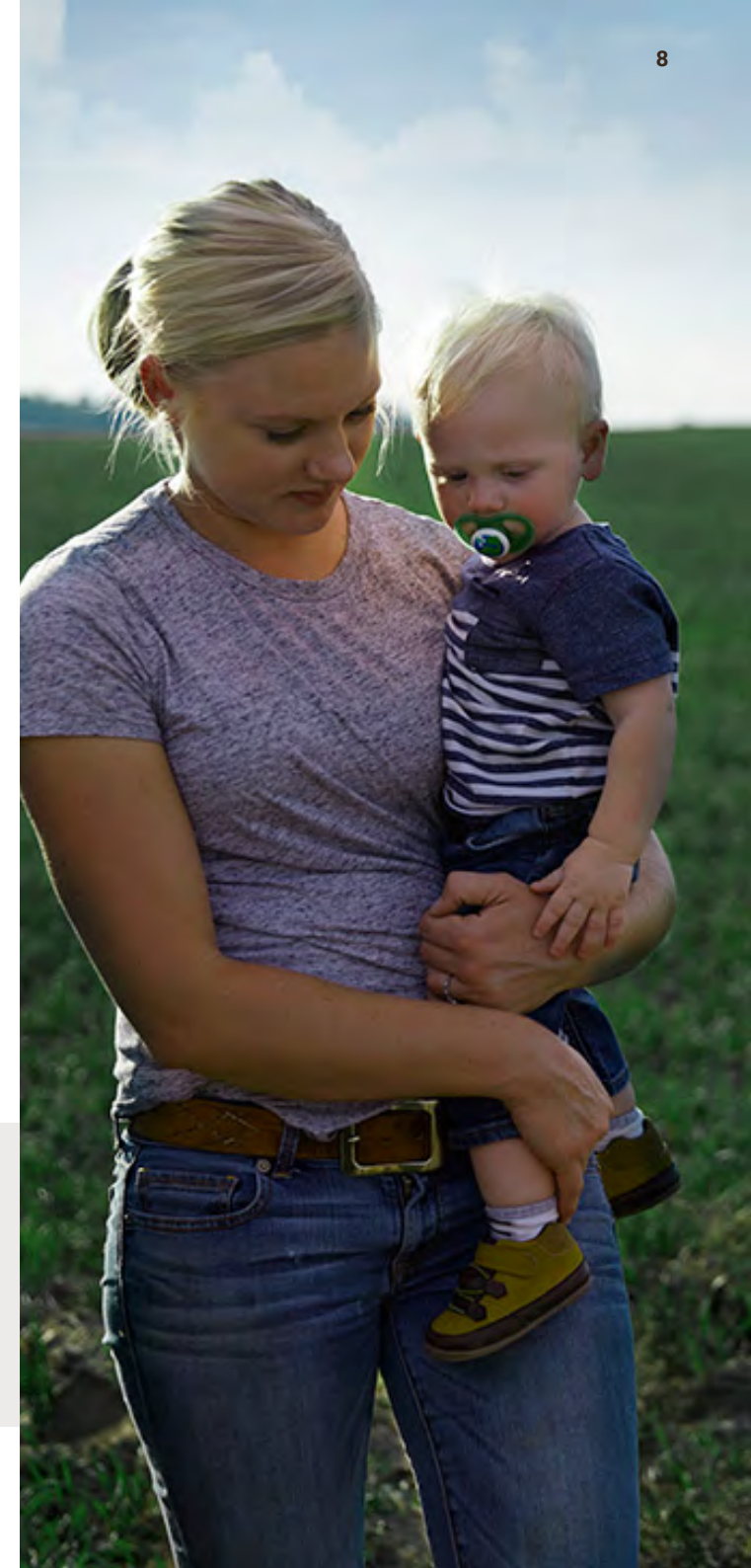
- Higher-risk countries are defined according to infant mortality and malnutrition and comprise 80% of all countries. In higher-risk countries, we abide by the specific rules of our Policy and Procedures when they are stricter than local legislation. In practice, this means we do not promote infant or follow-up formulas for children under 12 months of age.
- In lower-risk countries, we abide by local regulation and legislation on the marketing of BMS.

The practices of companies vary widely. Nestlé has actively applied FTSE4Good criteria since 2011 and continues to do so because of its important role in advancing the BMS industry's progress on implementing the WHO Code.

## Instances of non-compliance

Countries are considered higher risk if they meet either of the following criteria in children under five years of age:

- Mortality rate of **more than 10 per 1,000**
- Acute malnutrition (moderate and severe wasting) of **more than 2%**





# Advancing responsible breast milk substitutes marketing

We have a long-standing commitment to market BMS responsibly.

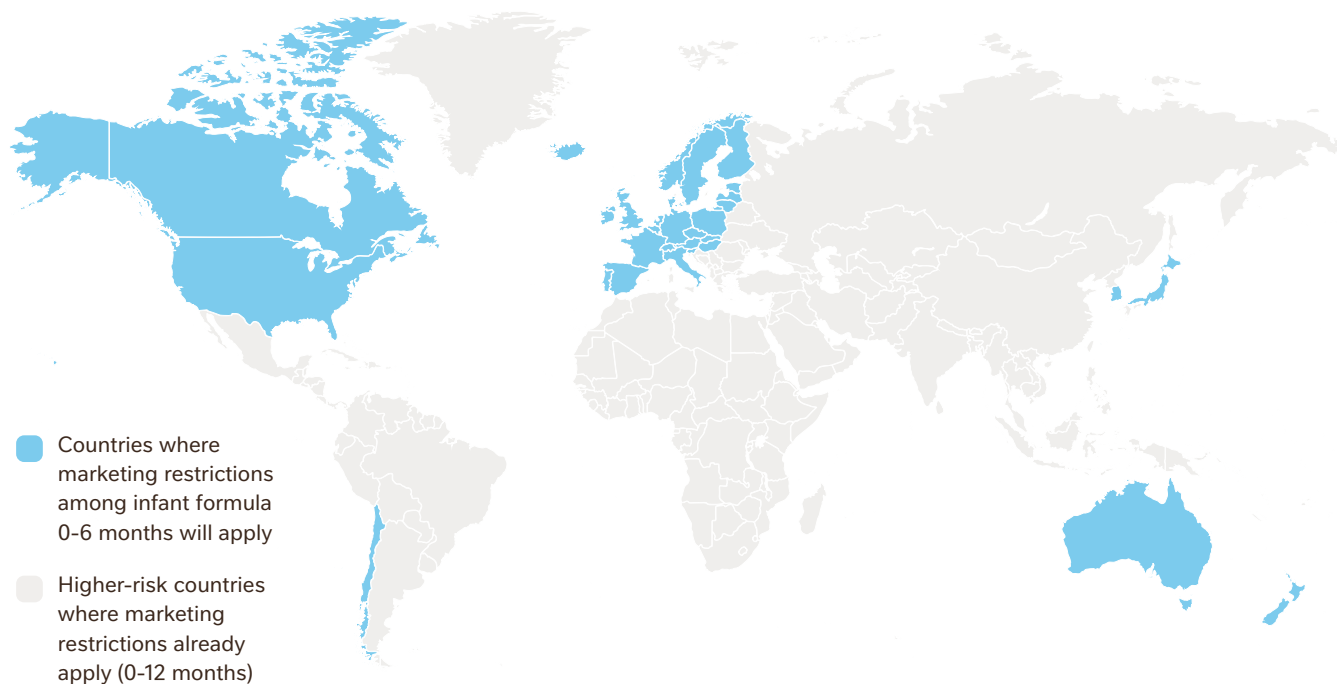
Our practices have strengthened over time, and expansions to our Policy and Procedures since the release of the WHO Code aim to advance our progress in responsible marketing.

- 1975** — Created International Council of Infant Food Industries (ICIFI) with seven other infant formula manufacturers, where members adopted a code of ethics to guide marketing and advertising practices
- 1979** — Developed internal guidelines to limit advertising and sales promotions, curb free samples and supplies, spell out the content of informational materials and end all financial incentives for health professionals to sell infant formula
- 1982** — Publicly released the first version of Nestlé’s Policy and Procedures shortly after the WHO Code was adopted, the first BMS manufacturer to do so
- 1994** — Stopped providing free supply of infant formula to healthcare facilities in most parts of the world (with strictly limited exceptions, such as for emergencies or natural disasters)
- 2004** — Implemented a global management system to ensure compliance with the WHO Code across our operations
- 2011** — Recognized as the first BMS manufacturer in the FTSE4Good Index for the first time—and have maintained inclusion since
- 2017** — Released updated Policy and Procedures, describing our management system and practices more transparently
- 2019** — Published the Code of Interaction with Healthcare Professionals and Institutions for Nestlé Nutrition Business Units, outlining the conditions of engagement with healthcare professionals to mitigate conflicts of interest
- 2020** — Made six commitments to the Breast Milk Substitutes Call to Action issued by the WHO, UNICEF and six civil society organizations

## A closer look: our response to the Call to Action

The BMS Call to Action was issued by UN agencies and certain civil society organizations, asking BMS companies to make further commitments in relation to the WHO Code. Nestlé was the only major industry player to make a substantial commitment in response to this Call to Action. In 2021, we published an action plan against our six commitments and updated our Policy and Procedures to incorporate our new commitments.

The updated Policy and Procedures will implement our commitment to **not promote infant formula for babies up to six months of age in ALL countries**, extending our existing Policy and Procedures to the few countries where it has not applied to date, particularly the US, Canada and Japan, where no regulations currently exist. Our updated Policy and Procedures will be published by December 2022, with the relevant teams trained to implement by January 1, 2023.



# Staying compliant

## Our guiding Policy and Procedures

Since 1982, Nestlé's evolving policies have reflected our recognition of the importance of the WHO Code to protect infant health, particularly in countries with poor sanitary, economic and social conditions.

Nestlé's Policy and Procedures explain how we promote, protect and support breastfeeding across our company and within our sphere of influence. All Nestlé employees and any third parties acting with our authorization must comply with our Policy and Procedures.

Our actions to implement an industry-leading policy to market BMS responsibly are guided by five key principles, outlined in the corresponding graphic. For each article of our Policy and Procedures, which corresponds to an article of the WHO Code, we illustrate how we apply the recommendations in our daily sales and marketing activities. Our WHO Code Management System includes specific compliance mechanisms on topics such as product displays at point-of-sale, relationships with distributors and retailers and training sessions for healthcare professionals.

For example, in higher-risk countries, **we do not:**

- advertise or promote infant formula and follow-up formula for infants under 12 months of age to the public;
- permit staff whose responsibilities include the marketing of infant formula to have direct contact with mothers, except in response to consumer inquiries;
- distribute free infant formula samples to parents and caregivers;
- give financial or material incentives to health professionals for the purpose of promoting infant formula.

Over the years, we have continuously evolved Nestlé's Policy and Procedures in response to the needs of families and feedback from governments and civil society organizations, as well as our own experience.



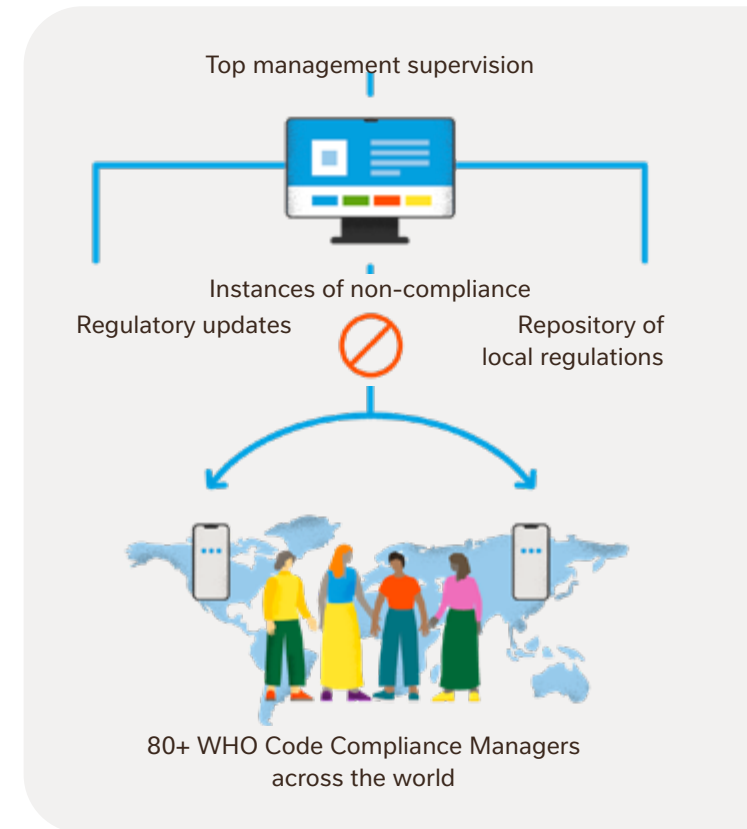
## How our stakeholders keep us accountable

Our Compliance Reporting System, "Speak Up," encourages external stakeholders and employees to report potential instances of non-compliance with our Corporate Business Principles, including WHO Code-related matters. It is available on our global and local corporate websites, 24 hours a day, seven days a week. Stakeholders may file a report through a web form or by calling a toll-free number and may choose to remain anonymous.

We encourage anyone who observes a non-compliant marketing practice to report it to us, anonymously or not.

## The Code Room

WHO Code compliance is overseen by our unique web-based platform, known as the Code Room. WHO Code Compliance Managers, appointed in each market, report information related to local legislation and instances of non-compliance. Conference calls are held regularly to encourage sharing and learning across markets. Beyond a web-based tool, the Code Room gathers a community of experts dedicated to the implementation and safeguarding of Nestlé's Policy and Procedures.



# Externally monitoring our practices

## FTSE4Good and ATNI

Both the FTSE4Good BMS Index and Access to Nutrition Initiative (ATNI) BMS and Complementary Foods Marketing Index measure performance across the industry, helping us identify areas for improvement. FTSE4Good and ATNI are the only responsible investment indices that have defined clear criteria on the marketing of BMS. External monitoring processes are critical to the credibility and integrity of our WHO Code compliance framework. We voluntarily submit our practices for external verification of our WHO Code Management System and to ensure inclusion in the industry benchmark, which helps stakeholders better understand how we compare to the rest of the industry, as well as the business and marketing complexities involved.

## Our 2021 performance

In 2021, we maintained our inclusion in the FTSE4Good BMS Index—marking the 11th year in a row. We also improved our score in the ATNI BMS and Complementary Foods Marketing Index 2021 by 12 points (57% in 2021 vs. 45% in 2018). Mexico and the Philippines were the countries selected for assessment by both FTSE4Good and ATNI. Although ATNI BMS and Complementary Foods Marketing Index 2021 includes stricter criteria,\* we were rated as highly compliant in these two countries, where we have a leading commercial presence.

Since 2011, our practices have been verified by FTSE4Good in ten countries: India, Zambia, Morocco, Laos, Malaysia, Angola, Thailand, Nigeria, the Philippines and Mexico.

## Engagement on assessment approach

Accountability mechanisms are critical tools to drive progress across the industry. Consistent methodology is key for these mechanisms to be effective and to enable assessment between companies over time. We continue to voluntarily and transparently engage with FTSE4Good and ATNI to better understand their methodologies and advocate for greater transparency. In the most recent verification, FTSE4Good and ATNI partnered, and ATNI performed the verification on behalf of FTSE4Good for the companies included in the BMS Index. In some instances, we constructively challenged changes in the methodology with the goal of improving industry performance.

	FTSE4Good	ATNI
<b>What is assessed</b>	Marketing of BMS for infants up to 12 months	*Marketing of all foods designed for infants and young children up to 36 months
<b>Who is assessed</b>	Three companies: Nestlé, Danone and Reckitt and FrieslandCampina voluntarily applies the criteria without being part of the index	Nine largest baby food companies: Nestlé, Danone, Abbott, Reckitt, Feihe, Yili, FrieslandCampina, Mengniu and KraftHeinz

# Responding to stakeholders' concerns in 2021



## South Africa

During 2021 Breastfeeding Week in South Africa, concerns were raised about a webinar organized by Nestlé, the Stokvel Event on NESTLÉ NESTUM, NESTLÉ CERELAC and NESTLÉ NIDO 3. The South African regulation (R991) does not prohibit communication on complementary foods to the general public. Therefore, the event was fully compliant with regulations. However, having considered the concerns and following correspondence with the National Department of Health, we decided to cancel the event. We made this decision because of the perception among various stakeholders that the event was not supportive of exclusive breastfeeding and could undermine the public health messages that promote exclusive breastfeeding of infants under the age of six months. We continue to support exclusive breastfeeding for the first six months of life, followed by the introduction of adequate nutritious complementary foods, along with sustained breastfeeding, up to two years of age and beyond.



## Malaysia

In Malaysia, the Ministry of Health sanctioned a significant number of companies, including BMS manufacturers and distributors, with disciplinary measures for having identified instances deemed non-compliant with the Malaysian Code of Ethics (CoE). The instances attributed to Nestlé dated back to 2019 and included products with expired approval in point-of-sale and branded materials with products not covered by the CoE in healthcare institutions. After receipt of the decision, we were no longer able to locate products with expired approval in stores, but we asked clinics to remove the sanctioned information materials and provide evidence of their removal. Penalties were nevertheless maintained, along with written warning with copies to the parent company and the Chairman of the State Committee on the Code of Ethics.



# Our compliance record in 2021

## Overall compliance

Responsible marketing of BMS is critical to upholding the trust of families who use our products. We carry out this responsibility by complying with our Policy and Procedures, which are derived from the WHO Code and aligned with numerous countries' laws and regulations. Our comprehensive compliance and governance model ensures we apply the rules consistently across the 187 countries where we operate. Here, we outline all instances of non-compliance and describe the sources and root causes.

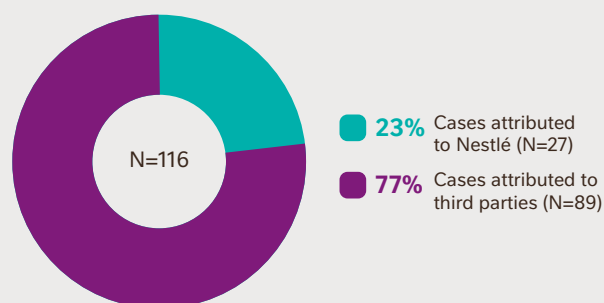
In 2021, we observed 116 instances of non-compliance (vs. 121 in 2020 and 107 in 2019), of which 23% were attributable to Nestlé and 77% were attributable to third parties that have a direct contractual relationship with Nestlé.

In total, five employees received disciplinary measures in 2021 and are no longer working for Nestlé. This includes three employees in South America for verified violations in the interaction with the healthcare system. In addition, in South East Asia, two medical delegates were involved in sales-like activities with hospital/active outlets, which is in

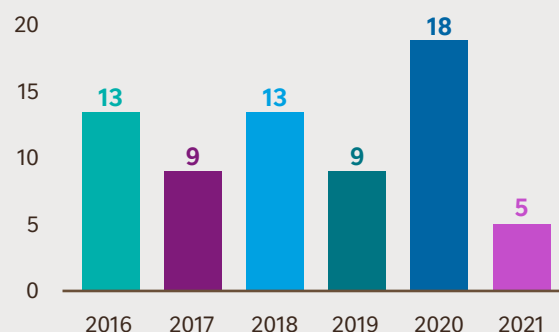
contravention of our guidelines to segregate duties of medical delegates and sales teams.

The majority of cases we reported do not involve disciplinary actions, as 77% involved third parties (89 cases, see page 19) with employees for whom we could impose sanctions. Further, 44% of cases attributable to Nestlé (12 of 27 cases) were identified by internal audit or internal monitoring, which gave us the opportunity to stop the practice and reinforce rules. This course of action is particularly important for cases that involve a wrong interpretation of the law or a lack of awareness of the rules, which both represented 33% of the 27 cases attributed to Nestlé.

### Instances of non-compliance



### Employees disciplined for non-compliance



## Our comprehensive WHO Code Management System, including internal monitoring and our whistleblowing system, enabled us to detect 89% of all cases in 2021.

Our external audits were conducted by Bureau Veritas and helped us identify five cases (4%)—including three in Africa and two in the Middle East.

The remaining 11% of cases were reported by external stakeholders, including 5% by authorities and 3.5%

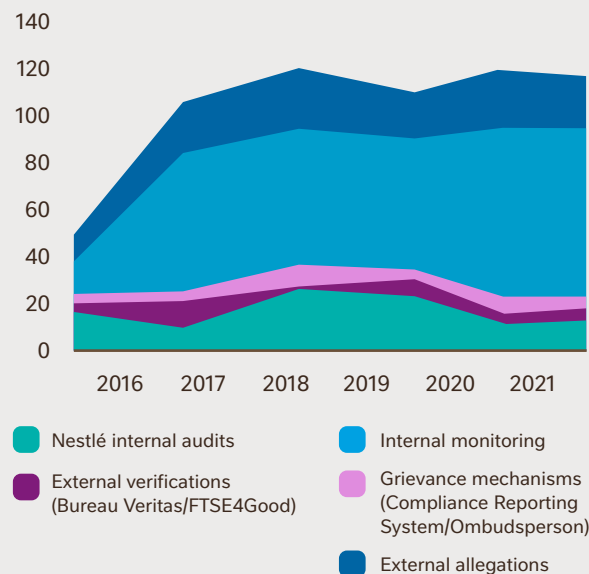
by competitors. Industry associations in some markets helped ensure accountability with WHO Code compliance. Business partners (e.g., retailers) were another group of stakeholders contributing to the detection of instances of non-compliance.

In 2021, digital and e-commerce-related instances of non-compliance represented 37% of cases. All of these cases were related to advertisements or promotion of products directly to consumers. While 84% (36 cases) were attributable to third parties, only 16% were attributable to Nestlé. The root cause behind these instances was largely due to algorithm

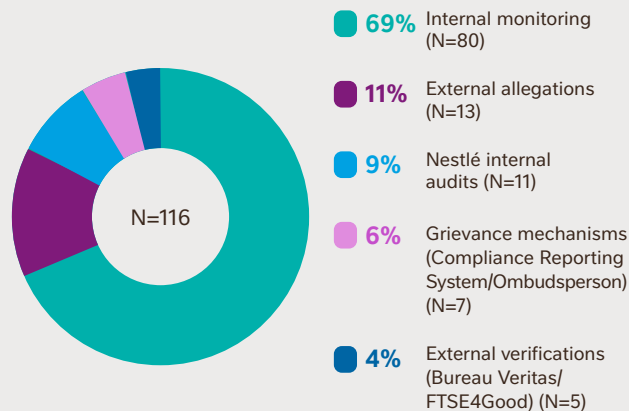
parameters on e-commerce, which failed to exclude promotional schemes, and operated without our consent.

In 2021, the majority of reported allegations were primarily related to advertisements, special displays or promotions at point-of-sale (75% of cases). Every year, we outline all confirmed allegations attributed to Nestlé and to third parties. However, we do not report allegations that were not confirmed or substantiated or were attributed to third parties that do not have a direct relationship with Nestlé.

### Volume of instances of non-compliance



### Non-compliance by reporting source

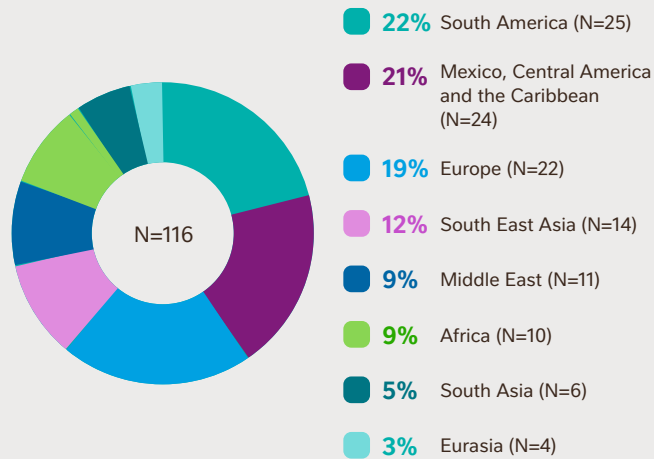




## Compliance by geography

In 2021, instances of non-compliance were identified across 37 different countries. While higher-risk countries are our main focus when it comes to our compliance efforts due to the exposure of infants and young children to mortality and acute malnutrition, we implement the same framework in all countries. Fourteen cases (12%) were identified in five lower-risk countries. South America (22%), Mexico, Central America and the Caribbean (21%), South East Asia (12%), Middle East (9%), Africa (9%) and South Asia (5%) represented 78% of instances of non-compliance, as most higher-risk countries are located in these regions.

### Detected instances of non-compliance by geography

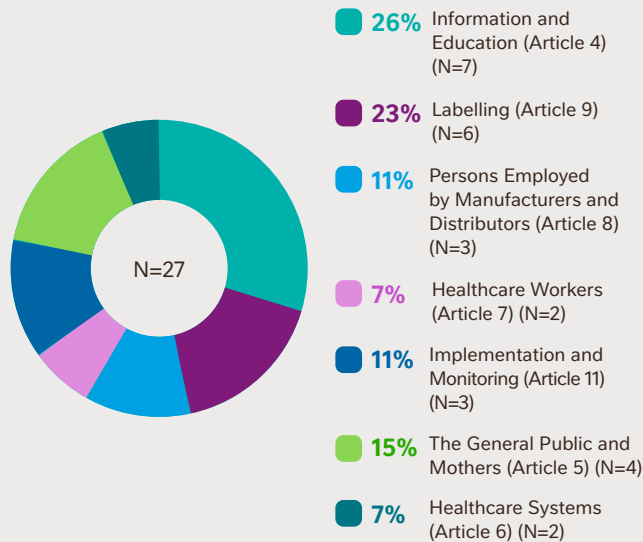


## Nestlé's non-compliance

We rely on our WHO Code compliance framework to identify instances of non-compliance attributed to Nestlé. Of the 116 cases outlined in this report, 27 (23%) were attributed to Nestlé. These cases were identified through:

- Internal audits and verification assessments (26%, 7 cases)
- External allegations (22%, 6 cases)
- Internal monitoring (19%, 5 cases)
- Grievance mechanisms (22%, 6 cases)
- External verifications (11%, 3 cases)

### Instances of non-compliance attributable to Nestlé by type



In 2021, the largest category of instances of non-compliance attributed to Nestlé was Information and Education (Article 4), representing 26%. Three of the seven cases related to Article 4 were due to an inaccurate interpretation of the law in the implementation of mandatory statements, and others were related to idealization of the product.

The second largest category of instances of non-compliance attributed to Nestlé was related to Labelling (Article 9), representing 23% of cases. These consisted of missing timelines for updating labels or failing to implement mandatory statements on labels due to an incorrect interpretation of the law.

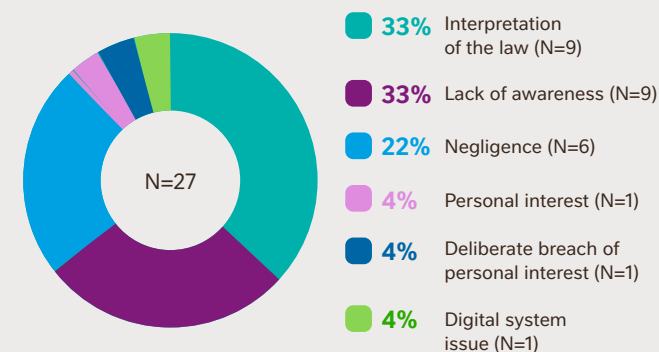
15% (4 cases) were related to The General Public and Mothers (Article 5), and 11% (3 cases) were related to Implementation and Monitoring (Article 11). Approximately one-tenth (11%) of cases were related to Persons Employed by Manufacturers and Distributors (Article 8), and cases were due to sales incentives covering infant and follow-up formula, which are not allowed according to Nestlé's Policy and Procedures.

In the 7% of cases related to Healthcare Systems (Article 6), there was one case in Mexico, Central America and the Caribbean that involved a donation of low-value material or equipment to healthcare institutions that was not permitted according to Nestlé's Policy and Procedures.

## Root causes of Nestlé's non-compliance

One-third of cases attributed to Nestlé (9) were due to lack of awareness, which can lead to unintentional non-compliance, such as omitting statements on labels. Another one-third of cases (9) were caused by an incorrect interpretation of the law (on labelling in particular). In several countries, the law implementing the Code is not always precise, which can leave room for interpretation, leading to unintended consequences. Approximately 22% of Nestlé cases (6) were due to negligence and related to activities perceived as promotional, even though they were not intended to be. These issues can often be resolved by educating employees, implementing proper training on the rules and regulations and ensuring proper compliance. We train our 11,000 Nestlé Nutrition employees as soon as they join the company and subsequently at least once every three years, and we report our progress in our annual [Creating Shared Value and Sustainability Report](#).

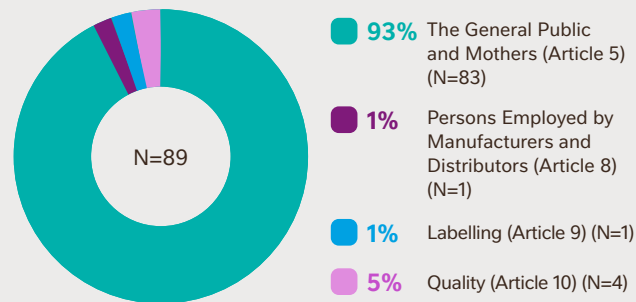
### Root causes of non-compliance attributable to Nestlé by type



## Third party non-compliance

We have limited control over the behavior of direct third-party businesses with direct service relationships with Nestlé (e.g., distributors or direct retailers). However, we make an effort to ensure they abide by our Policy and Procedures. Each partner in our supply chain helps contribute to the well-being and health of families, which is why we hold them to the same standards to which we hold ourselves.

### Instances of third party non-compliance by type



We evaluate the practices of those acting on our behalf, or in our sphere of influence, who, on some occasions, carry out instances of non-compliance without our consent, despite their responsibility to implement the WHO Code.

In 2021, 77% of cases of non-compliance (89) were attributable to third parties with a direct contractual relationship with Nestlé. These instances of non-compliance by distributors and retailers procuring directly from Nestlé were detected through:

- Internal monitoring (84.5%, 75 cases)
- External allegations (8%, 7 cases)
- Internal audit (4.5%, 4 cases)
- External verifications (2%, 2 cases)
- Grievance mechanisms (1%, 1 case)

The largest category of non-compliance attributed to third parties (93%, 83 cases) was related to The General Public and Mothers (Article 5). These were mostly related to promotion at point-of-sale (61%, 54 cases), advertisements to the general public (19%, 17 cases) and special displays (10%, 9 cases).

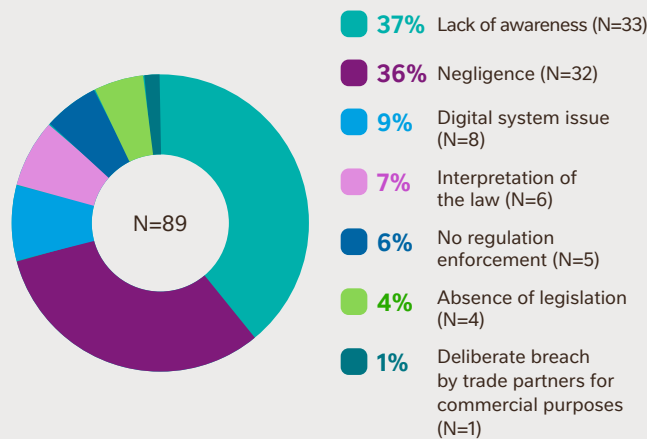


## Root causes of third party non-compliance

The root cause of non-compliance most commonly reported within our distribution channels was lack of awareness (37%, 33 cases), followed by negligence (36%, 32 cases).

It is important to understand the leading root cause among third parties, which is lack of awareness of the rules. While we invest significant resources in training and making our distributors aware of the rules, high turnover makes it difficult. We send annual reminders to direct customers, which may not be properly cascaded to field operators working in the stores. This could create gaps between distributors' and retailers' management, who are aware of the rules, and their staff working in stores. In 9% of cases (8), the issues were caused by e-commerce or digital platforms, which rely on algorithms that do not exclude infant formula from promotional programs.

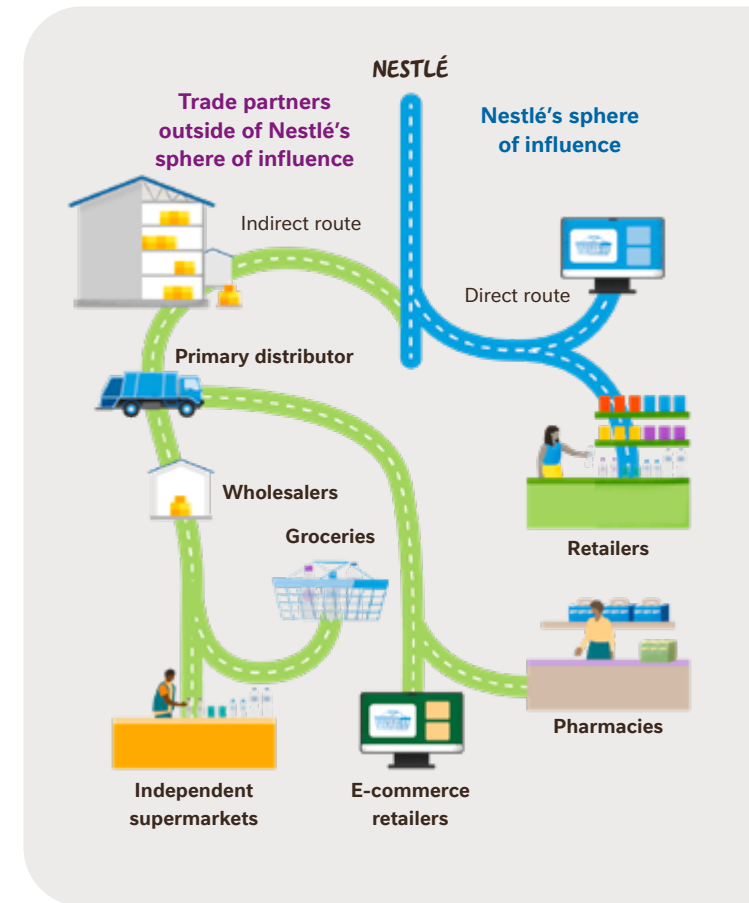
### Root causes of third party non-compliance



Based on our engagement with these platforms, we understand it is a significant challenge to adapt their algorithm to exclude infant formula. This situation and the lack of rule enforcement may explain their reluctance to proactively improve.

In 7% of cases (6), the root cause was an incorrect interpretation of the law by employees acting on our behalf. Similarly to the cases implemented by Nestlé, in several countries, the law implementing the Code is not always precise, which can leave room for interpretation, leading to unintended consequences.

Furthermore, our review found 10% of cases (9) were due to the absence of regulation in some countries or no regulation enforcement, generating a gap between Nestlé's rules and applicable laws in a given country, as our rules are often stricter. In such situations, we are perceived as restrictive by retailers in the marketplace. Some markets referred to "price wars" between online and offline retailers to attract consumers to their platforms or stores. Many e-commerce retailers can be highly aggressive, attempting to gain website traffic by offering promotions for stage 1 and stage 2 infant formulas. Due to lenient enforcement of the regulation, e-commerce retailers and brick and mortar stores do not face legal risk. In addition, products from Nestlé that are well-recognized by consumers are used by online platforms to leverage this strategy. We support clear implementation of legislation and non-negotiable enforcement by authorities to ensure all industry players do not promote infant formula.



# Working to improve our compliance

Each year, we identify corrective actions to address instances of non-compliance with the WHO Code.

We provide an overview of actions undertaken as a result of our 2020 report, as well as actions we will take to address the outcomes of this report and advance our WHO Code compliance.

## Actions we'll take moving forward

The following actions will be implemented in 2022:

- Update Nestlé's Policy and Procedures to reflect the BMS Call to Action commitments (public release and rollout is planned for end of 2022)
- Issue updated training materials and conduct an awareness campaign to prepare employees for the release of Nestlé's updated Policy implementing the WHO Code

- Conduct analyses in each market comparing Nestlé's Procedures manual and local laws to identify any gaps or potential areas of misinterpretation, monitor risk areas and develop action plans to address them, as necessary
- Adapt the WHO Code Compliance Management System to reflect changes to Nestlé's Zone structure
- Maintain engagement with the Call to Action signatories and other companies to drive further industry progress and support implementation of the WHO Code into national law

## Actions resulting from 2020 report

Action	Status	Comments
<a href="#">Continue rollout of digital training for external staff</a>	Ongoing	Markets are engaging with their retailers and sharing digital (and physical) training materials with them, an ongoing effort to adapt to customers' evolving workforces
<a href="#">Raise awareness within the broad Nestlé organization of the new "Speak Up" reporting system to foster a speak-up culture</a>	Completed	A company-wide communication was implemented, and the content on <a href="#">Nestlé.com</a> was updated to reflect the changes
<a href="#">Review tracking for mandatory training on the WHO Code to prevent gaps in employee awareness</a>	Delayed	The tracking of the training program is being reviewed
<a href="#">Review findings of the FTSE4Good BMS verification and ATNI BMS Report and take corrective actions, where required</a>	Completed	Recommendations were implemented in the updated Policy and Procedures and several bilateral engagements were held with FTSE4Good and ATNI

# Sharing responsibility in the path toward improvement

## How we work with trade partners to improve compliance

We worked with trade partners to help them correct instances of non-compliance in 2021. When we observe deliberate and severe breaches of the rules, we take action, such as dismissals against employees or warning letters to third parties in our sphere of influence.

Our Policy and Procedures and WHO Code Management System help to standardize practices across Nestlé. However, we face a number of limitations when it comes to correcting behaviors of third parties. According to competition law, we cannot contractually influence distributors' price mechanisms and may not be able to take action, such as issuing warnings or suspending deliveries, with respect to their pricing and marketing policy. Nevertheless, we are continuing to develop solutions to encourage distributors to responsibly market BMS.

## Collaborating with our sphere of influence

The WHO Code and Nestlé's Policy and Procedures recognize that trade partners across distribution channels have the same responsibility as manufacturers to market BMS responsibly. According to the WHO Code, a distributor is a person, corporation or any other entity in the public or private sector engaged (directly or indirectly) in the business of marketing a product within the scope of the WHO Code at the wholesale or retail level.

In higher-risk countries, we have a responsibility to provide regular training to help third parties with whom we have a direct service relationship comply with our Policy and Procedures and national legislation implementing the WHO Code. Distributors and manufacturers, in turn, bear the same responsibility to their subsequent network, and we implement solutions to improve responsible marketing practices through our distribution channels.

We engage with **third parties to reinforce WHO Code compliance and the Nestlé Policy and Procedures**. For example, in South America we provided:

- 15,000 copies of Dos and Don'ts guidelines to direct and indirect clients
- Guidance on e-commerce for direct clients
- Regular WHO Code compliance training (onboarding and twice per year) to our broker sales and merchandising team that visits third parties with no direct relationship with Nestlé to minimize risks of non-compliance

Our monitoring of WHO Code compliance shows most deviations are caused by business partners both within and outside of our sphere of influence, which limits our ability to implement our WHO Code compliance framework. Recognizing this challenge, our Call to Action response included our commitment to work with global and regional retailers and e-commerce players to help contribute to a common level of adherence to the WHO Code.



**Training** for Nestlé employees and third parties



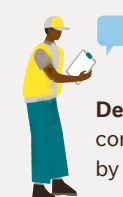
**Returns policy** to allow our trade partners to return unsold products



**No sales incentive on volumes of infant formula** for Nestlé and distributors' employees and sales force staff



**Reminders of WHO Code compliance rules** to trade partners on a yearly basis



**Detection** of non-compliance in the trade by sales representatives

# Continuing to lead the way

Our comprehensive WHO Code Management System is aligned with the FTSE4Good Criteria, which we have committed to go beyond in the future and holds us accountable to marketing and selling our products responsibly. We publicly report our record of WHO Code compliance each year. In 2021, we began to lay the groundwork and make progress against our BMS Call to Action commitments. While it was another challenging year for many, we were steadfast in our commitment to compliance.

When presented with new challenges we reflect on the areas in which we need to improve. We continue to work on the key issues related to training third party partners. With our size and footprint, we are able to deliver nutritious food to more families around the world. We also have a responsibility to market ethically and ensure everyone in our sphere of influence is held to the same responsible marketing practices. We acknowledge the difficulties we face and strongly believe that increasing transparency can help inspire improvements across the industry and foster collaboration with civil society organizations and governments.

We are confident that constructive engagement and collaboration is critical to contribute to a healthier future.

## Supporting implementation of legislation

Below are two reasons well-drafted, well-implemented legislation is the most effective way to establish WHO Code compliance.

1. It is instrumental to implement regulation to ensure the private sector operates uniformly within the same framework. This both supports success and ensures there will not be a shift from those adhering to ethical practices to those eschewing them.
2. Country-specific legislation implementing the WHO Code and subsequent relevant resolutions considers country health indicators and barriers to optimal nutrition for mothers and children in the first 1,000 days of life. This was reiterated in our BMS Call to Action response, where we noted our support for regulating promotion of infant formula for infants up to 12 months of age globally and our desire to engage with stakeholders to advocate for WHO Code adoption by Member States. We also committed to strengthen our advocacy practices in line with the Responsible Lobbying Framework.

Compliance with the law, our internal policies and accepted international standards are fundamental to the trust our consumers place in us, and maintaining this trust means acting in their best interest at all times.

