



ACCESS TO
NUTRITION
INITIATIVE

Mexico

Marketing of breast-milk substitutes and complementary foods

June 2021





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Westat and Universidad Iberoamericana (IBERO) in collaboration with the Instituto Nacional de Salud Pública (INSP), IBERO/INSP being Westat's local subcontractor, were responsible for the collection of data related to company compliance with the International Code of Marketing of Breast-milk Substitutes, all subsequent, relevant WHA resolutions, and any additional country-specific regulations related to marketing of these products. Westat was responsible for the analysis of the data related to compliance with those standards on which the Access to Nutrition Foundation (ATNF) will (in part) base the scoring of baby food companies in the ATNI BMS/CF Marketing Index 2021 which in turn will inform the companies' scores in the ATNI Global Index 2021. Westat and IBERO/INSP engaged with retailers as part of the data collection and analysis process.

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1. Introduction

The Access to Nutrition Initiative (ATNI) is dedicated to objectively assessing and improving the contribution made by the private sector to addressing global nutrition challenges. ATNI does this by designing and regularly publishing various indexes and other private sector accountability tools. These indexes and tools measure and track, over time, the extent to which companies are working to increase consumers' access to healthy foods and responsibly exercising their influence on consumer choice and behavior.

One of ATNI's core activities is assessing the extent to which companies that make formulas and foods for infants and young children market their products in line with the prevailing international gold standard: the International Code of Marketing of Breast-milk Substitutes (BMS) and subsequent, relevant World Health Assembly (WHA) resolutions. It is essential for these companies to play their part in contributing to optimal infant and young child nutrition and achieving nutrition goals, particularly those set by the World Health Organization (WHO) for 2025 and national governments.¹

This report sets out the results of a comprehensive study, commissioned by ATNI and undertaken by Westat, of the marketing of BMS and complementary foods (CF) conducted in 2020 in Mexico's capital, Mexico City. PwC drew on relevant data from the same study in its verification assessment reports for Danone, Nestlé and Reckitt on their marketing of some types of BMS in Mexico. PwC's reports were prepared for FTSE Russell to inform its decisions on these companies' suitability for continued inclusion in its FTSE4Good Indexes. More information about the FTSE Russell methodology and use of this data is available [here](#).

1.1 The importance of infant and young child nutrition

Nutrition is particularly important within the first 1,000 days of a child's life (from conception to age two), and optimal breastfeeding is crucial to infant and young child nutrition.² WHO recommends that infants and young children everywhere are breastfed exclusively for the first six months, at which point safe, appropriate weaning foods – also known as CF – should be introduced to meet their evolving nutritional requirements. WHO also notes that such foods should not be used as substitutes for breastmilk, and infant and young children should continue to be breastfed until at least two years of age or beyond.³ Any product that potentially replaces the consumption of breastmilk before the age of 36 months is considered to be a BMS.

Breastfeeding has long been proven to provide myriad significant health benefits compared to BMS. These benefits to mothers and infants are unique to breastfeeding.^{4, 5} Positive long-term benefits for infants include protection against becoming overweight or obese, as well as against certain non-communicable diseases such as diabetes mellitus.^{6, 7} Further, in areas of the world where hygiene is poor and the availability of, and access to, food is sub-optimal, breastfeeding is key to lowering infants' risk of undernutrition and infectious diseases.⁸ The latest evidence from a systematic review and meta-analysis found that babies that continued to be breastfed after 12 months of age exhibited a two-fold lesser risk of mortality than those not breastfed.⁹

The *Cost of Not Breastfeeding* tool showed that, in 2019, 595,379 deaths from diarrhea and pneumonia of children between birth and 23 months of age can be attributed each year to not breastfeeding, according to the global recommendations of WHO and UNICEF; 64% of these deaths occurring in lower middle-income countries.¹⁰ For mothers, breastfeeding can reduce the risk of certain types of cancer, such as ovarian and breast cancer and prolonged breastfeeding reduces post-partum weight retention.^{11, 12} Continued breastfeeding, as opposed to simply breastfeeding for a short period of time, can also reduce the risk of type II diabetes as well as cardiovascular diseases for the mother.^{13, 14} The 2019 *Cost of Not Breastfeeding* tool showed that optimal breastfeeding has the potential to prevent an additional 98,243 deaths of mothers annually from cancer and type II diabetes.¹⁵



1.2 Factors that affect breastfeeding

While the vast majority of women can breastfeed their infants, and most infants are able to be breastfed, in low-, middle- and high-income countries, a marked transition in infant and young child feeding has occurred. Breastfeeding rates are falling and use of commercial milk formulas is increasing.¹⁶ This transition is linked to rising rates of female participation in the labor force in many developing markets, urbanization, and increasing incomes and aspirations, which have encouraged the adoption of convenience-oriented lifestyles and made infant formula and prepared infant foods more desirable.

Structural factors such as inadequate maternity protection, poor workplace breastfeeding policies, and hospital and antenatal clinic policies that are not supportive of breastfeeding, strongly shape a mother's feeding preference even before birth.¹⁷ Socio-cultural factors further play a role where breastfeeding and complementary feeding practices are largely based on cultural customs and where they are significantly influenced by grandmothers and the elderly in the community.

Global infant formula and baby foods sales were estimated to have reached US\$53.7 billion in 2020.¹⁸ The sector's growth has been driven by investment in marketing by the manufacturers. Consumers indicate that traditional (46%) and online (68%) media sources influence their purchase of baby food/formula.¹⁹ This marketing of BMS has been demonstrated to contribute to the decreasing rates of breastfeeding.²⁰ All forms of marketing, including advertising, promotions, and product labelling, significantly shape the perceptions of caregivers by acting as an influential source of information. Marketing strategies have been found to undermine optimal breastfeeding and timely introduction of CF, and to go against global guidance of exclusive breastfeeding for six months by promoting early introduction of CF and displacing continued breastfeeding.²¹

In order to protect, promote and support breastfeeding, given its substantial and wide-ranging benefits, the WHA adopted The International Code of Marketing of Breast-Milk Substitutes in 1981 and has since passed many associated resolutions (together here referred to as 'The Code'). See Box 1 on page 6 for further information.

1.3 How BMS and CF marketing is assessed in ATNI's Indexes

ATNI has published three iterations of the Global Access to Nutrition Index in 2013, 2016 and 2018. The latter two included a sub-ranking of the six largest baby food companies in the world. However, from 2021, ATNI will publish a separate BMS/CF Marketing Index 2021. This assessment will be expanded to include the nine largest infant and young child food manufacturers by global revenues. The three newly included companies - Feihe, Mengniu and Yili – are all headquartered in China. Their inclusion provides a more complete comparison of the world's major producers of BMS and CF. The scores of six of the nine companies included in the Global Index 2021 will again depend, in part, on their scores in the BMS/CF Marketing Index 2021.^a

The BMS and CF marketing policies, practices and disclosure of all nine companies will be assessed using ATNI's methodology, which measures two dimensions of their marketing:

1. The extent to which these companies market their BMS products in line with the recommendations of The Code (as defined above), and related national regulations where they go beyond The Code.^{22,23}

^a Three of the nine companies are not included in the 2021 Global Index. Feihe because it is not among the world's 25 largest food and beverage manufacturers, the criterion for inclusion in that Index; Abbott and Reckitt because they are not classified as food and beverage manufacturers in standard international industry classification systems. Abbott falls within the pharmaceutical sector and Reckitt within consumer non-cyclicals.



2. The extent to which these companies market their CF in line with the recommendations set out in the guidance associated with WHA 69.9 and related national regulations, where they go beyond The Code.^b

Box 1: The International Code of Marketing of BMS and subsequent relevant WHA resolutions (The Code)

The International Code of Marketing of Breast-Milk Substitutes was adopted in 1981. It is a non-binding instrument that sets out a 'recommended basis for action' for Member States to regulate and monitor the marketing of BMS. The WHA has since passed 22 resolutions that augment The Code, clarifying and/or extending its scope and application.²⁴ The Code's articles make recommendations in some cases to governments, in some cases to manufacturers of formula and foods for infants and young children, and in some cases to healthcare systems, workers and others. To give legal effect to The Code, countries have to enact laws and regulations and rigorously monitor compliance.

The WHA passed resolution 69.9 in May 2016.²⁵ This resolution called upon manufacturers and distributors of foods for infants and young children to end all forms of inappropriate promotion, as set out in the associated guidance document A69/7 Ad. 1, dated 13 May 2016. That guidance document: 1) confirms that the scope of application of The Code is all BMS marketed as suitable for children from birth to 36 months of age (including follow-on formula and growing-up milks); 2) clarifies how some articles of The Code should be applied; and 3) provides detailed new guidance on appropriate marketing of foods for older infants and young children aged 6-36 months.²⁶ Throughout this report, this document is referred to 'as the guidance associated with WHA 69.9'.

In the Mexico study, data was collected on BMS and CF marketing and assessed against The Code, the guidance associated with WHA 69.9, and any national legal measures that go beyond The Code. Therefore, the Mexico study is the second of the five similar studies ATNI has conducted prior to 2020 to include within their scores their level of compliance in marketing these products in line with the guidance associated with WHA 69.9.

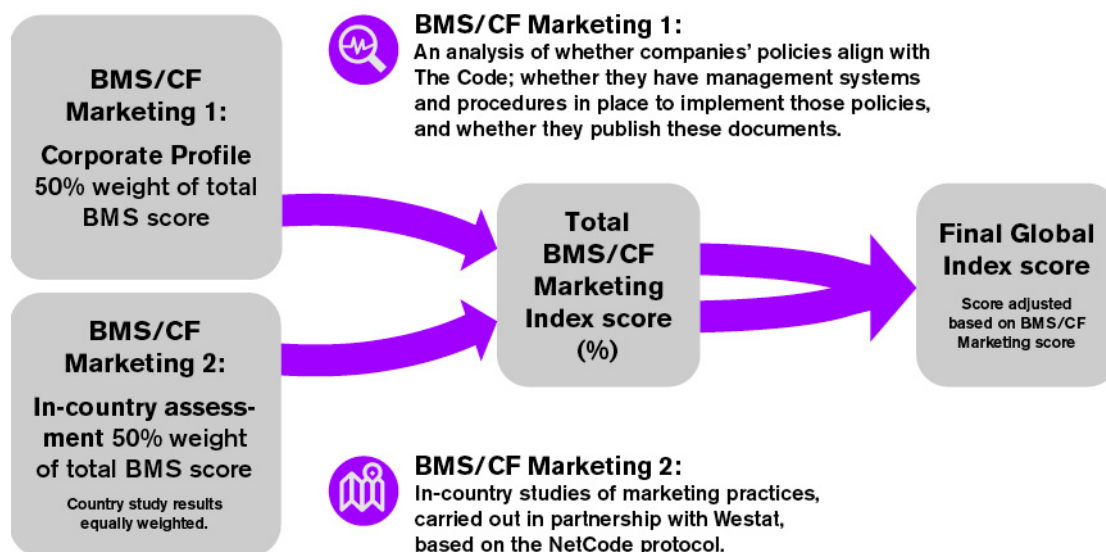
The score of companies in ATNI's BMS/CF Marketing Index 2021 is based on two types of research and analysis, as set out in Figure 1, each contributing 50% to the total:

- BMS/CF 1 – Corporate Profile, which assesses their policy commitments, management systems and disclosure.
- BMS/CF 2 – In-Country Assessments. For the 2016, 2018 and 2021 Global Indexes, this is based on two in-country studies. For the 2021 Global Access to Nutrition Index, the total BMS/CF 2 scores are based on the results of the Mexico study set out in this report and a similar study undertaken in the Philippines.

^b It is important to note that because CF should only be introduced from six months of age onwards, if such products are not labelled and marketed that way they are defined as BMS. Therefore, CF is used here to designated foods and drinks marketed as suitable for children from 6 to 36 months of age.



Figure 1. BMS/CF marketing scoring system used for the BMS/CF Marketing Index 2021



1.4 ATNI's study of BMS and CF marketing in Mexico

Having worked successfully with Westat on previous studies, ATNI again appointed this global health and social sciences research company to carry out the two in-country assessments of BMS and CF marketing in 2020. In Mexico, Westat appointed as its local partner the Health Department at Universidad Iberoamericana, CDMX (IBERO) in collaboration with the Instituto Nacional de Salud Pública (INSP). IBERO/INSP are reputable for their research on maternal and child health, generating knowledge on the infant and young child feeding practices in Mexico, including a similar study in 2016.

This report summarizes the findings of the Westat study in Mexico. Full details of the study are available in the Westat report on ATNI's website, together with their reports of previous country studies. (A report summarizing the findings from the study in the Philippines was published by ATNI in May 2021).



2. Context for the Mexico study

ATNI used the same criteria to select two higher risk countries^c for this study, as for the previous ones. This process was finalized in April 2019.

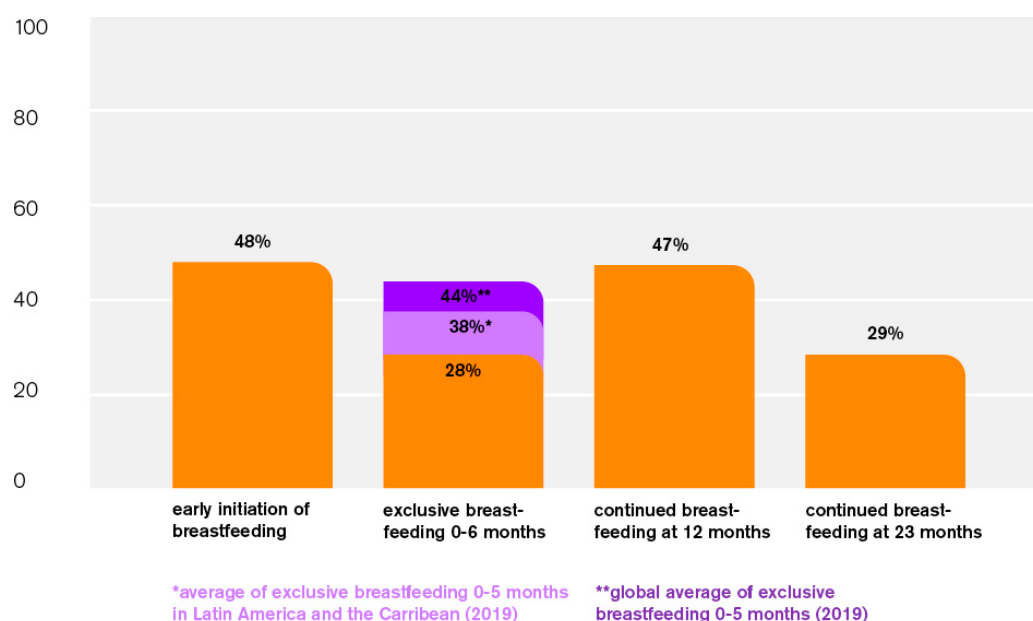
One of the most important factors was the presence of all or most of the six major infant and young child food manufacturers included in the BMS/CF Marketing Index 2021.^d Market presence (but not market share) was determined using Euromonitor International data and/or information provided either by the companies to ATNI directly or which ATNI collected from their websites. A key requirement for this study was also that Danone, Nestlé and Reckitt were present in the two countries, due to ATNI's collaboration with FTSE Russell. Additional information considered to select countries was the status of implementation of The Code and levels of exclusive breastfeeding, as well as practical factors such as the likelihood of receiving government approvals to undertake the studies, language, and safety.

All six companies were present in Mexico and this country ranked highly on all factors. ATNI decided, with the input of its BMS Expert Group, that Mexico, along with the Philippines, were the best and only feasible combination of countries for the two studies.

2.1 Infant and young child feeding practices in Mexico

According to the 2019 Mexican National Health and Nutrition Survey, the rate of early initiation of breastfeeding in Mexico was at almost 48%. However, the proportion of children under six months of age who are exclusively breastfed is only 28%, lower than both regional (38%) and global (44%) average rates of exclusive breastfeeding within this age group in the same year.²⁷ The figures still fall short of the WHA target of increasing the rate of exclusive breastfeeding to at least 50% by 2025. While 47% of children in Mexico continued breastfeeding at one year of age, almost 43% of children under 12 months of age consumed commercial formula.²⁸

Figure 2. Breastfeeding rates in Mexico, 2019



^c Higher-risk countries are defined by FTSE Russell using UNICEF data on child mortality and child malnutrition.

^d Although the BMS/CF Marketing Index 2021 has been expanded from the six to the nine largest companies worldwide, thereby including the three largest Chinese companies, as these three companies do not officially market their products outside China, according to Euromonitor International data, their presence in other markets could not be considered when making the country selection.



Research by Alive & Thrive, published in 2019, demonstrated the significant opportunities associated with adopting optimal breastfeeding practices in Mexico. This research estimated there was potential to avoid over 2,000 child deaths in Mexico from diarrhea and pneumonia, prevent over 5,000 maternal deaths from cancers and type II diabetes, and save over US\$47 million in health system costs related to the treatment of maternal and child conditions that could have been prevented by breastfeeding. Further, this research estimated that improving breastfeeding practices could generate an additional US\$2.1 billion for the economy by increasing children's cognitive capacity and preventing premature mortality in the early years as well as reduce families' out of pocket expenditures, including those of formula purchases which amount to 8% of nominal wages in Mexico.²⁹

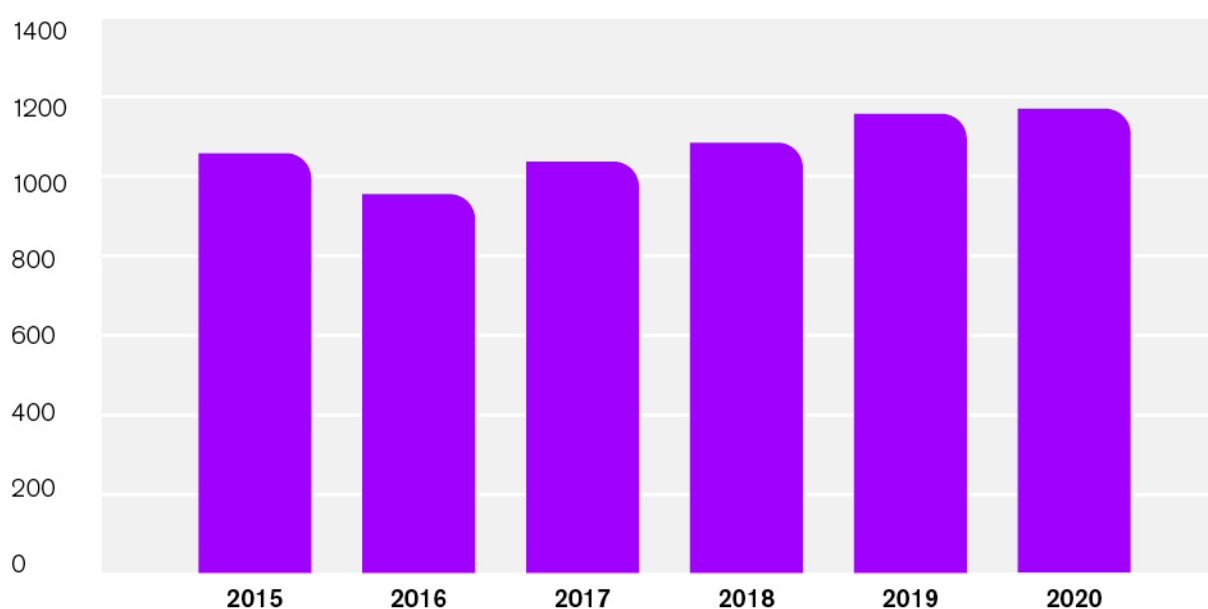
In terms of the diets and feeding practices of children aged over six months, the 2019 national survey reveals that:

- Around 91% of children aged six to eight months received solid, semi-solid or soft foods;
- Around 30% of children aged six to 11 months did not meet the recommended minimum dietary diversity (MDD^e); and,
- Only around 49% of children aged six to 11 months consumed iron-rich foods.

2.2 The Mexican infant and young child food market

Mexico had a population of about 127 million in 2019, with a GDP of around US\$1.2 million the same year³⁰. After experiencing a small decline in 2016, the baby food market^f in Mexico has been growing, reaching sales of almost US\$1.2 billion in 2020, as shown in Figure 3. The growth trend has been evident across all baby food categories; by 2020, milk formulas accounted for just over 85% of the baby food market, while 'prepared baby food' accounted for around 10%. Growing-up milks constituted the highest shares across milk formulas (over 35%) followed by special baby milk and follow-on milk that collectively accounted for over 45%.³¹

Figure 3: Sales of baby foods in Mexico, 2015-2020 (US\$ million)



Source: Euromonitor International; Packaged Food, 2021 Industry Edition

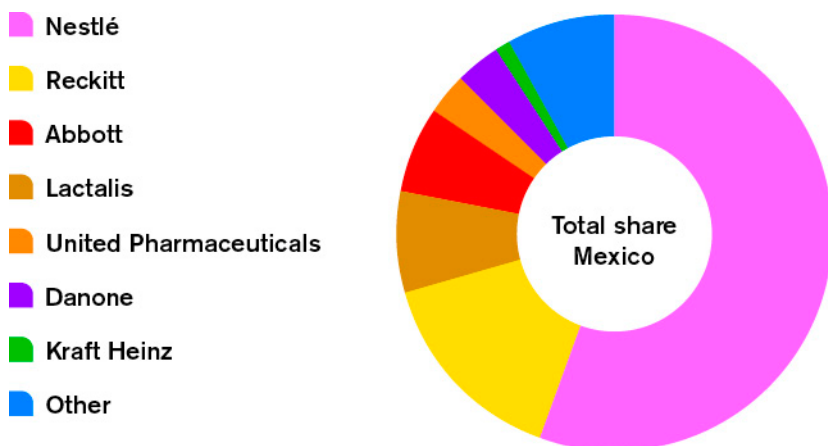
^e WHO recommends that children aged 6 and up to 24 months of age should receive foods from four or more key food groups every day.

^f Euromonitor International uses the following definition of baby food: it comprises dried baby food, prepared baby food, other baby food, and milk formula (including standard milk formula, follow-on milk formula, growing-up milk formula, special baby milk formula).



Nestlé is the largest player in the baby food market in Mexico, accounting for over 50% of sales in 2020, as shown in Figure 4.³² The next largest company is Reckitt. FrieslandCampina is a relatively small player in Mexico, captured within 'others'.

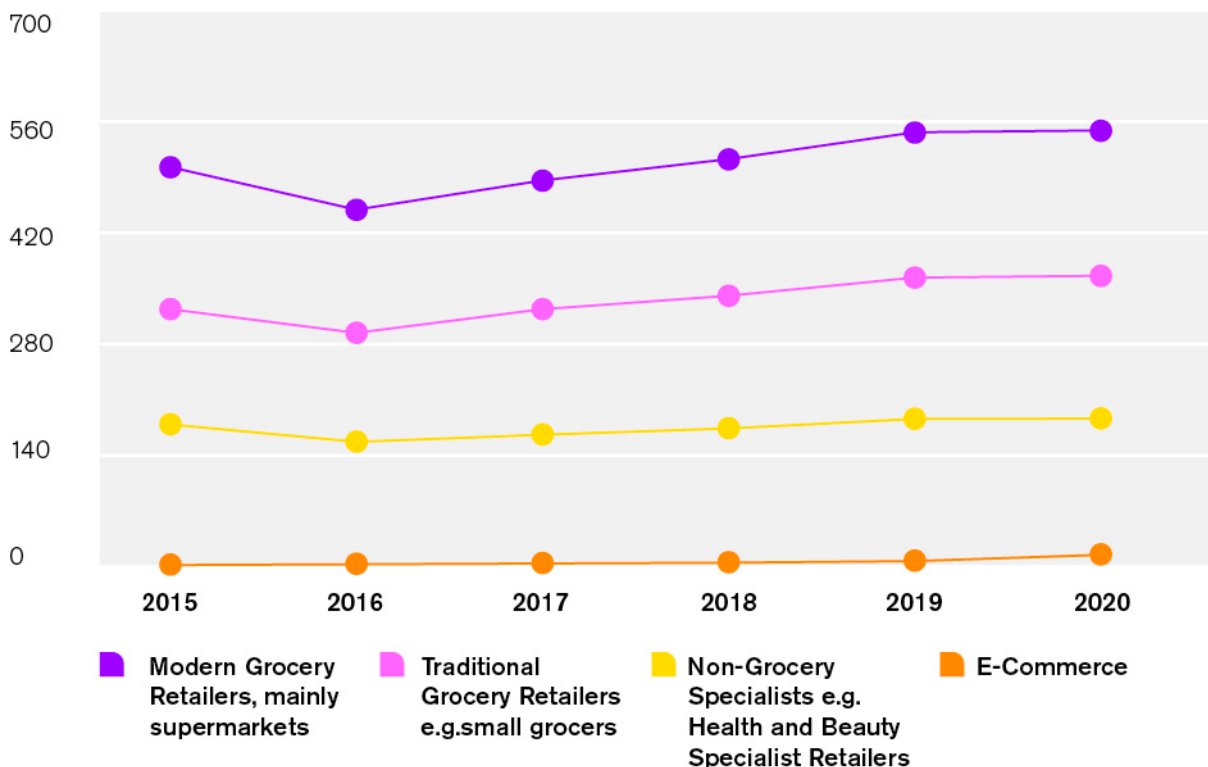
Figure 4: Company shares of the baby food market in Mexico, 2020 (US\$ million)



Source: Euromonitor International; Packaged Food, 2021 Industry Edition

As shown in Figure 5, the predominant and rising channels of sales for BMS and CF in Mexico are modern grocery retailers and non-grocery specialists which have stagnated between 2019 and 2020. Small retailers account for a relatively lower but steady level of sales. E-commerce has almost doubled between 2019 and 2020, though still remains by far the smallest route to market.

Figure 5: Value of sales of baby food by distribution channel 2015-2020 (US\$ million)



Source: Euromonitor International; Packaged Food, 2021 Industry Edition



2.3 Mexican laws and regulations restricting the marketing of foods for infants and young children

In addition to assessing compliance with The Code, including the guidance associated with WHA 69.9, the Westat study assessed corporate compliance with prevailing relevant national regulations relating to BMS and CF where they go beyond The Code.

Relevant national regulations span six legal instruments which relate to the marketing and labelling of BMS products, and the labelling of food and non-alcoholic beverages for infants and young children. (This term encompasses what ATNI refers to as complementary foods). These measures apply to various types of marketing, and to labelling, in different ways to different product types, including infant formula, follow-on formula, growing-up milks, formulas for special medical purposes and complementary foods.

According to the 2020 WHO, UNICEF and IBFAN Status Report on National Implementation of the International Code, Mexico's Code law is classified as "moderately aligned with the Code". This assessment overall considers it to be generally stronger in relation to restricting promotions to the general public and within healthcare facilities, but much weaker in relation to controlling engagement with healthcare workers. With respect to labelling, in some areas and/or in relation to certain product types, the local measures are weaker than The Code and in others they go beyond it. Moreover, the 2020 Status Report found that the provisions of The Code embedded in Mexico's legal measures do not include effective mechanisms for monitoring, reporting, and sanctioning against non-compliance.³³ The laws and gaps between them and The Code are documented more fully in the [Westat report](#).



3. Study methodology and scope

3.1 Study methodology

ATNI's methodology for the Mexico study was based on the 2017 NetCode Protocol for Periodic Assessment (NetCode Protocol).³⁴ Published by WHO and UNICEF and developed in partnership with several expert organizations, it stipulates the types of data that should be collected, where and how. The way the NetCode Protocol was applied for this study is summarized in Table 1.

The objectives of the study were to determine whether the marketing of companies whose BMS and CF products were for sale in Mexico complied with The Code, including the guidance associated with WHA 69.9, and the Mexican national regulations where stricter than The Code.

3.2 Geographic scope

The NetCode protocol recommends that the study be conducted in the largest city of the chosen country. Hence, Mexico City was selected as the geographic study area.

3.3 Product type scope

The product types within the scope of the research were all BMS and CF for infants and young children marketed as suitable from birth to 36 months of age, including:

BMS

- Infant formula – for infants from birth to six months
- Follow-on formula – marketed as suitable for older infants from six months to 12 months of age
- Growing-up milk – marketed as suitable for young children from 12 to 36 months of age
- Complementary foods when marketed as suitable for infants below six months of age

CF

- Complementary foods marketed as suitable for older infants and young children from six to 36 months of age

Formulas for special medical purposes are included within the above definitions of product types. Bottles and teats were not included within the scope of the study.

3.4 Company scope

Of the BMS/CF Marketing Index 2021 constituent companies, products were found in the study area made by six: Abbott, Danone, FrieslandCampina, KraftHeinz, Nestlé, and Reckitt. Marketing was also found relating to 61 products made by 10 'other' companies not included in that Index (Alpura, Ausnutria, Bayer, Holle, Lactalis, Migh International Distribution, Nucitec, Perrigo, Siegfried Rhein, Super Pharmacies Guadalajara).

An additional 14 products were assessed made by three 'other' BMS manufacturers (Ordesa, Padsa, and Similares). However, there were no findings in relation to these three companies. The data presented in Tables 3 and 4 of this report therefore include not only the findings of the six companies included in ATNI's Index but also those of the ten 'other' companies, in order to provide a more complete picture of marketing across the whole market.



Table 1: Study location and activities

Mexico City	Healthcare facilities			
	Due to national restrictions related to the global COVID-19 pandemic, it was not possible to conduct interviews with mothers of young children up to 24 months, nor interviews with health professionals. It was also not possible to carry out observations in Health Facilities and Maternity Clinics, either, as per the NetCode protocol.			
	Retail stores: 10 physical retail outlets were selected	Evaluation of marketing and point-of-sale promotions and information and education materials.		
	Due to restrictions related to the COVID-19 pandemic, ATNI modified the protocol to select only the ten largest retailers, based on the local knowledge of the research partner, which marketed the majority of the relevant products. They were located in the selected subdivisions and included five pharmacies and five supermarkets . <i>(It was not possible to carry out observations at small retailers).</i>			
	Labels and inserts of 120 unique BMS products. One pack of each product type (if available) was purchased.	Labels and inserts of legitimate products assessed for compliance with The Code and national regulations <u>where they go beyond The Code</u>.		
	The full list of all products to be assessed in the study was collated using a detailed internet search and store visits in Mexico City.			
Mexico (country-level)	Media: assessment of traditional and internet advertising.	Websites and online retailers were selected based on relevance and prominence. Other media channels were selected based on size of audience.	Paid advertising: media channels monitored for six months.	Television (31) and radio (44)*
			Online retailers monitored for eight weeks	10 parent and child websites and 4 social media platforms associated with the websites.**
				Five online retailers
				Companies' own advertising: data was obtained for eight weeks.

* Television and radio stations were monitored by Eficiencia Informativa (EFINFO), an independent media monitoring organization.

** Social media platforms included 4 YouTube pages, 9 Facebook pages, 3 Twitter pages, and 6 Instagram pages.

*** Social media platforms included 6 YouTube pages, 9 Facebook pages, 5 Twitter pages, and 5 Instagram pages.



3.5 Product scope

The study aimed to monitor marketing in relation to all BMS and CF on the market during the research period.

For companies included in the BMS/CF Marketing Index 2021, ATNI includes only products made specifically for the Mexican market, i.e. 'legitimate products'. ATNI was able to confirm with the six companies assessed in this Index which of their products initially found on the market through a wide-ranging search of online sites and physical stores were in fact legitimate products.

As shown in Table 2, for these companies, this figure totaled 334, comprising 112 BMS products and 222 CF products. These companies confirmed that 50 other BMS and CF products found were, in fact, parallel imports. Parallel imports are branded products that are imported into a market and sold there without the consent of the owner of the trademark in that market. ATNI therefore excluded them from the study.

Table 2: Number of legitimate products included in the study made by the six companies assessed on the ATNI Index

Company	Total	BMS	CF
Abbott	15	15	n/a
Danone	14	14	0
FrieslandCampina	10	10	n/a
KraftHeinz	35	0	35
Nestlé	233	46	187
Reckitt	27	27	n/a
Total	334	112	222

A further 75 products were found made by 13 other companies not included in ATNI's Indexes. Of these 75 products, marketing was found in relation to 61 products by 10 companies, but none in relation to the other three companies. ATNI contacted these companies to try to confirm how many of their products were legitimate products and how many were parallel imports. However, none of the companies responded.



4. Results

Table 3 on page 16 presents a summary of the study's findings by article of The Code. It shows the observed incidences of non-compliance with The Code, and/or national laws and regulations where stricter, for the six companies present in the country included in the BMS/CF Marketing Index 2021, and for the 13 'other' companies.

As outlined in Table 2, it was not possible to visit medical facilities (health facilities and maternity clinics) in Mexico due to COVID-19 pandemic restrictions during the data collection period. Accordingly, it was not possible to interview mothers and healthcare workers nor to make observations of materials or equipment donated by the companies within those facilities.

Therefore, unlike previous in-country assessments, no findings in relation to Article 6 and Article 7 of The Code (promotional marketing within the healthcare system and among healthcare workers), as well as sub-article 4.3 (equipment and materials) and sub-articles 5.2 and 5.4 (provision of product samples and gifts to mothers and caregivers), are presented. As findings from interviews are not usually included within the ATNI Index companies' scores (because they are based on recollection and subject to recall bias), this variation in the study protocol does not therefore substantially influence these companies' scores. As a result, their scores are essentially equivalent to those for other countries conducted previously in other countries.

A total of 325 incidences of non-compliant marketing practices were found for BMS products, CF products and CF brands during the study period for all 19 companies. Of these, 264 related to the practices of the six companies included in the BMS/CF Marketing Index 2021, and 61 related to the 10 'other' companies.

4.1 Results by company

The six companies included in ATNI's BMS/CF Marketing Index 2021, and therefore rated in this report (Abbott, Danone, FrieslandCampina, KraftHeinz, Nestlé, and Reckitt), are scored according to their relative level of compliance (i.e., their scores are normalized). The normalized scores are calculated by dividing the total number of incidences of non-compliance by the total number of BMS/CF products found. No weighting related to the companies' market share is applied.

As in previous studies, companies are rated as being in complete compliance with The Code, including the guidance associated with WHA 69.9, and stricter national legal requirements if the number of non-compliant incidences is zero. If, once normalized, there is less than one incidence of non-compliance, they are rated as having a high level of compliance. If there are between 1.1 and 2 normalized incidences of non-compliance, a medium compliance rating is given. A low compliance rating is given when a company is found to have more than 2.1 normalized incidences of non-compliance.

The results for all companies are set out in Table 3.



Table 3: Total and relative number of observed incidences of non-compliance by company and by article of The code, and normalised level of compliance

	Level of compliance	Normalised level of non-compliances	Total number of products found	Total number of incidences of non-compliance	Media monitoring (traditional and online)	Promotions at retail outlets (physical + online)	Labels
					Sub-article 5.1	Sub-article 5.3	Sub-article 9.2, 9.4
Companies included in BMS/CF Marketing Index 2021							
Abbott	Low	2.80	15	42	12	20	10
Danone	High	0.21	14	3	1	0	2
Friesland Campina	Low	2.60	10	26	12	8	6
KraftHeinz	High	0.14	35	5	0	0	5
Nestlé	High	0.52	233	122	41	48	33
Reckitt	Low	2.44	27	66	28	29	9
Sub total			334	264	94	105	65
Other companies not included in the BMS/CF Marketing Index 2021							
Alpura			2	6	0	4	2
Ausnutria			3	2	0	2	0
Bayer			16	14	1	4	9
Holle			1	1	1	0	0
Lactalis			18	21	1	9	11
Migh International			3	3	0	0	3
Nucitec			5	3	0	0	3
Perrigo			6	1	0	0	1
Siegfried Rhein			4	7	3	0	4
Super Pharmacies Guadalajara			3	3	0	0	3
Sub-total Other			61	61	6	19	36
Total			395	325	100	124	101

Source: Westat Mexico report (2020)

Abbott had a total of 42 incidences of non-compliance with The Code, relating to 15 BMS products, and none in relation to local regulations that go beyond The Code. Around half of the findings (20 of the 42 incidences of non-compliance) were related to observations made at retailers' sites, both online and in physical stores. Of these, the 14 online promotions, most of which were price-related, were all for growing-up milk whereas among the physical retailer findings, four related to growing-up milk and two were for infant formula products. A total of 10 of Abbott's product labels (seven for infant formula, one for follow-on, and two for growing-up milk products) were found to be non-compliant as they were missing one of the required statements that powdered formulas should be prepared one feed at a time. (This is recommended in the WHO/FAO guidelines on safe preparation, storage and handling of powdered infant formula, referenced in WHA 61.20, and as assessed by the NetCode Protocol. It is not, however, a requirement of local regulations). The remaining 12 incidences are attributed to media monitoring findings, eight online and four on traditional media (these were in the form of television adverts which were repeated 216 times in total during the study period⁹), all of which related to

⁹ The company's score is, however, based only on the number of unique adverts.



growing-up milk products. Abbott's overall normalized score is 2.80 and it is therefore rated as having a low level of compliance.

Danone had three incidences of non-compliance with The Code relating to 14 BMS products, and none in relation to local regulations that go beyond The Code. Two products, one infant formula and one follow-on formula, had non-compliant labels, as they conveyed an endorsement by professionals which is non-compliant with Recommendation 4 of the guidance associated with WHA 69.9 that stipulates which messages should and should not be used, including on package labels. The remaining finding was a promotion on the company's website. No incidences of non-compliance with The Code and local regulations were found during traditional media monitoring, nor during visits to physical retailers or on online retailer sites. This may be due to Danone's relatively small market presence in Mexico. Danone's normalized score is 0.21 and it is therefore rated as having a high level of compliance.^h

FrieslandCampina had 26 incidences of non-compliance with The Code relating to ten BMS products, and none in relation to local regulation that go beyond The Code. The majority of incidences of non-compliance were found on the company's own media sites. These findings related to 12 unique adverts or promotions of growing-up milk; there were no findings from the traditional media monitoring nor on online parenting sites. Growing-up milk promotions were also found on retailer sites; three promotions were found on online retail sites and five at physical outlets. However, the non-compliance related to labelling was more common for infant formula (four out of six non-compliant product labels). All were missing one of the required statements that powdered formulas should be prepared one feed at a time. (This is recommended in the WHO/FAO guidelines on safe preparation, storage and handling of powdered infant formula, referenced in WHA 61.20, and as assessed by the NetCode Protocol. It is not, however, a requirement of local regulations). FrieslandCampina's normalized score is 2.60 and it is therefore rated as having a low level of compliance.

KraftHeinz had five incidences of non-compliance with The Code relating to 35 CF products, and none in relation to local regulation that go beyond The Code. All five findings are attributed to non-compliant product labels which are missing the required wording stated in recommendation 4 of the guidance associated with WHA 69.9 on the importance of continued breastfeeding for up to two years or beyond. There were no other incidences of non-compliance across the media monitored (traditional and online) or at physical retail outlets. This may be due to the company's relatively small market presence in Mexico. KraftHeinz's normalized score is 0.14 and it is therefore rated as having a high level of compliance.ⁱ

Nestlé had 122 incidences of non-compliance with The Code in relation to a total of 233 products. The majority of the incidences of non-compliance related to 48 promotions at both physical and online retailers. Most observations were on online retailer sites amounting to 37 promotions, all for growing-up milk, whereas 11 incidences of non-compliance were observed at physical retail outlets; four for infant formula, two for follow-on formula, four for growing-up milk, and one related to CF. There were adverts for 35 products on online media sites including company's own media and parenting sites; 21 related to growing-up milk, and three related to CF that were missing the required wording - stated in Recommendation 4 of the guidance associated with WHA 69.9 - on the importance of continued breastfeeding for up to two years or beyond and the importance of not introducing complementary feeding before six months of age. The remaining 11 relate to BMS products within Nestlé's Good Care and Nido brands, which fall under the scope of The Code and therefore should not be promoted, as well as Nestlé's Nestum and Gerber brands, which were mainly for CF adverts lacking the wording set out in the guidance associated with WHA 69.9. Additionally, six incidences of non-compliance were found on traditional media, namely televised adverts of growing-up milk and CF. These television adverts were

^h Although Danone shared that the endorsement statement had been removed from its products in Mexico, it is still counted here as it was found during the course of the study.

ⁱ Were the results relating to CF 6-36 to be removed, to provide a like-for-like comparison with previous ATNI in-country studies that did not measure compliance against WHA 69.9, there would be no incidences of non-compliance relating to BMS products and Kraft Heinz would, therefore, be rated as having complete compliance.



repeated 428 times in total during the study period.^j A total of 33 product labels were found to be non-compliant, 29 of which were related to CF. They did not include some of the wording outlined in Recommendation 4 of the guidance associated with WHA 69.9, i.e., a statement on the importance of continued breastfeeding *for up to two years or beyond*, and some had nutrition and/or health claims. According to the guidance associated with WHA 69.9, claims are not permitted for foods for infants and young children except where specifically provided for in relevant Codex standards or national legislation (in line with CAC/GL 23-1997 Codex guidelines for the use of nutrition and health claims). The remaining non-compliant labels relate to Nestlé's growing-up milks. They omitted some of the information required in accordance with sub-Article 9.2, such as stating the superiority of breastfeeding or including a warning against the health hazards of inappropriate preparation and use, and in accordance with the WHO/FAO guidance associated with WHA 61.20, such as showing the use of hygienic practices and the need to boil water and sterilize utensils. Nestlé's normalized score is 0.52 and it is therefore rated as having a high level of compliance.^k

Reckitt had 66 incidences of non-compliance with The Code in relation to 27 BMS products. The majority of the incidences of non-compliance were found during the online media monitoring which includes the company's own media and parenting sites. In total, 25 online adverts were observed: 21 related to growing-up milk and four related to Reckitt's brand Enfagrow, which encompasses products covered within the scope of The Code and therefore should not be promoted. Additionally, three incidences of non-compliance were found on traditional media, namely televised adverts for growing-up milks. These adverts were repeated 187 times in total during the study period.^l A total of 29 promotions were found at both physical and online retailers: Of these, 21 price promotions were found on online retailers, 17 of which related to growing-up milks and two each to infant formula and follow-on formula. Eight were found during observations at physical retail outlets: two related to infant formula and six related to growing-up milk.

Nine of Reckitt's products were found to have labels non-compliant with The Code in one or more ways; six were for infant formula, one was for follow-on formula and two were related to growing-up milk, one of which had a total of seven non-compliances primarily due to missing information and instructions required by sub-article 9.2 and WHA 61.20. All nine labels were missing one of the required statements that powdered formulas should be prepared one feed at a time. (This is recommended in the WHO/FAO guidelines on safe preparation, storage and handling of powdered infant formula, referenced in WHA 61.20, and as assessed by the NetCode Protocol. It is not, however, a requirement of local regulations). Reckitt's normalized score is 2.44 and it is therefore rated as having a low level of compliance.

Other companies: In terms of the 10 other companies (Alpura, Ausnutria, Bayer, Holle, Lactalis, Migh International Distribution, Nucitec, Perrigo, Siegfried Rhein, Super Pharmacies Guadalajara), 19% or 61 of all observed incidences of non-compliance for all companies related to the 61 products these companies made, only two of which were CF. Thirty-six were related to non-compliant product labels, many of which were missing information and instructions required by sub-article 9.2 (such as stating the superiority of breastfeeding or including a warning against the health hazards of inappropriate preparation and use), or as set out in the guidance relating to WHA 61.20 (such as showing the use of hygienic practices and the need to boil water and sterilize utensils, as well as including statements that powdered formulas should be prepared one feed at a time and that leftovers should be discarded immediately). Other labelling non-compliances related to additional requirements based on national regulations that go beyond The Code.

Sixteen incidences of non-compliance were related to point-of-sale promotions, mostly price-related, on online retail sites, while three incidences of non-compliance relating to Lactalis growing-up milk

^j The company's score is, however, based only on the number of unique adverts.

^k Were the results relating to CF 6-36 to be removed, to provide a like-for-like comparison with previous ATNI in-country studies that did not measure compliance against WHA 69.9, there would be a total of 81 incidences of non-compliance relating to 46 BMS products, generating a normalized score of 1.76, and a medium level of compliance.

^l The company's score is, however, based only on the number of unique adverts.



products were found at physical retailers (one gift and two price promotions). Although no advertisements were found on traditional media for products made by the 13 other companies, six unique adverts were observed on online media sites, of which three were for infant formula, two related to growing-up milk and one was a brand-level promotion. ATNI does not allocate a normalized score to these companies as they are not included in the BMS/CF Marketing Index 2021.

4.2 Results by article of The Code

Information/educational materials at physical retailers (Article 4, sub-article 4.2)

There were no instances of non-compliance with this article of The Code observed at any of the large physical retail sites.

Media monitoring: traditional and online (Article 5, sub-article 5.1, and Recommendation 4 of WHA 69.9)

The majority of the findings across all forms of media monitored - 76 out of a total of 100 unique advertisements - related to growing-up milk products (76%), followed by 16 (16%) branded promotions that did not relate to a specific product but advertised the company or brand in relation to its BMS/CF products, followed by five findings for CF^m (5%) and three of infant formula (3%).

In total there were 24 (24%) paid-for advertisements, including televised commercials and advertising on parenting sites, whereas the remaining 76 (76%) findings were on another of the companies' associated online platforms.

Traditional media: Based on monitoring undertaken by media monitoring company EFINFO, 13 unique televised advertisements and promotions were found, or 13% of the total found across all forms of media monitoring. No findings were reported from the monitored radio channels. All of the observations in the traditional media monitoring related to Abbott, Nestlé, and Reckitt products. Of the 13 non-compliant televised adverts, three (23%) were for Reckitt's growing-up milk products, four (31%) for Abbott's growing-up milk products and six (46%) for Nestlé's products, of which four were for growing-up milk and two for CF which did not meet the required wording stipulated in Recommendation 4 of the guidance associated with WHA 69.9. Each unique ad was repeated on local TV channels 831 times (187 times for Reckitt, 216 times for Abbott, and 428 times for Nestlé).

Online media: Of the 87 advertisements and promotions found online, 76 appeared on company or brand associated websites and/or social media pages, whereas 11 appeared on parenting websites and/or their social media pages.ⁿ

Of the 76 advertisements on company/brand associated online media platforms, 36 (47%) were on the associated websites. Of those, 20 were found on Nestlé's website, seven on Reckitt's, six on Abbott's, one on Danone's, one on Bayer's and one on Siegfried Rhein's website. On Facebook, there were 12 (16%) findings on the pages of Nestlé, FrieslandCampina and Siegfried Rhein. An additional 12 (16%) findings related to e-mails received by researchers: two from Abbott and ten from Reckitt. As part of the research process, they had signed up, when finding invitations to do so online, to receive marketing. These e-mails are examples of indirect contact initiated by the companies with mothers and caregivers, which is non-compliant with sub-article 5.5 of The Code.

^m While neither the Mexican regulations nor The Code or WHA 69.9 prohibit the advertisement or promotion of CF per se, Recommendation 4 in the guidance associated with WHA 69.9 stipulates that certain messages should or should not be conveyed in all forms of promotion. Therefore, each advert or promotion for these products was reviewed to determine whether it was compliant with that recommendation.

ⁿ The same advertisements found on more than one social media platform were counted as separate findings.



There was a total of nine adverts on Instagram, four for FrieslandCampina's products and five for Nestlé, as well as four adverts found on FrieslandCampina's Friso brand Twitter channel and three on Reckitt's Enfa brand Youtube page.

Five of the findings on parenting sites were for Reckitt and four were for Nestlé, all nine of which related to growing-up milk. Among the 'other' companies, there was only one finding for Holle and one for Lactalis, both of which were infant formula advertising.

The majority of the online adverts promoted growing-up milk products (65 or 75% of all incidences observed online), and three were for Nestlé's CF. In total, 16 online adverts were not related to specific products, but rather advertised brands associated with products within the scope of the study. Eleven of these related to BMS products marketed under Nestlé's Good Care and Nido brands, as well as CF products within the Nestum and Gerber brands, where promotions lacked the wording recommended in guidance related to WHA 69.9. Four related to Reckitt's brand Enfagrow and one related to a Siegfried Rhein infant formula.

Promotions at retail outlets (Article 5, sub-article 5.3)

Of the 124 point-of-sale promotion incidences of non-compliance, 33 (27%) were observed in physical retail stores whereas the remaining 91 (73%) were found on online retailer websites. The most common type of promotion was price-related, for which there were 80 (65%) observations. Of the price-related promotions, five were observed at physical retailers while 75 were observed on online retailers' websites. The next most common point-of-sale promotion was in the form of incentives to purchase products. There was a total of 31 (25%) such findings, 17 observed at physical retailers and 14 at online retailer websites.

Of the findings on both online and physical retail sites, 48 (39%) were related to Nestlé's products, 29 (23%) were associated with Reckitt, 20 (16%) related to Abbott, and only eight (7%) were tied to FrieslandCampina's products. There were no point-of-sale promotions for Danone and KraftHeinz products on either online sites or in physical retail outlets. Regarding the companies that are not included in the BMS/CF Marketing Index 2021, a total of 19 point-of-sale promotions were found (15%), 16 of which were online in connection with Alpura, Ausnutria, Bayer and Lactalis products.

The majority of the findings across both physical and online retailers, 105 of a total of 124 unique forms of point-of-sale promotions related to growing-up milk (85%), followed by 13 findings related to infant formula (10%), five to follow-on formula (4%) and one to a CF (1%).

Physical retailers: Among the 33 point-of-sale promotions observed in the five pharmacies and five supermarkets visited, 11 (33%) were for Nestlé products, eight for Reckitt's (24%) followed by six for Abbott products (18%), and five which related to FrieslandCampina's products (15%). Three were in relation to Lactalis' products, one of the 'other' companies (10%). No promotions were observed for Danone and KraftHeinz products.

Incentives to purchase products were the most common form of promotion found in physical retail stores. There were 17 such instances in total, the most common example being bundles of two differently sized cans of the same product being sold as a single pack with stickers highlighting the combined products' overall yield. This promotional device serves to encourage consumers to buy the pack with the implication that it is of 'good value' (given that the same information on product yield can be found on the label on the back of packs). This type of promotion was found among four of the companies included in the BMS/CF Marketing Index.^o In addition to price promotions, another type of promotion observed was an offer of a free gift (e.g. a free pack of formula, feeding bottle); there were two instances for Nestlé products, one

^o Each example of a promotion found in relation to a product is counted as a non-compliance therefore more than one non-compliance may be attributed to a product.



for FrieslandCampina, one for Reckitt and one for Lactalis, all promoting growing-up milk. There was also one example of a special display for Reckitt's growing-up milk, Enfagrow.

The Code also recommends that no company personnel should seek direct or indirect contact with mothers and caregivers, whether it be in retail outlets or through social media channels,³⁵ as stipulated by article 5.5. In total, there were five incidences in relation to Nestlé's products in which the packaging had an invitation to make contact with the company by visiting its website and/or Facebook page. Four of these incidences were attributed to infant formula and follow-on formula, whereas one was attributed to CF and therefore did not comply with recommendation 5 of the guidance related to WHA 69.9 on cross-promotions. The recommendation calls on companies that market BMS, in this case Nestlé, to refrain from engaging in the direct or indirect promotion of their other food products for infants and young children through establishing any relationships with parents and other caregivers (whether through baby clubs, social media groups, childcare classes, etc.). In this finding, there is an explicit invitation for the consumer to visit a website where the visitor is asked to 'be part of the club' and sign up to *Nestlé Baby and me*.

Online retailers: Out of the 91 point-of-sale promotions observed on the websites of the five largest retailers, 37 (41%) were for Nestlé products, 21 for Reckitt's products (23%) followed by 14 for Abbott products (15%), and three for FrieslandCampina's products (3%).^p The remaining 18% of the online point-of-sale promotions found related to the 'other' companies; six for Lactalis (7%), four each for Alpura and Bayer (4%, respectively), and two for Ausnutria (2%). No online promotions were observed either for Danone or KraftHeinz products.^q

The most common form of promotion found on online retailer sites were price-related discounts. In total, there were 75 (82%) such findings across all of the companies. Fifteen (15%) findings were incentives to purchase products in the form of accumulating points for added benefits, and two (2%) related to free gift promotions in connection with Nestlé's growing-up milk.

Promotions of growing-up milk were most common on online retail websites, with 83 of the findings attributed to this product type (91%) followed by five findings related to infant formula (5%) and three associated with follow-on formula (3%).

Labels (Article 9, sub-article 9.2 and 9.4, WHA 58.32, 61.20 and 69.9)

In total, 101 (31%) of the total incidences of non-compliance were attributed to products with non-compliant labels:

- 35 findings (35%) were related to infant formula made by four of the six companies assessed in the BMS/ CF Marketing Index 2021 (except KraftHeinz and Nestlé), and the products made by 'other' companies.
- 15 incidences (15%) were related to follow-on formula, 11 of which were made by 'other' companies.
- 17 (17%) were found for growing-up milk.

With respect to CF, none of these products were labelled as suitable for infants younger than six months of age. Thirty-four (34%) of the non-compliant labels were attributed to CF made by KraftHeinz and Nestlé, as described earlier in the company findings. Sixty-two (61%) of the non-compliant labels

^p For all companies ranked by ATNI, the only promotions included in their scores on major online retail sites were those with which they confirmed they had a commercial relationship. ATNI is aware that some point-of-sale promotions on these sites are initiated by those sites or small traders which do not procure their merchandise from the companies directly. Nevertheless, ATNI believes that The Code places a responsibility on manufacturers to encourage online retailers to ensure that all their BMS products are marketed responsibly on those sites in line with The Code.

^q Online CF point-of-sale promotions are not assessed given that guidance on the assessment of the marketing of these products on online retail settings is limited.



were missing one or more of the statements recommended in the WHO/FAO guidelines on safe preparation, storage and handling of powdered infant formula, per WHA 61.20, and as assessed by the NetCode Protocol. (However, these statements are not required by local regulations). This was the case for all companies included in the BMS/CF Marketing Index 2021 (except KraftHeinz, for which only CF products were found to which this requirement does not apply, Danone and eight of the 'other' companies').

The information most commonly missing from the labels as recommended in the WHO/FAO guidelines was:

1. Powdered formulas should be prepared one feed at a time;^s
2. Any remaining leftovers should be discarded immediately;
3. Instructions showing the use of hygienic practices (e.g., clean hands and preparation surfaces);
4. Instructions showing the need to boil water and sterilise utensils.^t

Another common finding across all product types was the presence of health and nutrition claims which are proscribed by WHA 58.32. WHA 69.9 guidance extends the prohibition of health and nutrition claims to CF except where specifically provided for in relevant Codex standards or national legislation (in line with CAC/GL 23-1997 Codex guidelines for the use of nutrition and health claims). This finding was common across four companies included in the BMS/CF Marketing Index 2021, except Danone and KraftHeinz. Claims were also found on two products made by 'other' companies, Alpura and Migh International. All of the claims were on growing-up milks or CF.

Other reasons labels were found to be non-compliant included missing wording required by sub-article 9.2, such as not including the words "Important notice" or their equivalent, and/or not including a statement on the superiority of breastfeeding, omitting statements that the product should be used only on the advice of a health worker (in a font size that is easily visible, in bold and on a contrasting background), and warnings against the health hazards of inappropriate preparation and usage.

Incidences of non-compliance related to sub-article 9.2 were most common among the product labels of the 'other' companies,^u particularly growing-up milks. Among the companies included in the BMS/CF Marketing Index, such incidences were found for one Reckitt growing-up milk and three of Nestlé's growing-up milks.

There were a few findings of non-compliance with Recommendation 4 of the guidance associated with WHA 69.9, that stipulates which messages should and should not be used on labels. One of these requirements is that labels should not convey an endorsement or anything that may be construed as an endorsement by a professional or other body, unless it has been specifically approved by relevant national, regional or international regulatory authorities. Two of Danone's product labels and one of Reckitt's did not comply with this requirement.^v

Three types of non-compliance were identified in respect of Mexican regulations that go beyond The Code. This was mainly in relation to labels of products made by the 'other' companies, which may be parallel imports. First, there were six incidences (6% of all labelling non-compliances) where the instruction was omitted that the product should not be heated using a microwave oven in order to avoid the risk of serious burns. Second, there were five (14% of all labelling non-compliances) cases where a

^r Alpura, Bayer, Lactalis, Migh International, Nucitec, Perrigo, Siegfried Rhein, and Super Pharmacia Guadalajara.

^s While the labels of Nestlé's products had a clear instruction that one feed should be made at a time, and those of Danone also provided the instructions as assessed by the NetCode protocol, the labels of the other 11 companies' products didn't.

^t Mexican regulations expand on WHA 61.20 by requiring labels to state that the product must be prepared with water first boiled for five minutes and cooled until it is lukewarm. In case boiled water is not available, purified water at room temperature can be used. This information was missing from six growing-up milk products.

^u ATNI expects most of these to be parallel imports.

^v In a like-for-like comparison with previous ATNI in-country studies that did not measure compliance against WHA 69.9, these findings would be excluded from the total number of non-compliances found per product label. Danone would therefore have no non-compliant labels and Reckitt would have a total of six non-compliances instead of seven for the product in question. Consequently, there is no change to Reckitt's score as the number of non-compliant labels are counted regardless of the number of non-compliances attributed to them however Danone would receive a normalized score of 0.1 as it would have 1 non-compliance relating to 14 BMS products resulting in a high level of compliance.



statement was not included - required on follow-on formulas and growing-up milks - that the product should be used as part of the weaning process and should not be given to infants under six months. Third, one soy-based infant formula did not fully meet the requirements for such formulas that does not contain milk or any of its derivatives. Although the label adhered to naming the product as non-dairy, it did not include the wording: "Does not contain milk", "Does not contain dairy derivatives", or an equivalent legend, which the product was missing.^w

^w Article 140 (I) of the Regulations for the Sanitary Control of Products and Services goes beyond the minimum standards required by The Code and establishes requirements different from those contained in the Codex Standard on Infant Formula. It states in the case of formula products: "For the purposes of this Regulation, the following are included within formulas: (I) milk formula, when at least 90% of the proteins come from milk or whey and (II) non-dairy formula, when the product does not contain milk or any of its derivatives." Article 140 (II) of regulation requires that in the case of non-dairy formula, when the product does not contain milk or any of its derivatives, the label must expressly indicate: "Does not contain milk", "Does not contain dairy derivatives", or an equivalent legend.



4.3 Results by product type

Analysis of the overall observed incidences of non-compliance by product type is presented in Table 4. The product promoted inappropriately most often in Mexico was growing-up milk (61%), followed by infant formula (16%). CF accounted for the next highest proportion (12%), followed by follow-on formula (6%) and lastly by marketing at a brand level, which could not be attributed to a specific product (5%). There were no observed incidences for CF being marketed as suitable for infant and young children under six months of age. Overall, 81% of the incidences of non-compliance were attributable to the six companies included in the BMS/CF Marketing Index 2021, whereas 19% were attributable to the ten companies within the 'Other' category.

Table 4 Total number of observed incidences of non-compliance by product type

Product type		BMS				CF	Unspecified product
	Total incidences of non-compliance	Complementary foods (0-6 months)	Infant formula	Follow-on formula	Growing-up milk	Complementary foods (6-36 months)	BMS/CF brand
Companies included in the ATNI BMS/CF Marketing Index							
Abbott	42	N/A	9	1	32	N/A	0
Danone	3	0	1	1	1	0	0
FrieslandCampina	26	N/A	4	1	21	N/A	0
KraftHeinz	5	0	0	0	0	5	0
Nestlé	122	0	4	2	70	35	11
Reckitt	66	N/A	10	3	49	N/A	4
Sub-total	264	0	28	8	173	40	15
Other companies not included in the ATNI BMS/CF Marketing Index							
Alpura	6	0	0	0	6	0	0
Ausnutria	2	0	1	0	1	0	0
Bayer	14	0	8	3	3	0	0
Holle	1	0	1	0	0	0	0
Lactalis	21	0	7	4	10	0	0
Migh International	3	0	1	1	1	0	0
Nucitec	3	0	1	1	1	0	0
Perrigo	1	0	0	1	0	0	0
Siegfried Rhein	7	0	3	1	2	0	1
Super Pharmacies Guadalajara	3	0	1	1	1	0	0
Sub-total Other	61	0	23	12	25	0	1
Total	325	0	51	20	198	40	16
Total %		0%	16%	6%	61%	12%	5%



5. Recommendations

ATNI urges the companies whose marketing practices were assessed in this study to immediately begin work to determine how the identified incidences of non-compliance occurred, and to put in place necessary systems to eliminate them to ensure they do not recur. Further, ATNI recommends that these companies strengthen their marketing policies to bring them fully into line with the intent and specific recommendations of The Code and all subsequent relevant resolutions, including WHA 69.9 and the associated guidance.

In addition, ATNI hopes that the authorities in Mexico will find the study useful. While the current legal measures appear to be generally effective, the findings presented here illustrate which areas the authorities could consider addressing when revising legal measures relating to the marketing and labelling of BMS and CF. Chief among these would be filling all of the gaps between the current legal measures and The Code (as set out in the associated Westat report in detail) and extending the scope of all of those measures to encompass follow-on formulas, growing-up milks and CF.

It became clear during the research that the manufacturers and other parties differ in their interpretation of the prevailing regulations. It would, perhaps, facilitate all stakeholders' understanding and companies' compliance with Mexico's legal measures, were they to be consolidated and clarification provided about which provisions apply to which types of products (i.e. infant formulas, follow-on formulas, growing-up milks and foods for infants and young children, including complementary foods).

With respect to specific forms of marketing, ATNI makes the following recommendations:

Advertisements and point-of-sale promotions on traditional and digital media

There are two principal reasons that the majority of incidences of non-compliance were related to growing-up milks and CF marketed as suitable for children aged 6-36 months. The first is that current local regulations are not fully aligned to The Code. Advertising of BMS is allowed when it meets a number of criteria, such as encouraging breastfeeding and expressly indicating that milk formula is recommended only in the case of a child's intolerance of breastmilk, the absence of the mother, the mother's inability to give milk, or for any other well-founded health reason.^x The current requirements could be strengthened to bring them fully into line with The Code, which would also entail broadening the application of the Mexican legal framework to the marketing of formulas intended for older infants and young children up to 36 months of age and to the marketing of CF according to the recommendations in the guidance related to WHA resolution 69.9.

Further, none of the policies of the six companies included in the ATNI Index cover growing-up milks or CF. However, most of these companies follow their own BMS policies where they are stricter than national regulations which is why, for the most part, there were no adverts or promotions for infant and follow-on formulas in this, a higher-risk country. These six companies are urged to extend the product scope of their BMS policies, and the other companies are urged to adopt policies that fully align to The Code, if they do not already do so. Addressing this gap would also help to reduce the likelihood of cross-promotion proscribed by Recommendation 5 of the guidance associated with WHA 69.9.

In addition, in light of the growing use and reach of online media, it is, of course, critical that any additional governmental or corporate policies explicitly cover these forms of media, including the use of social media channels and e-mail subscriptions that allow companies to indirectly contact mothers and caregivers.

^x Article 25, *Regulations of the General Health Law on Advertising Matters*.



Promotion on online and physical retailers' platforms

ATNI recognizes that not all promotions found within 'bricks and mortar' stores nor on online retail sites will have been initiated by, or agreed between, manufacturers and retailers. Nevertheless, it is the responsibility of all market participants to monitor their marketing practices and to take steps to ensure that they conform to The Code. ATNI recognizes that companies must operate in compliance with anti-trust regulations which prevents, inter alia, any company influencing the pricing decisions of another. Within that context, manufacturers are urged to look for ways to engage with their industry associations, retailers and/or regulators to ensure that there are no promotions of BMS products in the retail environment. Similarly, the authorities are encouraged to do more to ensure that distributors and retailers, within physical stores and online, understand their obligations under local regulations and The Code, and that suitable penalties are in place to deter infraction of those obligations. Specifically, attention should be focused on incentives to purchase products, as well as price promotions, given the high number of such incentives that were found.

Product labelling

While product labels were broadly compliant with The Code and the aspects of local regulations that go beyond The Code, some gaps remained, primarily in relation to the provisions of WHA 61.20 which came into effect in 2008. The authorities and companies should aim to close these gaps. Specifically, such efforts could extend labelling regulation to embed the requirements of WHA 61.20 on the safe preparation of powdered formulas.

Several factors appeared to contribute to a relatively large number of claims being found. First, the complexity of Mexican regulations in relation to the products to which the prohibition on claims applies, and wording allowed or not allowed. Second, many were found on parallel imports. Third, the policies of the companies assessed in the ATNI Index do preclude the use of claims and/or do not extend a commitment not to use claims to growing-up milks and/or CF. The government is therefore encouraged to clarify in its regulations the product scope and definition of nutrition and health claims. All manufacturers are encouraged to commit not to use any nutrition and/or health claims on any products, per WHA 58.32, and as set out in the guidance associated with WHA 69.9, which makes clear that this provision also covers CF. It is also important that companies apply all additional provisions of the guidance associated with WHA 69.9 relating to the labelling of BMS and CF products, including not using any form of endorsement by professional bodies.

Given that most of the product labels of the 'other' companies did not follow sub-article 9.2 requirements, all companies are urged to adopt Code-aligned policies so that their products are at least labelled according to The Code.

Parallel imports

This study illustrated that a large number of parallel imports are for sale in Mexico. Between 12%-50% of all products found made by the six companies included in the BMS/CF Marketing Index 2021 were confirmed to be parallel imports. In addition, many of the 75 products found made by 'other' companies appear likely to be parallel imports. The authorities could, perhaps, look at how the importation of these products might be more strictly controlled. Manufacturers are also urged to consider how they might deter this trade, so that only products intended for the Mexican market are sold in the country.

Monitoring

ATNI urges the Mexican authorities and local stakeholders to continue to regularly monitor the marketing of BMS and CF marketed as suitable for infants and young children up to three years of age, and to take steps to curtail it when found. The results of this study indicate that monitoring should focus particularly on point-of-sale promotions at both online and physical retail outlets, as well as advertising and promotion on all forms of media, and the labelling of products.



6. Study limitations

6.1 Limitations due to the COVID-19 pandemic

Several limitations to the study should be noted. First, the global COVID-19 pandemic imposed a series of limitations. Given the national measures put in place, it was not possible to visit health facilities and maternity clinics per the NetCode protocol. As a result, it was also not possible to undertake interviews with health professionals nor with mothers or caregivers of young children up to 24 months of age. Further, unlike previous ATNI in-country assessments, this study does not include findings in relation to sub-articles 4.2 and 4.3 on informational and educational materials or equipment provided to healthcare facilities, nor does it include any findings related to marketing within the healthcare system as outlined by Article 6 of The Code. This limited to some extent the data on which to score companies and prevented assessment of companies' marketing practices within the healthcare system, which - according to the 2020 status report on the national implementation of The Code - is the strongest element of regulation within Mexico's legal BMS framework.

Findings relating to sub-articles 5.2, 5.4 and 5.5 in terms of contact with mothers and the provision of product samples to them, and related gifts, are therefore not included in this study. It was also not possible to obtain information regarding contact with health professionals and any offers of financial and/or material inducements and product samples provided to them as outlined by Article 7 of The Code.

Further, due to the COVID-19 pandemic limitations, it was also not possible to visit and make observations at 33 small retailers in close proximity to healthcare facilities, as recommended by the NetCode protocol, which may underrepresent the level of non-compliance in such retailers. As a result, the study's findings cannot be generalized to the universe of stores in Mexico City. Additionally, observations were made only on one day, so it is possible that different promotions would have been identified had some stores been visited at a different time of the month or year.

6.2 Limitations related to the use of the NetCode Protocol and the scope of the study

Given the limited number of large and online retail stores included in the study (irrespective of the additional restrictions related to COVID-19 restrictions), the findings cannot be generalized to the universe of stores in Mexico City. Additionally, observations were made only on one day, so it is possible that different promotions would have been identified had some stores been visited at a different time of the month or year.

Traditional and digital media were monitored only for a few weeks, at one time during the year, at specific times of the day or week. Therefore, daily, weekly and seasonal variations will not have been fully captured. Similarly, given how extensive and pervasive online marketing now is, the study included relatively few digital media channels (the companies' Facebook, YouTube, Instagram and Twitter accounts, 10 parent-and-child websites and four social media platforms associated with those websites) and a limited number of social media marketing techniques. The media monitoring component of this study therefore provides only a limited snapshot of all of the advertising and marketing that takes place in Mexico. It is important to note that ATNI counted in each company's score only the number of unique adverts on traditional media and not the number of times each was repeated, which would better reflect the reach of that advertising. ATNI will strive to develop a different scoring system in future studies that captures reach.

Given that this study was conducted over only a short period of time, it is not necessarily representative of the situation in Mexico as a whole, and thus the results cannot be generalized to the whole country.



6.3 Limitations related to ATNI's scoring system

The methodology does not take into account factors such as the market share of each company, share by product type, length of time in the market, or market penetration. ATNI will explore whether and how these factors could be addressed in its future stakeholder consultations on the methodology. In terms of the 'other' companies, ATNI tried to contact the companies for which incidences of non-compliance were found, in order to determine which of the products were parallel imports but received no responses. Therefore, these companies were not assessed on a like-for-like basis with the companies assessed in the BMS/CF Marketing Index 2021.



7. Next steps

The results presented here are based on one of two studies conducted by Westat in 2020, in Mexico and the Philippines. ATNI published a similar summary report for the Philippines study. As relevant, the results from these two studies will be combined with the companies' ATNI BMS/CF Marketing Index Corporate Profile scores to generate overall scores and rankings for the companies included in the BMS/CF Marketing Index 2021. A detailed report will be published in June 2021 presenting the findings for this Index, along with scorecards for each of the companies detailing their performance in all areas.



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