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## Chapter 7

### CORPORATE CONDUCT

#### Managing international issues – Engineering of consent

The use of techniques enabling them to come simultaneously into contact with millions of people gives Public Relations practitioners a power that has to be restrained by the observance of a strict moral code.

The International Code of Ethics of the International Public Relations Association (IPRA), 1968<sup>1</sup>

The more I thought about it, the more I looked into events around me, the certain I became that PR was helping to screw up the world ... I could see the hand of the PR man pulling the strings, making things happen, covering things up.

J. Montgomery, former public relations vice-president for United Brand, 1978<sup>2</sup>

The twentieth century has been characterised by three developments of great political importance: the growth of democracy, the growth of corporate power, and the growth of corporate propaganda as a means of protecting corporate power against democracy.

Alex Carey, expert on corporate propaganda, 1978<sup>3</sup>

Since the adoption of the International Code in 1981, many infant food manufacturers have continued to violate the letter and spirit of the Code and to undermine national Code implementation. They are also pressing for the public and commercial sectors to co-operate with each other, urging the public and Third sector to go into partnership with them in the area of infant feeding rather than stirring up controversy over industry marketing practices. Two recent statements are illustrative:

Nestlé firmly believes that progress in the area of infant nutrition will be made only if all concerned parties work together. The Company places great importance on its close collaboration with UN agencies, governments and NGOs to improve the health and welfare of women and children. It remains unswerving in its commitment to promoting infant health and nutrition, encouraging breast-feeding and the ethical marketing of infant food.

Nestlé, 1998<sup>4</sup>

It has become increasingly clear that private/public sector cooperation is absolutely essential for the improvement of infant and young child health around the world ... Unfortunately ongoing confrontation stands in the way of such vitally needed partnerships. This attitude is typified by ... UNICEF.

International Infant Food Manufacturers (IFM) website, 1999<sup>5</sup>

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<sup>1</sup> (IPRA 1968). By January 2001, The International Public Relations Association had members in 72 countries ([www.ipranet.org](http://www.ipranet.org), accessed 15 January 2001)

<sup>2</sup> (Montgomery 1978) United Brand, formerly United Fruit, hired the services of PR counsellor Edward Bernays to help overthrow the Guatemalan government in the early 1950s (see Kunczik 1990:196-202; Schlesinger and Kinzer 1982)

<sup>3</sup> Carey 1995:19 (original essay 1978)

<sup>4</sup> Nestlé 1998:10

Partnerships with the private sector have also been championed since the mid-1990s by the governments of the US, UK and more recently Germany. The World Bank now advocates a Comprehensive Development Framework (CDF) – a tripartite system of development policy-making through consensus-oriented discussions between governments, business and civil society – as a new way of policy-making. Much of the New Millennium governance discourse touts ‘dialogues’ and ‘partnerships’ between big corporations and civil society organisations and/or national governments and/or UN agencies (and other international organisations) as an endeavour to the benefit of all.

The major tasks within the ‘public-private partnership’ framework are to build ‘trust’ between the parties involved and to identify ‘common ground’ or ‘win-win’ situations. Transnational corporations, through their sheer size, have gained an almost ‘natural’ right to participate in all kinds of fora. The Commission on Global Governance, for example, states that:

The extensive movement in favour of market driven approaches since the end of the 1970s has recast transnational corporations into ... legitimate international actors with a part to play in an emerging system of global governance. (CGG 1995:26)

Words of caution about the potential risks of the public and commercial sectors being too closely associated with each other, or questions raised about whether TNCs should be so crucially involved in setting rules and making policy, are often dismissed as out-dated.

This chapter, however, is just such a word of caution. The growth of TNCs in recent decades has been accompanied by ‘international issues management’ – a strategic corporate public relations discipline which is more accurately described as ‘engineering of consent’, the name given to it earlier this century. This chapter argues that any discussion about the usefulness and risks of partnerships with industry or about a legitimate role for transnational corporations in global democratic decision-making has to take this corporate power resource into account.

As with many other socio-political phenomena which now come under the rubric of globalisation, corporate ‘engineering of consent’ is nothing new. Globalisation, however, has prompted the fine tuning of this communication discipline and its more widespread use with the aim of turning international politics more in favour of corporations.

An essential characteristic of corporate public relations (PR) – or corporate propaganda as it used to be called – is that it is concealed. It is not surprising, therefore, that there is so little awareness of it. As communication scientist Michael Kunczik points out, “public relations is also the art of camouflage and deception.” (Kunczik 1990:1) The less the ultimate intent or goal of a corporation coincides with that of the targets of its particular PR strategy, the more both intent and source of the PR activities will be obscured.

Disguising PR messages as media articles; encouraging non-corporate middlepersons, unsuspecting or otherwise, to act in the corporate interest; and building up pseudo-grassroots

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5 IFM briefing document entitled *Public-private partnerships between health providers and companies including infant food companies, are important to improved infant health around the world. Confrontation is counter to the interests of child health.* This website document contrasted the allegedly confrontational attitude of UNICEF with that of WHO and the International Paediatric Association, and concluded: “Governments should create a favourable climate for constructive partnership, through ongoing dialogue and cooperation with the infant food industry, health professionals, and medical science.” ([www.ifm.net/briefdoc2.htm](http://www.ifm.net/briefdoc2.htm), accessed 12 July 1999).

groups to act as a front organisation are all part of the day-to-day repertoire of corporate PR laundering.<sup>6</sup>

## **Corporate PR – a tool of power**

Corporate public relations was first developed in the United States in the last decades of the nineteenth century. (Baskin et al. 1997:30) According to communication and propaganda theorist Harold D. Laswell, the discovery that “propaganda ... is cheaper than violence, bribery and other possible control techniques” dates back to the early twentieth century. (Laswell 1930-5:524)

Communication scientists see corporate public relations as one of the most important, but least visible, tools of corporate influence. Australian academic Alex Carey concluded that:

The twentieth century has been characterised by three developments of great political importance: the growth of democracy, the growth of corporate power, and the growth of corporate propaganda as a means of protecting corporate power against democracy. (Carey 1995:18)<sup>7</sup>

Although corporate PR techniques have become increasingly sophisticated over the past one hundred years, the underlying purpose has remained the same. As Baskin, Aronoff and Latimore, authors of an authoritative PR textbook, point out:

[Corporate] PR is a means by which businesses seek to improve their ability to do business. Effective public relations smoothes and enhances a company's operations and eases and increases its sales. It enables a business to better anticipate and adapt to societal demands and trends. It is the means by which businesses improve their operating environments. (Baskin et al. 1997:416-7, emphasis added)

It has become easier over the past 30 years or so for corporate PR to work towards its goal of improving the ability of companies to do business because globalisation has also involved a trend towards “increasing concentration of media ownerships in almost all countries ... and the growing commercialisation of broadcast media in Europe.” (Wilcox et al. 1989:397)

## **Infant feeding and corporate PR**

### **Post-Code-adoption PR**

The infant feeding campaign, one of the longest-standing attempts to press for corporate accountability by means of an international code, has significantly influenced the development of PR strategies to undermine efforts to regulate transnational corporations internationally.

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<sup>6</sup> For details on concrete concealment techniques used in the infant feeding debate, see PR-Laundering, in Richter 1998:8.

<sup>7</sup> For the politics of corporate PR and lobby, see also e.g. Stauber and Rampton 1995; Ewen 1996; Greer and Bruno 1996; Rowell 1996; Balanyá et al. 2000; WHO 2000b.



For Nestlé, a new phase in corporate communications began with the founding of the International Baby Food Action Network (IBFAN) after the 1979 Joint WHO/UNICEF Meeting on Infant and Young Child Feeding. As mentioned in Chapter 2, Nestlé's vice-president Ernest Saunders expressed his concern over the "professionalism of the forces involved" and advised his colleagues "to develop an effective counter-propaganda operation, with a network of appropriate consultants in key centres, knowledgeable in the technicalities of infant nutrition in developing countries, and with the appropriate contacts to get articles placed." (Saunders 1980b)

Five months later, in January 1981, the company appointed an experienced PR executive, Rafael Pagan Jr., as president of the Nestlé Coordination Center for Nutrition (NCCN). Officially the Center coordinated Nestlé's 'nutrition activities' in the United States, but Pagan described the Center as a "crisis management task force" which had an "early warning system and political threat analysis capability." (Pagan Jr. 1985:378)

While infant food companies were still lobbying against an international code, the NCCN was laying the ground in case a code was adopted. One of its first public acts after the Code was passed was to organise a press conference entitled 'Nestlé completes WHO code implementation process'. The guidelines distributed at the conference instructed company employees in the Code; the 1982 revised version of these guidelines continued to be at variance with the Code even after WHO and UNICEF had pointed out discrepancies<sup>8</sup> (see Chapter 4).

A second task was to create an 'independent social audit committee' called the Nestlé Infant Formula Commission (NIFAC) which was provided with a regular budget by Nestlé and was chaired by a former US Secretary of State, Edmund Muskie. The official remit of this committee was to 'monitor' Nestlé's marketing practices (albeit along the weaker Nestlé guidelines rather than according to the Code). Elsewhere, however, NIFAC was described as a "major factor in Nestlé's gaining the trust of its more moderate and constructive critics." (Pagan Jr. 1985:377-8)<sup>9</sup> Nestlé disbanded NIFAC in 1991 after its return from a fact-finding mission in Mexico which concluded that Nestlé had violated the provisions against 'free supplies' of infant formula. (Margen et al. 1981)

## A wider strategy against international TNC regulation

Rafael Pagan Jr., the PR executive who advised Nestlé, also developed a comprehensive PR strategy for TNCs in general to fight for corporate "survival" and to deal "constructively and effectively" with the "international regulatory mood." (Pagan Jr. 1982) This strategy included:

- establishing an issues management unit (such as Nestlé's Coordination Center for Nutrition) with a "responsive, accurate corporate issue and trends warning system and analysis capability";

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8 The same guidelines have recently been quoted in the Nestlé International (WHO) *Code Action Report* as proof of Nestlé's long-standing and exemplary efforts to monitor itself. WHO and UNICEF criticisms are not mentioned. Instead, both agencies are cited as 'reviewers' of the 1982 guidelines, an inclusion which has the effect of legitimising the guidelines. (Nestlé 1999c:1)

9 NIFAC is still cited today by industry as an example of good PR practice. Novartis's international communications spokesperson Walter von Wartburg described it as a notable example of "active agenda setting." For companies on the defensive, it can be useful "to refer controversial critical issues to third parties which enjoy public trust." He contended that this could provide a "legitimate gain of time" and "defuse escalated situations." (von Wartburg 1997)

- “organizing effective NGOs, and gaining representation for them at every possible UN agency”. (By NGOs, Pagan meant international business organisations such as the International Council of Infant Food Industries (ICIFI) and the International Pharmaceutical Manufacturers’ Association (IPMA).)
- working with national and international civil servants “not to defeat all regulation, but to create regulation that legitimises and channels our rights, opportunities and contributions”;
- “reaching out to hold an ongoing dialogue with the many new publics whose understanding we need to remain in business”;
- separating the “fanatic” activist leaders from those who are “decent concerned” people, and “stripping the activists from the moral authority they receive from their alliance with religious organisations”. (Pagan Jr. 1982)<sup>10</sup>

Awareness of Pagan’s international issues management strategy facilitates better understanding of the ways in which TNCs and their business organisations tried over the subsequent twenty years to influence international public interest debates, particularly at the level of the United Nations.

The following section provides a glimpse into the general nature of issues management strategies which should be taken into when decision-making processes about policy intersect with industry interests. Actual corporate PR strategies, however, are constantly changing, even if the goal of reaching a specific aim and objective remains constant.

## ***Issues management/Engineering of consent***

Issues management is a key PR strategy to foster favourable business climates today – a strategy which was called ‘engineering of consent’ in the early 1920s. The PR techniques to engineer consent were developed and propagated by Edward Bernays, an influential PR-practitioner and theoretician. Bernays described engineering of consent as:

quite simply, the use of an engineering approach – that is, action based only on thorough knowledge of the situation and the application of scientific principles and tried practices in the task of getting people to support ideas and programmes. Any person or organisation depends ultimately on public approval and is therefore faced with the problem of engineering the public’s *consent* to a programme or goal.  
(Bernays 1952:159, original emphasis)<sup>11</sup>

<sup>10</sup> For a summary of an earlier five-point issues management strategy whose main aim was to marginalise critics, see Gasche 1975. The strategy was elaborated during a three day symposium on “Multinationals in Confrontation: How can Better Communication Help Meet the Crisis” organised by the International Advertising Association at the same time as the UN started developing New International Order policies (and two months before the first court hearing against the Swiss Arbeitsgruppe Dritte Welt in relation to the “Nestlé kills babies” publication). About 250 PR and advertising professionals and corporate top managers from 20 countries met to scrutinise the “origins of assaults against multinational corporations” and “to examine ways in which these assaults may be muted.” (Conference programme, quoted in Gasche, 1975:4)

<sup>11</sup> Bernays’ PR approach was based on opinion polls, policy analysis and thorough planning. He said that “it is careful planning more than anything else that distinguishes modern public relations from old-time hit or miss

Issues management is the modern version of engineering of consent. Both are pro-active, systematic propaganda campaigns based on intelligence-gathering and on assessment of the socio-political situation.<sup>12</sup> PR executive Bill Cantor defines issues management as:

The function of identifying issues that impact on the company and developing programmes to influence desired audiences. (Cantor 1989:497)

Issues management is used by corporations to “shape rather than react to public discourse and decision making.” (Baskin et al. 1997:80-81)

Bob Leaf, an executive with major PR company Burson-Marsteller, stressed around the time of the adoption of the International Code:

Companies can't wait for a thing to become an issue and then react. Because then they are on the defensive. The key of the '80s will be defining the issues before they can have an impact on you so that you can diffuse them, be prepared to have an action plan when something comes up rather than having to act hurriedly under an attack. (quoted in Pfaff 1981)<sup>13</sup>

Baskin and colleagues elaborate further:

Issues management grew out of the same reality and recognition that led organisations to practice public relations originally. Organisations have been blind-sided for too long by protest groups who gain public support by striking public chords through protest and other tactics. To avoid unpleasant surprises, organisations should scan, monitor and track external forces ... These forces should be analysed in terms of their effects on an organisation's image, profit, and ability to act. Based on that analysis, an organisation's policy must be developed, strategy planned, and action implemented. (Baskin et al. 1997:80)

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publicity and propaganda.” (Bernays 1952). According to communication scientist Kevin Robins and his colleagues, the rise of public relations and other information industries marked a profound shift of political culture: “Faith in a rational public gives way to the invocation of expertise and to the scientific management of public opinion ... Political rule becomes a matter of social engineering, and the machinery of propaganda and information management becomes all pervasive.” (Robins et al. 1987:10)

<sup>12</sup> The reactive version is known as ‘crisis management.’ For an overview and checklist based on *The Crisis Checklist* of the Public Relations Consultants Association, see Bland 1995. For a depiction of the Nestlé Boycott, the Brent Spar oil rig and other public issues as a crisis for corporations, see pp. 90-92 of the chapter “Crisis and Catastrophe Communication”, in Morley 1998:79-104.

<sup>13</sup> Ten years later, the PR agency sold its services with the words: “Often corporations face long-term issues, challenges which arise from activist concerns (e.g. South Africa, infant formula) or controversies regarding product hazards ... Burson-Marsteller issue specialists have years of experience helping clients manage such issues. They have gained insight into the key activist groups (religious, consumer, ethnic, environmental) and the tactics and strategies of those who tend to generate and sustain issues. Our counsellors around the world have helped clients counteract [them]. (B-M Brochure “Public Affairs”, circulated in 1991, quoted in Nelson 1993:57) In 1996 Burson-Marsteller, which started out in 1953 with four staff, had a turnover of US \$233 million.

Engineering of consent or issues management strategies usually have three, sometimes overlapping, components:

- intelligence gathering and an assessment of the socio-political climate in which the particular company is operating;
- attempts to manipulate public debates in a direction favourable to the company;
- attempts to exclude what the industry perceives as diverging or antagonistic voices from the public debate.

To gain a broader picture of these corporate public relations strategies and techniques, a model framework is described below, based on analysis of actual corporate PR strategies (such as those described in PR textbooks, issues management industry seminars, leaked industry documents and accounts of activists) and blended with insights from theories on communication and power.<sup>14</sup>

### Intelligence gathering and assessments

One important PR technique in assessing 'where a company is at' is 'environmental monitoring'. This tracks "trends in public opinion and events in the sociopolitical environment" which may affect the company's operations. Environmental monitoring is thus an "early warning system" which helps PR managers to "locate the smoke and take action before a major fire develops". (Baskin et al. 1997:80)

Pressure groups and other important organisations are part of this environment which companies constantly strive to assess. Inviting them to participate in 'social audits' is one way of doing so. Other means include infiltrating their organisations, gaining information about them through journalists or private detectives,<sup>15</sup> scanning their newsletters, publications and websites, and embarking on corporate 'philanthropy', 'partnerships,' and 'dialogues.'

As a result of such information gathering, public relations firms have developed data banks on activist and other relevant groups and organisations over the past ten to fifteen years. While Rafael Pagan was working for Nestlé, he developed dossiers on groups such as the International Baby Food Action Network (IBFAN), the International Organisation of Consumer Unions (IOCU) and the Pesticide Action Network (PAN), along with key religious groups and organisations and labour unions. (Stauber and Rampton 1995:53)

Nestlé and many other companies now have sophisticated in-house intelligence systems. The Swiss firm Novartis (which owns the baby food manufacturer, Gerber), for example, has a computerised early issue detection system called Issue Support & Advocacy Network (ISAN). This system alerts the company to any "global issue" which might entail the "risk that Novartis's reputation could be damaged." ISAN also "helps in the analysis of the information acquisition of key stakeholders, because it contains information about all persons who have ever been in contact with Novartis ... ISAN also includes information on journalists,

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<sup>14</sup> The following framework owes much to Claus Mueller's model of 'constrained communication' (Mueller 1973); for an interesting model of propaganda analysis, see e.g. Jowett and O'Donnell 1986.

<sup>15</sup> For example, Nestlé hired a private investigation bureau in Zurich to gather information on the 13 members of the Arbeitsgruppe Dritte Welt and tried to use the material to discredit the members during the 1975 libel trial. See Chapter 2. and Chetley 1986:46

authorities and politicians and on every question that Novartis has ever been asked in any of their country organisations.” (Winter and Steger 1998:115-116)

## Suppression of public issues

If, as a result of ‘environmental monitoring’ and ‘social audits’, issue managers conclude that a company can no longer ignore an certain issue, they will first attempt to suppress it or at least to prevent it from spreading. At the same time, they will try to influence the public debate by projecting a favourable image of the company.

Secrecy and censorship are routinely employed towards keeping issues off the public agenda. All kinds of corporate data of public concern and interest are classified as commercially confidential.

Journalists and activists are often silenced through the implied, if not open, threat of libel, confiscation of personal property or legal action, or they censor themselves in anticipation of such an action. Professor Pring of Colorado University coined the term SLAPPs – “Strategic Lawsuits Against Public Participation” – for this type of silencing. “SLAPPs sent a clear message,” he said, “that there is a ‘price’ for speaking out politically.” (quoted in Rowell 1998:303)<sup>16</sup>

Some critics have lost their jobs after their employers have been approached; other reprisals have included imprisonment or threat of physical harm, including death threats. There have been attempts to intimidate corporate critics, journalists, corporate whistle-blowers and high-ranking UN officials with such threats.<sup>17</sup>

Withdrawing financial support can also be used to suppress public debates. Industries have lobbied the US government to withhold its contributions to WHO if the Organisation continued to meddle with ‘free enterprise’ through its critical work on regulatory codes and corporate activities. In 1983, for example, WHO was pressured to withhold publication of a study it had commissioned showing a clear link between the marketing practices of the alcohol industry and a rise in alcohol problems in developing countries (Selvaggio 1983). In 1986/87, WHO lost a large chunk of its budget because the US withheld contributions when WHO was drawing up ethical criteria for drug promotion. (see Box 4)

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<sup>16</sup> For an analysis of several high profile cases of SLAPPs in the US, Canada and UK and questions about their effects upon freedom of speech in modern society, see Donson 2000.

<sup>17</sup> Pharmacologist Milton Silverman’s life was threatened in the mid-1970s in Mexico during his research for his book *The Drugging of the Americas*. (Silverman 1976) This book was one of the first to expose pharmaceutical companies for dumping harmful pharmaceuticals and their double-standards on drug information. Syed Aamar Raza, a former Nestlé Pakistan staff, has alleged that threats have been made to kidnap members of his family and on his own life when he turned whistleblower in 1997. Raza publicised company internal material implicating senior management in the boosting of infant food sales by methods which violate the Code. His younger brother alleged that he was fired at the family house in Pakistan, two days before Aamar Raza was to make a presentation at the British House of Commons at the end of February 2000. (See Chapter 5) Other reported victims of corporate silencing include the Brazilian rubber tapper leader, Chico Mendes, who was murdered in 1989, and indirectly the Ogoni activist, Ken Saro-Wiwa, who campaigned against the depredation of Ogoni lands in Nigeria by the Shell oil company, and countless labour activists. (See e.g. TheNetwork 1999:8-9; Yamey 2000a; Ghauri 2000; Baby Milk Action 2000b; Pallister 2000; Bruno 2000:58; Meintjes 2000:85;97).



## Image management – and transfer

Irrespective of whether or not a company attempts to suppress a particular issue, most big corporations today invest in a long-standing key PR activity: ‘Image management’ – constructing a good public image for a corporation.<sup>18</sup>

“A strong and positive corporate reputation is the holy grail of every public relations professional,” says Michael Morley, President of Edelman Public Relations New York and Deputy Chairman of Edelman’s Public Relations Worldwide. At the Edelman PR company, the ‘management of corporate reputation’ is defined as “the orchestration of discrete public relations initiatives designed to protect and promote the most important brand you own – your corporate reputation”. According to Morley:

corporate reputation – or image, as advertising professionals prefer to term it – is based on how the company conducts *or is perceived as conducting* its business. (Morley 1998:8, emphasis added)

Thus the outward appearance, not the actual practices, of a corporation is what counts.

From a corporate perspective, investment in ‘reputation management’ holds great potential. “When corporate reputation is secure, a flow of positive and tangible benefits accrues to the organisation. *And it is an important shield in terms of crisis.*” (Morley 1998:8,9; emphasis added)

PR professionals have also helped to build an image of corporations as responsible and concerned ‘corporate citizens’ while admonishing their employees that only old-fashioned managers would invest corporate money for wholly humanitarian reasons. PR managers know that corporate ‘philanthropy’ (giving away corporate money for the love of humankind) is a contradiction in terms:

Some corporate executives seem to think that their corporate philanthropy is an act of benevolent charity. It is not. An act of charity refines and elevates the soul of the giver – but corporations have no souls to be saved or damned ... [W]hen you give away shareholders’ money, your philanthropy must serve the longer-term interests of the corporation. Corporate philanthropy should not be, cannot be, disinterested. (Kristol 1977)

And, indeed, research on corporate sponsorship indicates that corporate ‘self-interest’ prevails. (Baskin et al. 1997:284) Recipients of corporate money and attention, however, are rarely aware that PR practitioners regard sponsorship as a “hard-nosed business decision undertaken ... with the intention of obtaining a proportionate return to the sponsor of the money invested”. (Sedgwick 1985:397) There has been a noticeable trend within corporate-giving towards ‘strategic philanthropy’:

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<sup>18</sup> For example, the infant food industry has worked hard to create an image that it cares about infants by financing posters and information leaflets depicting loving mothers breastfeeding their contented, suckling babies – and image which is positive for both political and market purposes. (If companies were not allowed to put their logo on these materials, however, it is doubtful whether they would still be interested in paying for them.)

Rather than reacting to public issues and public pressures, more firms – particularly the larger ones – are taking greater initiative in *channelling dollars* and corporate talent into problem areas that they deem significant and in which they wish to make an impact. (Baskin et al. 1997:285, emphasis added)

Today, images of corporations as socially-concerned ‘corporate citizens’ are bolstered by corporate ‘dialogues’, ‘sponsorships’ and ‘partnerships’. Many individuals, groups and organisations which accept industry funds or enter into ‘partnership’ arrangements and ‘dialogues’ with the industry believe that they will not be used for a company’s political – or marketing<sup>19</sup> – purposes as long as they take care to maintain their integrity. They believe that being aware of and resisting the risks of being ‘bought’ or ‘co-opted’ by a company or business organisation is sufficient.

Many may still be unaware, however, that in accepting sponsorship or engaging in ‘partnerships’ and ‘dialogues’ with the industry, they may well be used for ‘*image transfer*’ – the transfer of their good reputation to the corporate sponsor or initiator of the dialogue.

PR professionals stress that a good public image or reputation is a key political resource. In the words of Edelman PR Executive Michael Morley, “Because businesses today operate in an environment of stress that often seems close to bursting into crisis, a carefully nurtured corporate reputation is all the more important.” (Morley 1998:9) For corporations, their credibility is ‘capital’, a “reservoir of goodwill” in modern societies, which may well translate into a higher legitimacy if a corporation comes under public scrutiny.<sup>20</sup> If a corporation has taken care to build a good image, others may well think that:

This is a fine, well-managed company with a solid record. There is probably no truth in the rumours/allegations. Even if there is, they [the company] will put things right and get back on track without undue damage. (Morley 1998:13)

The potential political impact of close association with corporations and the risk of helping corporations to prevent closer public scrutiny of and action against its practices is often underestimated by those outside the corporate world. Helping to boost the positive image of a corporation can profoundly shift balances of power: while the corporation may gain a greater ‘licence to operate’, those who have not prevented ‘image transfer’ risk losing their own reputation of being a principled and trustworthy institution, organisation, group or individual.

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<sup>19</sup> This chapter focuses on corporate PR as a political instrument. The use of PR activities as so-called ‘adjunct-marketing’ practice is another field of study. Corporations may use many of the current dialogues and partnerships for both political and marketing purposes. UN agencies and other public institutions should be cautious about conflicts of interests in relation to preferential contract awarding of their corporate ‘partners’.

<sup>20</sup> A UK report of The Prince of Wales Business Leaders Forum on *Business as Partners in Development* uses similar language. It lists as major ‘benefits’ of public-private partnerships for business enhanced “reputation and license to operate” and the accumulation of ‘ethical capital’. The report predicts: “The concept of ethical capital, which is closely linked to reputation, is likely to gather credence as a mainstream assessment of a company’s worth. In the same way that financial or intellectual ‘capital’ gives a company strength in the marketplace, ethical capital accrued over a long period of time can ensure that a company will avoid costs from overregulation and insurance against legal challenges. The difference between a company with ethical capital and one with ethical deficit – perceived or real – can even determine their ‘license to operate’ in some emerging markets.” (Nelson 1996:52)



## Manipulating public debate

If an issue cannot be ignored or hidden from public view, issues managers will usually advise the corporation to engage actively in public debates in order to influence public opinion in the direction the corporation desires. Most often they resort to a mix of four communication strategies: delay; depoliticise; divert; and fudge.

### *Delay*

The announcement of voluntary corporate codes, for example, has been a prime means of preventing, or at least delaying, tougher external regulation of corporate activities. (UNRISD 1995:19)<sup>21</sup>

As described earlier, both the infant food and pharmaceutical industry associations drew up codes only when faced with outside regulation. The International Federation of Pharmaceutical Manufacturers Association (IFPMA) managed to delay the adoption of the WHO Ethical Criteria for Medicinal Drug Promotion for several years with the argument that its members must be given the opportunity and time to prove that they could regulate themselves (see Box 4).

A few years later, in the early 1990s, dozens of industry associations published or updated environmental guidelines and codes for their membership when faced with calls for effective outside regulation in the wake of the 1992 UN Conference on the Environment and Development (UNCED), dubbed the 'Earth Summit'. An UNCTAD-commissioned study of environmental self-regulation by influential industry associations concluded that, "in contrast to the months of activity in the lead-up to the Earth Summit about how to frame the relationship between industry and environment, the months thereafter have seen comparatively little conceptual movement or progress" (UNCTAD 1996b:85) – but the environmental code drawn up by the UN Centre on Transnational Corporations and the UN's Code on Transnationals itself had been defeated.

### *De-politicise*

A second strategy is to de-politicise debates on societal issues by trying to shift discussions either to less politicised arenas or from political questions to technocratic issues.

When critics lobbied for and obtained public hearings in the United States in the late 1970s on the inappropriate marketing of baby milks in developing countries, Nestlé suggested that discussion about infant formula marketing should be shifted "back to the sphere of relevant government authorities, health professionals and industry experts". (quoted in Chetley

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21 UNRISD commented in its report on *The Social Effects of Globalisation*: "One way in which corporations try to fend off official control is by practising – or at least vowing to practice – self-regulation through establishing codes of conduct. A more solid basis for ensuring corporate responsibility is some form of international regulation. At present the prospects for this seems slim ... GATT [The General Agreement on Tariffs and Trade] has offered enterprises much greater freedom and has established rules that may penalise governments that try to exert greater control over them. The new World Trade Organisation protects the freedom of international trade; it does not protect other freedoms, and so risks exacerbating a fundamental imbalance in global society. International businesses cannot be expected to author their own regulation: this is the job of good governance." (UNRISD 1995:19)

1986:57) Its reported aim was to “depoliticise the controversy”. (McComas et al. 1983:14) The strategy, which was the origin of the 1979 Joint WHO/UNICEF Meeting, failed in this instance. Business strategy expert Prakash Sethi,<sup>22</sup> who analysed Nestlé’s statements and actions in the infant food controversy, summarised the result of the debate’s move from the US to the 1979 WHO/UNICEF Meeting on Infant and Young Children Feeding in Geneva:

Nestlé had hoped to be in a better position to influence the course of events in an international forum such as a WHO conference. However, this would prove not to be the case. Instead, the conference largely accepted the agenda of the industry critics and set WHO towards the inexorable path of enacting a marketing code for infant formula foods. (Sethi 1994:91)

The industry’s role in infant feeding has remained a political and controversial issue ever since.

### *Divert*

A further strategy to defuse public controversy consists in stimulating discussion on issues of secondary importance. This may also give critics the illusion that they are participating in the decision-making process.

Some infant food manufacturers continue to divert attention away from the question of why they have not built-up effective Code-implementation and compliance mechanisms nearly twenty years after the adoption of the Code by making appeals to help them build more effective national public monitoring systems. This helps then to explain manufacturers’ failures to correct their inappropriate marketing practices in terms of failures of governments to regulate them.<sup>23</sup>

Others divert attention away from the question of why corporations continue to cause harm to babies through the aggressive promotion of infant foods by blaming mothers in developing countries for incorrect preparation of the commercial products.

### *Fudge*

A final strategy is to pretend to support public demands, but then to disseminate a version of the critics’ analysis, policy or proposed code of ethics which is slightly but significantly altered. Those unfamiliar with the issue cannot discern easily how the industry version differs from the original.

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<sup>22</sup> Sethi is also the author of a book on corporate advocacy advertising (Sethi 1987)

<sup>23</sup> Nestlé, for example, stated in relation to its failure to meet its public commitment to end free supplies by 1992: “In 1991, Nestlé and other members of the Association of Infant Food Manufacturers (IFM) agreed with WHO and UNICEF on a co-operative effort. The objective was to secure country-by-country agreements with governments to end free and low-cost supplies to maternity units in developing countries by the end of 1992.

Although not yet 100% successful, the results are remarkable. As of February 1994, free supplies from Nestlé were given only in five small developing countries where the government has yet to agree on a change.” (Nestlé 1994)

The baby food industry, for example, proclaims its wholehearted support for the International Code of Marketing of Breastmilk Substitutes – but continues to suggest that the International Code is not intended to be universal in its coverage.

Nestlé stresses in its Charter (Nestlé's own policy on the marketing of infant formula) that it "DOES ... comply with both the letter and the spirit of World Health Organisation's International Code of Breastmilk Substitutes". The Charter, however, describes Nestlé's compliance only to the "infant formula policy in developing countries". An easily-overlooked footnote adds "in developed countries, Nestlé respects national codes, regulations and/or other applicable legislation relating to the marketing of infant formula." (Nestlé 1996, emphasis in the original)

Pointing at footnotes might suggest that critics are overreacting. But analysing propaganda messages entails not only looking at what is said, how and why, but also at what is *not* said. Nestlé's Charter, for instance, does not mention that most existing national laws are weaker than the International Code (not least because of active industry interference). Another easily-overlooked aspect of the Charter is that Nestlé commits itself to regulate just one category of breastmilk substitute, namely infant formula, but not other substitutes such as follow-on formula, or special formulas such as hypoallergenic or lactose-free infant foods.

### Excluding diverging voices

Engineering of consent attempts to ensure that a corporate version of public issues dominates public debate. It also attempts to exclude 'unfavourable' views from the public discourse by neutralising critics.

During the early days of concerted international pressure for industry accountability, 'red-baiting' – labelling critics as communists or anti-free market – was commonly employed in an attempt to discredit such critics.<sup>24</sup> For example, the statement from Nestlé Brazil's President Oswaldo Ballarin at the 1978 Kennedy hearings, which described the consumer boycott of Nestlé as an attack on the free economic system, appears to have been put together at the highest company level (see Chapter 2). According to business academic Prakash Sethi:

it would appear that Ballarin had originally drafted his own statement which was primarily devoted to the scientific and health care aspects of infant formula feeding in less developed countries. This statement was rejected by the Nestlé people at the company's US headquarters in White Plains, New York. Instead, Ballarin was given a statement and, according to one Nestlé executive, was instructed, over his strong objections, to read it at the hearing. This statement was drafted by Mr. Guerrant, president of Nestlé-US and Mr. Frank Chiocca, a lawyer with Nestlé-US. The statement was thoroughly reviewed and revised in Nestlé-Switzerland by Paternot and Fookes, the two executives who were heavily involved in the controversy from its very early days. (Sethi 1994:85-86)

Nestlé was also involved in *Fortune* editor Herman Nickel's article, "The Corporation Haters", which depicted critics as "Marxists marching under the banner of Christ" (Nickel 1980) (see Chapter 3).<sup>25</sup> Nestlé's Ernest Saunders described the Nickel article in his 1980

<sup>24</sup> For red-baiting of Health Action International by the pharmaceutical industry, see Chetley 1990:72

<sup>25</sup> The basis for the article was a "study on the infant formula industry" which Nickel had conducted for the Washington-based Ethics and Public Policy Center – which had received \$25,000 from Nestlé. The Center's

internal memorandum as the most credible “third party rebuttal of the activist case” and advised:

There must be maximum exploitation of the opportunities presented by the *Fortune* article and the Ethics and Public Policy’s Centre willingness to undertake additional activity. Mr. Guerrant is somewhat concerned that Nestlé should not be seen as the dominant subscriber to the Ethics and Public Policy Centre. Mr Ward [a Washington DC-based lawyer who represented Nestlé in the US] informs us that there are ways in which this matter can be successfully handled ... (Saunders 1980b)

Referring to this and other defamatory articles in the press, WHO’s Director-General Halfdan Mahler said during the 1981 WHO Executive Board discussions that “he realised that freedom of expression involved the right to be as far from the truth as possible; that included doing harm to children’s health.” (quoted in Shubber 1998:36)

Since the end of the Cold War, discrediting social critics by stereotyping them as ‘leftists’ has given way to other strategies. Two major approaches are generally employed today.

\* **portraying critics as unworthy of participation** in a ‘rational’, democratic and professional debate. This includes labelling them as ‘anti-industry’, ‘anti-technology’, ‘anti-progress’, ‘irrational’, ‘emotional’ and ‘unprofessional’ (the latter being a powerful label to use against health professionals and other academics).<sup>26</sup> Now that TNCs are widely regarded as engines of economic growth which need, and even deserve, an unregulated global market to create wealth supposedly for everyone, it has become easier to assert that anyone who lobbies for any kind of regulation is responsible for the loss of jobs and wealth.

\* **divide-and-rule**, which often involves inviting carefully selected influential groups and critics to participate in consensus-oriented ‘dialogues’ or to engage in ‘partnerships’ (and using their participation for image transfer) while discrediting groups which do not participate as incorrigible ‘radicals’ who are ‘confrontational’ for the sake of it.<sup>27</sup>

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Director, Ernest Lefever, initially denied receiving funds from Nestlé and later stated that he had not received the money specifically for this study. He pointed out that he had also sought and received funds from Bristol-Myers, another infant food company. (Sethi 1994:105,106) Whatever the truth, it is certain that the Center was encouraged by Nestlé to send reprints of the *Fortune* article (retitled “Crusade Against the Corporations”) to community leaders using a Nestlé-supplied mailing list.

26 Those who attempt to address industry malpractice in general are often charged of being ‘anti-industry’, biased and of not presenting both sides. Such allegations can be countered with the introductory words of Australian criminologist John Braithwaite to his book, *Corporate Crime in the Pharmaceutical Industry*: “Some ... will think that [this book] is a one-sided account which focuses attention on pharmaceutical industry abuses to the exclusion of all the worthwhile things the industry had achieved for mankind ... Unfortunately, it is the job of criminologists to explore the seamy side of human existence. If a criminologist undertakes a study of mugging and murder, no one expects a ‘balanced’ account which gives due credit to the fact that many muggers are good family men, loving fathers who provide their children with a Christian upbringing, or perhaps generous people who have shown a willingness to help neighbours in trouble. Yet criminologists are expected to provide such ‘balance’ when they study corporate criminals”. This statement clarifies the aims of his case study: (1) “to describe the wide variety of types of corporate crime which occur in one industry”, (2) “to use the pharmaceutical industry’s experience to tentatively explore the effectiveness of different types of mechanisms of the control of corporate crime.” Many of the pharmaceutical companies’ practices which Braithwaite studied were not illegal according to existing legislation but were potentially fatal, such as the promotion in countries with weaker drug regulatory systems of medicinal drugs that had been withdrawn in a company’s home country for safety reasons. (Braithwaite 1984:VII-VIII)

<sup>27</sup> ICC, *Business World* April/June 1984, for example, wrote in an article ‘Maucher on Management:’ “Often, said [Nestlé CEO] Maucher, there are in a particular group a handful of fanatics and a majority of reasonable people. So a company’s strategy should be to convince those who are reasonable and isolate those who are not.”

Whilst neutralising critics through negative labelling, companies often refrain from answering the content of the criticisms and from changing their practices substantially.

## ***Ruling by consent?***

### ***A new phase of industry lobbying***

BINGOs, PINGOs and the 'creators of wealth'

In sum, in parallel with the international debate about the regulation of the marketing of breastmilk substitutes, infant food manufacturers have contributed to the development of international 'issues management'/engineering of consent PR strategies, a much overlooked corporate tool of power intended to shape public debates.

As mentioned earlier, Rafael Pagan advised transnational corporations to organise "effective NGOs, and [to gain] representation for them at every possible UN agency". (Pagan Jr. 1982) By NGOs, Pagan meant international business organisations. The infant food industry spared no effort in trying to get the status of a 'non-governmental organisation in official relations' for its International Council of Infant Food Industries (ICIFI). In August 1980, it hired Stanislas Flache, former Assistant Director-General of WHO, to achieve this goal. The day after his retirement from the WHO (in the midst of the International Code drafting), Flache took up the post of ICIFI Secretary General.

The application of most organisations for the status of NGO with the World Health Organisation is passed without much debate. In the early 1980s, however, WHO's Executive Board was so concerned about the practices of the members of the infant food association that a decision on ICIFI was deferred three times. The infant food association thus changed its strategy. ICIFI was dissolved, another business organisation – the International Association of Infant Food Manufacturers (IFM) – was formed, and another former WHO staff member, hired to advise on procedures. IFM applied for NGO status under the umbrella of the International Society of Dietetic Food Industries (ISDI). When ISDI was granted NGO status in 1987, the infant food industry shared this experience with other TNCs in a specific newsletter on "How companies can gain from NGO status."<sup>28</sup>

A deciding factor in granting NGO status to ISDI had apparently been the admission of the International Organisation of Consumer Unions (IOCU) (one of the co-founders of IBFAN) as an official NGO the year before. The admission of the business association was thus seen as an even-handed gesture. (Allain 1991:27) The International Baby Food Action Network (IBFAN) is just one public advocacy alliance which has been concerned ever since about the political implications of the failure of the United Nations to distinguish clearly between associations representing commercial interests and citizen groups and organisations.

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For the divide-and-rule strategy elaborated by the PR Agency Mongoven, Biscoe and Duchin (whose managers used to work with Pagan Jr.'s post-Nestlé consultancy firm Pagan International), see Stauber and Rampton 1995:66-67.

28 For more details, see Chetley 1986:81; 148-9; Allain 1991:26-27; 36



## Shifting the arena

While civil society organisations are still calling on the UN to make an official distinction between the two NGO sub-categories, Business Interest NGOs (BINGOs) and Public Interest NGOs (PINGOs), or to create a wholly new subcategory for business so as to allow for more transparent and meaningful debates, the industry has moved along and shifted arenas.

Rather than attempting to influence international politics by using the NGO status and image, TNCs are now asking for a privileged status in international decision-making. At the 1996 UNCTAD Global Investment Forum, Nestlé's then Executive Vice-President Peter Brabeck argued that, in setting the global economic framework, "business and its organisations should not be lumped together with the many single-issue NGOs, but accepted as interlocutor of different stature, as the engineers of wealth." (Brabeck-Letmathe 1996:3)

In 1997, when Nestlé CEO Helmut Maucher took over the helm of the International Chamber of Commerce (ICC), he urged governments to work with business to establish a framework for the global economy. Under the title "Ruling by Consent", he said in a *Financial Times* opinion piece:

Governments have to understand that business is not just another pressure group but a resource that will help them set the right rules. The International Chamber of Commerce ... is the obvious partner from the business side for this intensified dialogue with governments. With its long-established links with the UN system, the WTO and other intergovernmental organisations it is uniquely placed to make the business viewpoint heard in the decision-making bodies that count in today's world.

Under my presidency, the ICC is resolved to take the lead in asserting the business viewpoint more strongly in the Council of Nations ... One of our first steps has been to convene a formal dialogue between the ICC and the many important organisations based in Geneva ... and to bring together the heads of international companies and the leaders of international organisations so that the business experience is channelled into the decision-making process for the global economy. (Maucher 1997)

A year later, Maucher asserted in the same newspaper that this strategy had already produced visible results:

We have established the ICC as the preferred dialogue partner for business with the United Nations and other international institutions. (quoted in Williams 1998)<sup>29</sup>

Indeed, 1997 marked the beginning of another phase of TNC influence over international decision-making about limits to TNC activities. Rather than lobbying at UN meetings, the industry is now inviting high-ranking UN and government officials to their own business roundtables, in Davos and Geneva, for instance.<sup>30</sup>

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<sup>29</sup> In the same article, he questioned the legitimacy of "pressure groups" involved in international decision-making. (Williams 1998) (for the general industry strategy of questioning the legitimacy of pressure groups, see Chapter 8)

<sup>30</sup> For more information on European business-lobby-roundtables, see e.g. CEO 1998; Balanyá et al. 2000.

## **Roundtable discussions and Code implementation**

I can assure you ... that this is not a partnership at any price. Open, transparent dialogue is an obvious prerequisite ... Certainly dialogue and realism must be accompanied by high ethical standards.

Gro Harlem Brundtland, Director-General of WHO, 1998<sup>31</sup>

The dutch infant food industry ... is happy with this [WHO dialogue] initiative. We are convinced that the WHO, with this initiative, can be instrumental in ending the ongoing and useless confrontations between the industry and the action groups and will instead call on all parties to solve the real problems in the field of public health in general and of the wellbeing and health of infants, babies, and young children in particular.

Dutch Baby Food and Dietary Food Manufacturers' Association, 1998<sup>32</sup>

Industry's concerted lobbying efforts to be recognised as privileged partners in global decision-making arenas have coincided with a change of policy approach within WHO. In January 1998, the Executive Board agreed that the global commitment to infant and young-child nutrition, in particular breastfeeding, should be revitalised. WHO decided to use "the good offices of the Organisation to initiate, in collaboration with concerned parties, a process for specifying, examining and overcoming the main obstacles to implementing by all countries, both, the International Code and subsequent related resolutions." (Türmen 1998b)

Preliminary discussions were held with representatives of consumer groups and the infant food industry in April 1998. In November 1998, the first roundtable discussions were held with consumer and breastfeeding groups on their own, and then just with infant food manufacturers.

The aim of these meetings was to "discuss the establishment of a consultative mechanism to bring together consumer and community-based NGOs, and the infant food industry, for improved implementation in countries of the International Code and related World Health Assembly Resolutions". (WHO 1998c:3) This mechanism would be a regular "WHO forum where NGOs in official relations – representing the infant-food industry and consumers – can engage in good-faith effort to identify, narrow and, if possible, resolve their major outstanding differences." (Brundtland 1998a:7)

NGOs, however, were not persuaded that this mechanism would really move Code implementation forward. They argued that the obstacles to Code implementation were not differences in interpretation, but a lack of will on the part of the industry to comply with the Code in letter and spirit, and industry interference with the legislative and monitoring processes in countries wishing to implement the Code. They also felt that the proper forum for clarifying issues of Code interpretation and implementation should be the World Health Assembly, not a semi-private forum between industry and civil society organisations.<sup>33</sup>

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<sup>31</sup> Brundtland 1998a:7

<sup>32</sup> VNFKD 1998

<sup>33</sup> Interview with Nancy-Jo Peck, Scientific Advisor to IBFAN/GIFA, June 2000



## Industry's reaction to the WHO initiative

I spend much of my time listening to our customers, public policy makers, opinion leaders, and our 230,000 employees who are in over 100 countries and represent nearly all the cultures of the world. A consistent message I have received is that Nestlé could be more open and communicative in the area of business principles and practices.

We are thus looking for ways to respond to this desire for greater openness and transparency, and the enclosed *Report to the Director-General, World Health Organisation* and the *International (WHO) Code Action Report* are two ways in which we are responding.

Peter Brabeck-Letmathe, Corporate Executive Officer, Nestlé, October 1999<sup>34</sup>

We realise ... that some organisations have a different interpretation of the World Health Organisation Code of Marketing of Breast-milk Substitutes than we do ... The Director General of the World Health Assembly [sic], Gro Harlem Brundtland, has invited both industry and infant formula action groups to join in discussions to resolve once and for all the differences which exist in interpretation of the International Code, so that efforts can be directed to implementing the Code in a practical way in each country.

Nestlé, both directly and through our trade association, has said yes to Dr. Brundtland's invitation, but we understand that WHO is still waiting for the campaign groups to accept her invitation, after a year's waiting. We sincerely hope that they will accept Dr. Brundtland's invitation, as it is Nestlé's desire that we resolve contentious issues so that we all spend less time debating the Code, and more time actually making it work.

Peter Brabeck-Lethmathe, Nestlé CEO, November 1999<sup>35</sup>

A chronicle of events following the first meeting with WHO suggests that the infant food industry, in particular market leader Nestlé, has used WHO's dialogue initiative primarily to scale-up its issues management activities.

Companies have represented the roundtables with WHO as an initiative to 'end' the long-standing controversy, marking the dawn of a new era in which industry will finally be allowed to contribute to infant health. The question as to why industry has not put its house in order in the two decades since the Code was adopted is represented as unnecessary, or even detrimental, to infant health. Now, the industry firmly claims its place at policy-making tables on matters related to infant and young-child feeding.<sup>36</sup>

The assertion that industry has put its house in order has been widely disseminated through a high-powered PR campaign in which Nestlé presented its alleged adherence to the Code in a 180-page *Report to the Director General, World Health Organisation* and a new *International (WHO) Code Action Report Magazine*. These were sent not only to the WHO Director-General but also to other UN agencies, key policy-makers, Members of Parliament and journalists.

As UNICEF Executive Director Carol Bellamy pointed out, the *Report* was not in fact proof of Nestlé compliance to the Code and subsequent Resolutions, as Nestle claimed.<sup>37</sup> It was

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<sup>34</sup> Brabeck-Letmathe 1999b

<sup>35</sup> (Brabeck-Letmathe 1999a) A similar statement was also published in Nestlé 2000:4.

<sup>36</sup> *The Guardian* journalist Robert Cowe reported: "Mr. Brabeck said it was time to end the 22 years battle over baby milk. Only technicalities now separated Nestlé from pressure groups and official organisations such as the World Health Organisation." (Cowe 1999)

<sup>37</sup> Nestlé CEO Peter Brabeck said in November 1999, "I gave to the WHO Director General a report about our compliance with the WHO Code. In the report, 54 governments or appointed monitoring bodies provided written, official evidence that Nestlé's policies and practices conform with the WHO Code." (Brabeck-Letmathe 1999a:4) But another Nestlé communication spells out clearly what the company regards as compliance: "the criterion used for self-monitoring in the current report is the International Code, as applied and defined by each

simply a collection of letters from 54 government authorities who had been asked by Nestlé for written confirmation of company compliance with the Code as translated into national legislation<sup>38</sup> (which in many countries does not exist or is weaker than the Code and Resolutions). Many of these countries do not have monitoring mechanisms in place which would allow them to verify whether Nestlé or any other company had violated their national legislation or other measures taken to implement the Code. Moreover, nearly half the replies did not affirm that Nestlé complied with national legislation or any other measure – one of them merely acknowledged receipt of Nestlé's letter. The national authorities of at least three countries<sup>39</sup> raised serious concerns about the way their letters were being reproduced, creating the false impression that they were certificates of Code compliance.<sup>40</sup> UNICEF's Executive Director therefore stressed in a letter to the company:

I would like to express our reservations to the claim that the *Report* fulfils the company's obligation under Article 11.3 of the Code. As I stated previously, the Code requires that both Governments and Manufacturers establish distinct and separate monitoring systems. Obtaining certificates of Code compliance where monitoring is not taking place would not seem to us an appropriate basis for such a claim. (Bellamy 1999b:1)

Companies have now moved their divide-and-rule strategy into a higher gear. After years of attempting to discredit and isolate the citizen action groups that monitor them and keep the infant food issue on the public agenda, companies are now trying to discredit and delegitimise UNICEF and to divide it from WHO.

In May 1999, for example, at a press conference in the UK, Nestlé's CEO Peter Brabeck attacked UNICEF for its alleged unwillingness to engage in 'dialogues' with the company, but omitted to mention the context for UNICEF's 'unwillingness'.<sup>41</sup> UNICEF in fact has an extensive history of interactions with Nestlé and other infant food manufacturers. In the early 1990s, when UNICEF and WHO urged the companies to stop handing out free-supplies to maternity wards and clinics, UNICEF and IFM met every two months to discuss the matter – and yet the industry did not stop providing free supplies.

The meeting Peter Brabeck cited as evidence of UNICEF's unwillingness to engage in dialogues had been arranged by UNICEF on 13 October 1997 to give Nestlé the opportunity to present its efforts at self-regulation and to clarify differences in Code interpretation. Since the Code was adopted, UNICEF has had many direct discussions with Nestlé to stress that the Code applies to all countries, not just developing ones. About two weeks after this October meeting, UNICEF Executive Directive Carol Bellamy decided as a last resort to suspend further discussions with Nestlé until the company recognised the universal applicability of the Code. As she explained in a letter to Nestlé:

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country. In other words, the criterion is what the government endorses and accepts as the interpretation of the Code in that country." (Nestlé 1999b:2)

<sup>38</sup> For a description of the process, see e.g. the Executive Summary, in Nestlé 1999b

<sup>39</sup> The Minister of Health of the Palestinian National Authority; the Head of Child Health, Ministry of Health, Oman; and the Danish authorities.

<sup>40</sup> For further analyses of the Nestlé report, see Baby Milk Action 1999c; and IBFAN/GIFA 2000

<sup>41</sup> "We wanted to start a dialogue. We went to New York for a Meeting. After an hour and a half, Madame Bellamy said she had to make a phone call, and did not return. Six weeks later we got a letter, saying she did not wish to continue the dialogue." (quoted in Koenig 1999)

We have come to the considered conclusion that there do not appear to be opportunities for cooperation that would be of mutual benefit to our organisations at this time. The outstanding and significant differences in our views on the content and application of the International Code represent a barrier to any such cooperation ... UNICEF remains convinced that the Code applies in all countries. (Bellamy 1997)<sup>42</sup>

Nestlé's new PR magazine subsequently informed its readers that "WHO ... *alone* has responsibility for Code implementation within the UN system",<sup>43</sup> despite the fact that UNICEF is specifically mentioned in the Code (Article 11.1) as an agency on which governments can call with regards to Code implementation.

### ***Corporate engineering of consent and democratic global governance***

As pointed out in the Literature Review, the Commission on Global Governance stressed more than 15 years ago that global governance should be more democratic in the future than it has been in the past. The 1999 UNDP Human Development Report reconfirmed the need for "a more coherent and more democratic architecture for global governance in the 21st century." (UNDP 1999:12) According to former UNDP Administrator James Gustave Speth:

Good governance is participatory, transparent and accountable ... It promotes the rule of law and equal justice under the law. Good governance ensures that political, social and economic priorities are based on broad consensus in society and that the voices of the poorest and most vulnerable are heard in decision making. (UNDP 1998:1)

But the place of TNCs in the new architecture of global governance is still underexplored. Political and academic discourses are fraught with contradictions on the appropriate role of TNCs, especially in relation to governance understood as setting rules to ensure socially-responsible TNC practices. Some documents mention the need for binding regulations on TNCs; others urge for rule-setting in partnership with corporations simply because they 'create wealth.'<sup>44</sup>

The rise of TNCs as major economic and political players has been accompanied by the development of international issues management and other PR and lobby strategies. Corporate PR is not simply an exercise in whitewashing previous misdemeanours. Corporate public relations, in particular its strategic issues management/engineering of consent discipline, is now a major tool of power to strengthen and maintain corporations' hegemony in the global arena. Corporate intelligence, techniques to manipulate public debates in the interests of corporations, and neutralisation of critical voices through divide-and-rule strategies are now an all-pervasive feature of debates which involve the interests of large corporations.

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<sup>42</sup> Two months later, Nestlé approached the UN Secretary-General Kofi Annan to make a statement on the applicability of the Code. Annan supported Bellamy's view that the Code was universally applicable.

<sup>43</sup> Peter Brabeck-Lethmathe in an interview with Nestlé's corporate communications professionals (Nestlé 1999d, emphasis added)

<sup>44</sup> The accumulation of wealth has no intrinsic ethical value and therefore cannot justify anything. Questions on the legitimacy of profit-making include: how is this wealth accumulated?; and how is it distributed?

In the debate about the regulation of the infant food industry's marketing practices, one strategy has been to claim that stirring up controversy does not ensure infant health, but partnerships and cooperation with the infant food industry can do so in the future.

Those who continue to question industry's marketing strategies are derogatively labelled as confrontational. Civil society groups (in particular IBFAN) and UNICEF are the current target of such branding. At the same time, the industry has been using WHO's roundtable initiative to enhance its image and to portray the debate as something which needs simply a few more clarifications about Code definitions – a portrayal which needs urgent public rectification from WHO to prevent industry from using its initiative to drive a wedge between WHO and UNICEF.

## ***Regaining transparency and space for democratic debate***

It is dangerous to assume that the goals of the private sector are somehow synonymous with those of the United Nations, because most emphatically they are not. Business and industry are driven by the profit motive – as they should be and must be, both for their shareholders and their employees. The work of the United Nations, on the other hand, is driven by a set of ethical principles that sustain its mission – principles of the Charter of the United Nations, in the Universal Declaration of Human Rights, in the Convention on the Rights of the Child, and elsewhere in the galaxy of international instruments and treaties that have been promulgated since the UN's founding in 1945 [...]. In coming together with the private sector, the UN must carefully, and constantly, appraise the relationship.

Carol Bellamy, Executive Director UNICEF, 1999<sup>45</sup>

When considering the legitimate role of infant food manufacturers in the regulation of their practices and their participation in policy-making on infant feeding, the existence of corporate PR and corporate lobbying must, as a priority, be taken into account. Their workings must be brought into the open. Without such transparency, there can be no informed democratic decision-making on the appropriate role of the industry.

One way of taking strategic corporate PR into account is to abolish the term 'partnership' for interactions between the public and the commercial sector. This would be an important measure to prevent corporations from using these 'partnerships' to enhance their power and influence, for example, by transferring the good image of religious and civil society organisations or UN agencies to themselves.

It is not interactions *per se* between the public and the commercial sector which are at issue. The infant food industry *does* have a role to play in the infant food arena – one of delivering good quality, reasonably priced, products in a way which does not conflict with the Code and subsequent Resolutions.

At issue is the need to prevent such interactions from being misused by corporations and their business associations for purposes which conflict with the general and specific mandates of public institutions. One way of doing so is to call these interactions by a specific name:

- sponsorship (for donations in cash and kind);
- negotiations or tender (for instance, for favourable terms for industrially-manufactured products);
- collaboration on a specific project (research collaboration, for example).

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<sup>45</sup> Bellamy 1999a

Each type of close interaction with industry should be accompanied by unambiguous guidelines and procedures on how such interactions must not interfere with public tasks such as standard setting, policy-making and advocacy for the inclusion of the voices and needs of the vulnerable and marginalised.

Clear criteria for assessing the conduct of corporate counterparts should be established and a UN centre to keep track of corporate practices in relation to public interests and policy-making should be re-established. All UN agencies, moreover, should have their own, publicly accessible, in-house data bank to keep track of the behaviour and actions of corporations with whom they interact closely.<sup>46</sup>

There is also an urgent need for a public debate on whether some of these so-called 'partnerships' between the public and corporate sector do not in fact violate a fundamental – and in practice most embattled – principle of modern democracy: that there should not be 'a 'one-dollar-one-vote' decision-making system.<sup>47,48</sup>

Finally, the infant food case illustrates why it is important not to shy away from controversial debates simply because corporate PR has worked hard to discredit them. It is essential to bear in mind that controversy is part and parcel of the democratic process. Many UN agencies, governments and NGOs seem to be acceding to the industry portrayal of 'constructive dialogues' and 'partnerships' as being in opposition to 'counterproductive controversy'. If such a stance were to become more widely-accepted as the appropriate way to conduct debates about international policy, it would pose a great threat to democracy. As community organiser Saul Alinsky said:

Conflict is the essential core of a free and open society. If one were to project the democratic way of life in a musical score, its major theme would be the harmony of dissonance. (Alinsky 1971)

Efforts to end the harmful marketing practices of infant food manufacturers show that sometimes conflict has to be continued until there is real change.<sup>49</sup>

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<sup>46</sup> For comments on the 1999 WHO draft Guidelines on Interactions with the Commercial Sector, see e.g. IBFAN 1999a

<sup>47</sup> For a discussion on the interrelation between regulation and "democratic politics, competent administration, and reliable courts", see e.g. the chapter 'Markets and Politics' in Kuttner 1999:328-62. For more general discussions about possible forms of democracy in a globalising world, see e.g. books on cosmopolitan democracy, (such as Archibugi et al. 1998) and the proposals made in 'Whose World is it Anyway: Civil Society, the UN and a Multilateral Future' (Foster and Anand 1999; in particular pp.499-522).

<sup>48</sup> For further literature about global public-private partnerships, see e.g. TRAC 1999, Utting 2000, Buse and Walt 2000a, Buse and Walt 2000b; SID/WHO/ISS 2000; HAI 2001. For concerns about such partnerships within the infant food debate, see Ferriman 2000; Yamey 2000c; and the rejoinders Sokol 2000; Richter 2000; Krasovec 2000; Naylor 2000; Nabarro 2000; Bellamy 2000; Rundall and Peck 2000

<sup>49</sup> Denise Lach, who analysed the role of conflict in the US environmental debate, pointed out: "Contrary to common view that conflict is always a negative force that must be managed to resolution, conflict can be a driving force for social change ... Fundamentally, conflict forces us all to clarify and adapt our perspectives in response to changing human interests and environmental conditions" (Lach 1996:212)



## Box 9

### 'Dialogues' ...

#### *or intelligence gathering, image transfer, diversion and division?*

At the Tenth Public Relations World Congress in 1985, international PR consultant Rafael Pagan, Jr. drew attention to more than 30 different codes of conduct for TNCs or guidelines being considered at the UN level and to the intention of the International Organisation of Consumer Unions (IOCU) "to create a climate of support for national and international regulation". (Pagan Jr. 1985:376)

Pagan anticipated that several industries would be "certain to be at the centre of conflict during the next decade". These included "pesticides and other agricultural chemicals; oil, natural gas and petrochemicals; pharmaceuticals; fast and processed foods; alcoholic beverages; tobacco; nuclear power; armaments and weaponry; news, media and communications; and banking, insurance and other financial services". Pagan warned the audience that "as the infant formula conflict proved, the marketing practices of no major industry or company are exempt from the politics of confrontation". (Pagan Jr. 1985:376-377)

He criticised corporations for practising an outdated dual strategy consisting of:

Lobbying – direct behind the scenes negotiations between companies and governments or UN agencies; [and]

A public relations orthodoxy that seeks to communicate a decent company image to the general public in order to gain support, or at least consent, for the industry's objectives.

Pagan advised them to move on "social awareness" concept, a term he preferred to "issues management":

If a company opens itself up to dialogue with critics of conscience, seeks support and understanding through openness and dialogue with news media and UN staff members, and acknowledges a broad responsibility for the more remote effects of its marketing practices in the Third World, it can gain respect for its essential decency, legitimacy and usefulness. (both quotes Pagan Jr. 1985:377).

The infant food case study casts doubt on the claim that industry-initiated 'dialogues' were ever meant to be conduits for allowing society to make corporations more accountable. Instead, in many cases, 'dialogues' seem to have been used simply as an additional international issues management tool to engineer consent to socially-unacceptable corporate practices.

Marketing lecturer Craig Smith recognised the dual face of industry-initiated dialogues by stating that dialogues can be used not only to find out what the problems are and to "comply" with societal demands, but also to fight pressure groups or to manipulate the debate. Smith suggests that, as far as companies are concerned, direct 'dialogue' with pressure groups can be a better tool to assess the extent of the "threat" posed by critics' demands than "environmental scanning", and can also be used to co-opt pressure groups. (Smith 1990:273)

Thus dialogues are often anything but open and straightforward discussions about controversial issues. They can be used to gain intelligence, transfer image and divert attention

from more pressing issues. Civil society and other organisations should therefore consider carefully whether, when and how to enter into discussions with a company. To contribute to democratic decision-making, such meetings should be conducted and recorded in a way which is transparent to the public.

In 1989, for instance, just after the Nestlé boycott was resumed because the company continued to violate the WHA Resolutions on ‘free supplies,’ the International Association of Infant Food Manufacturers proposed a two-day meeting “with the participation of WHO and UNICEF” in order “to resolve the controversy over the free or low-price supplies of infant formula and other breastmilk substitutes in developing countries.” (Borasio 1989)

The meeting never took place because most of the organisations invited to attend, such as the World Council of Churches and the International Organisation of Consumer Unions, saw no need for it. They said that the industry’s interpretation of the Code as permission to continue distributing large amounts of free supplies to maternity wards was clearly contradicted by the 1986 World Health Assembly Resolution which requested Member States to “ensure that the small amounts of breastmilk substitutes needed for the minority of infants who require them in maternity wards and hospitals are made available through normal procurement channels and not through free or subsidised supplies.” [Res. WHA 39.28, 1986]

Activists queried why the industry had asked for such a meeting in 1989 – after the boycott had been renewed – but not in 1986 at the time of the WHO Resolution. They regarded the request as another delaying tactic.

Indeed, rather than simply ending their free supplies, the International Association of Infant Food Manufacturers elaborated a statement on how they would work with governments, WHO and UNICEF to end this practice by 1992. Nestlé portrayed these interactions with WHO and UNICEF as follows:

For the first time, formal international cooperation was initiated between the infant food industry and the leading United Nations’ agencies concerned with infant health – the World Health Organisation (WHO) and UNICEF – in an attempt to resolve the controversy once and for all ... Nestlé will continue to seek solutions, in cooperation with WHO, UNICEF ... health authorities ... health professionals, and research scientists, which will lead to improved infant and child health. (Nestlé 1992)<sup>50</sup>

In the same statement, Nestlé claimed that it had “done everything possible to support the spirit and the letter of the International Code, particularly in those countries where there is high illiteracy and infant mortality” and complained that “these efforts have been hampered by activist groups which have always placed the most negative interpretation on company initiatives and have consistently promoted confrontation rather than cooperation”. (Nestlé 1992:5)

A few years later, UNICEF suspended discussions with Nestlé because – after years of dialogues – the company would still not agree to the universality of the Code, nor had it ended distributing free supplies to maternity wards. (see p.p. 139-140) This did not dissuade the company from using the UN agency for image transfer on its website:

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<sup>50</sup> Foreword by Managing Director Helmut Maucher



Nestlé markets infant formula in conformity with the principles and aim of the WHO International Code of Marketing of Breastmilk Substitutes, and *seeks* dialogue and cooperation with the international health community and in particular with the WHO and UNICEF, to identify problems and their solution. (Nestlé 1999a, emphasis added)