



FOREIGN PREFERENCE, A family looks at foreign milk powder products at a supermarket in Beijing. REUTERS/KIM KYUNG-HOON

CHINA MILKPOWDER

How big formula bought China

Foreign companies have acquired a third of China's booming market for baby formula, often by flouting rules promoting breastfeeding.

BY ALEXANDRA HARNEY

CHINA MILKPOWDER FLOUTING BREASTFEEDING RULES

SHANGHAI, NOV 8, 2013

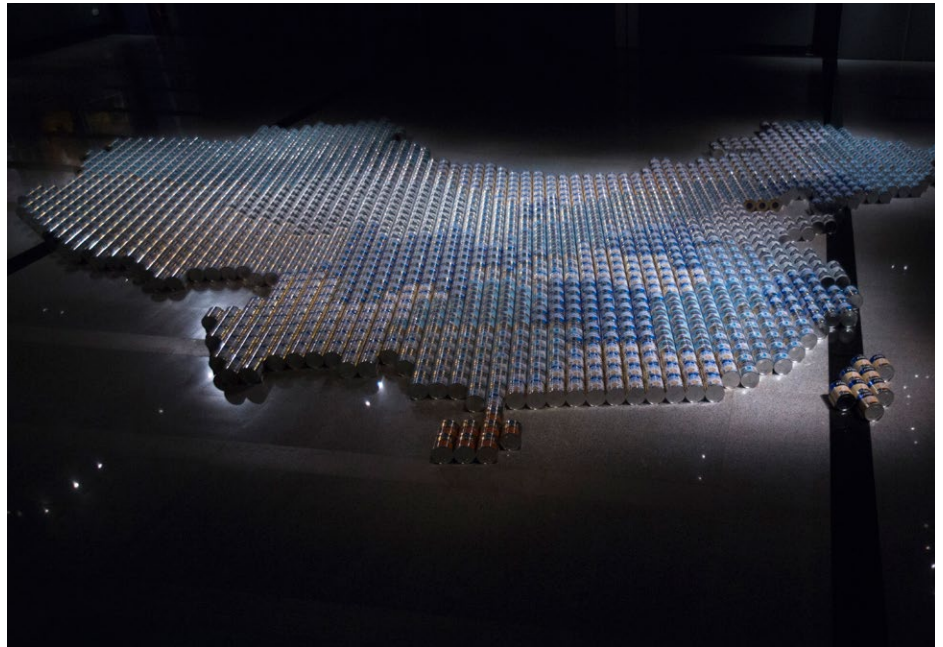
In the two days after Lucy Yang gave birth at Peking University Third Hospital in August 2012, doctors and nurses told the 33-year-old technology executive that while breast milk was the best food for her son, she hadn't produced enough. They advised her instead to start him on infant formula made by Nestle.

"They support only this brand, and they don't let your baby drink other brands," Yang recalled. "The nurses told us not to use our own formula. They told us if we did, and something happened to the child, they wouldn't take any responsibility."

For Nestle and other infant formula producers, there is one significant complication for their China business: a 1995 Chinese regulation designed to ensure the impartiality of physicians and protect the health of newborns. It bars hospital personnel from promoting infant formula to the families of babies younger than six months, except in the rare cases when a woman has insufficient breast milk or cannot breastfeed for medical reasons. Nestle told Reuters it supports this code and has tried to strengthen its implementation. Peking University Third Hospital declined repeated requests for comment.

Most women have enough breast milk to feed their infants, scientific studies show. The World Health Organization advocates exclusive breastfeeding for the first six months of life, starting within an hour of delivery. Breastfeeding leads to better health for babies and mothers, including protection against infection for infants and lower rates of breast and ovarian cancer for women, WHO says.

A Reuters examination reveals that global infant formula companies have found ways to skirt and violate the 1995 code, which they support publicly. Reuters interviewed nearly two dozen Chinese women who have delivered babies at hospitals around China over the last two years.



MELAMINE TRAGEDY: Chinese dissident artist Ai Weiwei made this creative statement - a map of China made of baby formula cans - to commemorate the 2008 melamine scandal that affected 300,000 infants, including his then 4-year-old son. **REUTERS/ TYRONE SIU**

“The nurses told us not to use our own formula. They told us if we did, and something happened to the child, they wouldn't take any responsibility.”

Lucy Yang
Beijing mother

Like Lucy Yang, most experienced the aggressive tactics of formula makers.

Until very recently, enforcement of China's 1995 regulation had been rare. Neither WHO nor UNICEF can point to a single instance where fines had been imposed since it was introduced. Reuters contacted five prominent Chinese law firms and - underlining the regulation's obscurity in Chinese legal circles - not one was familiar with it.

The National Health and Family Planning Commission, one of the government bodies charged with enforcing the regulation, did not respond to a question

about its enforcement. Neither did the State Administration for Industry and Commerce, which also has enforcement authority.

But the enforcement climate may be changing. The new Chinese government that took office this year is in the midst of a widespread crackdown on corruption, and the practices of big formula appear to be in its cross-hairs. On Oct. 14, Paris-based Danone Corp said it would replace managers in China after state-owned CCTV broadcast a report that the company's formula unit - Dumex - had bribed doctors in the northern city of Tianjin to gain better access for its product.

Dumex China expressed "deep regret" over what it called "lapses" and promised "full accountability."

The same day, local officials said 13 medical workers in Tianjin had been dealt a range of punishments from warnings to dismissals.

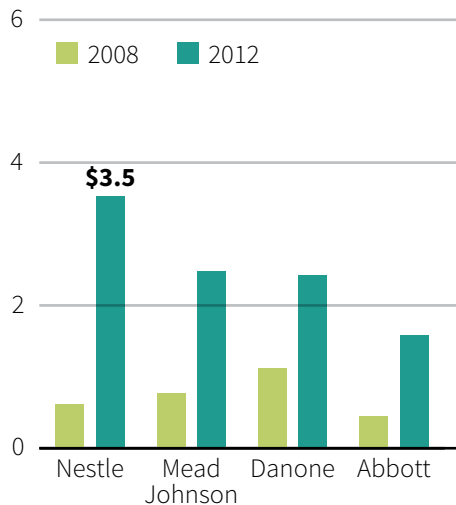
Big formula's practices in China have also caught the attention of U.S. regulators.

Land of milk and money

The top four foreign infant formula makers in China spent more than 10 billion yuan (\$1.5 billion) on advertising in 2012 versus 3 billion yuan (\$440 million) in 2008. Together they control almost 34 percent of market.

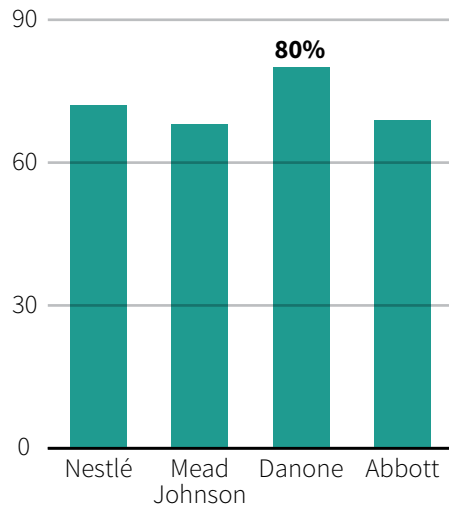
ADVERTISING SPEND

Billion yuan



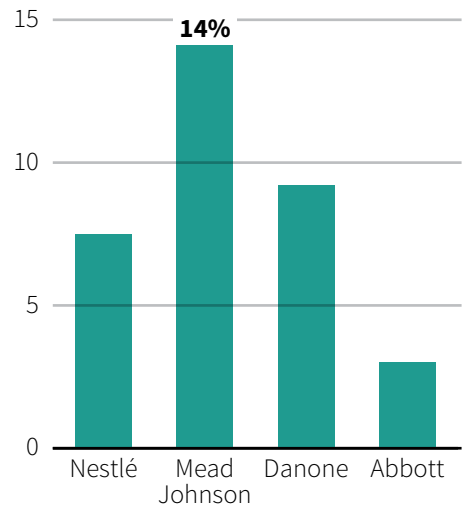
BRAND AWARENESS (TIER 1-2 CITIES)

Percent*



SHARE OF CHINA'S MARKET

Percent of retail market



Note: Nestlé acquired Pfizer Nutrition/Wyeth in April 2012. Advertising spend for Nestlé combines Nestlé and Wyeth; brand awareness for Nestlé refers to Wyeth; Share of China's market for Nestlé refers to Pfizer Inc. Advertising spend and brand awareness for Danone refers to the Dumex brand.

*Based on China Reality Research's (CRR) August 2013 survey of 40 domestic retailers and 240 middle-class parents in China.

Sources: International Monetary Fund; CRR/CLSA; Euromonitor International.

In August 2012, Pfizer Inc and its unit Wyeth agreed to pay more than \$45 million combined as part of separate settlements with the U.S. Securities and Exchange Commission (SEC) over violations of the Foreign Corrupt Practices Act (FCPA).

In its complaint, the SEC charged that between 2005 and 2010, Wyeth paid bribes to officials outside the United States, including those in Chinese state-owned hospitals, to encourage them to recommend Wyeth's nutritional products and to gain access to records of new births that could be used for marketing, and then disguised these payments as expense claims. Under the terms of the settlement, Wyeth neither admitted nor denied the allegations.

GLOBAL BOYCOTT

Infant formula is controversial in many

countries, and China is no exception. In the 1970s, growing concern that formula marketed to mothers in developing countries was contributing to malnutrition led to a global boycott of Nestle products. It prompted the World Health Assembly, the WHO's decision-making body, to pass a code curbing the marketing of baby formula. Since then, 103 countries, including China, have introduced legislation to implement parts of this code.

While campaigns promoting the benefits of breastfeeding have tainted formula's image in the West, in China, public debate about formula is mostly about safety. In 2004, at least 50 children died from malnutrition after drinking fake infant formula with little nutritive value. Four years later, formula sold by local brand Sanlu - laced with the industrial chemical melamine

- sickened nearly 300,000 infants and killed six, fueling national outrage over government food safety controls.

The stain of Sanlu has proven hard to erase. Because many Chinese parents still doubt the quality of domestic brands, international formula makers can charge a premium to domestic brands. Foreign formula firms now control about a third of the Chinese market, according to consultancy Euromonitor International. In 2012, two of the three best-selling brands were foreign. Mead Johnson has a 14 percent market share, Danone controls 9 percent and Nestle 7.5 percent.

China is fertile ground for formula makers. A traditional Chinese belief that women should rest for the first month after delivery gives older family members greater say in the feeding and care of newborns.

Relatives often prefer formula as it helps babies sleep for longer stretches. Many families, moreover, prize pudgy babies, who are seen as healthier. Formula-fed infants gain weight more quickly, studies show.

China's high rate of cesarean sections – the world's second highest at 46 percent of all deliveries – leads more mothers to start their babies on formula. Mothers fear drugs used in the operation will affect their breast milk. There is also a common belief that China's chronic air pollution is harming mothers' milk supply.

Government surveys show a low breastfeeding rate – just 28 percent of Chinese women were exclusively breastfeeding at six months as of 2008, down from 51 percent in 2003. Independent researchers suggest the real figure is much lower. One study published in the *Journal of Health, Population and Nutrition* in 2010 found exclusive breastfeeding rates at six months in parts of China were as low as 0.2 percent.

With infant formula sales in the United States declining because of a falling birth rate and a rise in breastfeeding, developing nations – China foremost among them – are formula companies' biggest opportunity.

In 2008, China surpassed the United States to become the world's largest formula market. Euromonitor expects sales of infant formula in China to double from \$12 billion last year to \$25 billion in 2017.

FREE SAMPLES

Under China's 1995 code, companies may not distribute free formula or samples to pregnant women, their families and hospitals. They can't sell products at a discount. Nor may they offer hospitals funding, equipment or information in order to promote their product.

The regulation bars hospitals and academic institutions from accepting gifts or help from formula companies or promoting infant formula products. It requires medical institutions to "actively advocate" the advantages of breastfeeding.



POSTER CHILD: The Mead Johnson logo on the wall of the Hangzhou Tianmushan hospital, Zhejiang province. **REUTERS/ALEXANDRA HARNEY**

Penalties for violations, however, are lenient – the maximum fine is 30,000 yuan (\$4,900). Enforcement is complicated by its division across several government bodies: the National Health and Family Planning Commission (NHFPC), the State Administration for Industry and Commerce, the State Administration of Radio, Film and Television, and the General Administration of Press and Publication.

Public awareness of the regulation is low. Chinese research firm Beijing Shennong Kexin Agribusiness Consulting counts hospitals as one of the four primary channels for sales of infant formula, alongside supermarkets, baby product stores, and the Internet.

Doctors and their recommendations have the largest impact, it wrote in a November 2012 report. Consumers find "organizing activities inside hospitals around nutrition more scientific and persuasive."

Reuters found formula company advertising and promotion commonplace inside hospitals. In August, visitors to the maternity ward at Hangzhou Tianmushan

Hospital in eastern China were greeted with banners from Mead Johnson that read: "Healthy babies, happy mothers" and "Give baby the best start in life!"

A picture of a baby drinking from a bottle and the Mead Johnson logo adorned the floor guide. On the VIP maternity wing, nurse Xia Lingling – a new mother herself – said Mead Johnson representatives regularly visited to drop off samples for new mothers and to give talks to the staff.

Xia explained that every patient who delivers at the hospital and stays on the VIP wing receives a free container of Mead Johnson upon the baby's birth. Mead Johnson "promotes their infant formula here . . . it's a form of advertising," said Zhang Yueqin, an obstetrician at the hospital.

A Hangzhou Tianmushan spokesman, who would only give his name as Fan, denied the hospital touted Mead Johnson formula to mothers. He said promotional materials were intended to improve the medical knowledge of expectant and new mothers. The hospital displayed no branded posters from Mead Johnson, he said. By late September, the posters had been taken down, Reuters confirmed.

In a statement emailed to Reuters, Mead Johnson said it does not provide formula directly to mothers in hospitals. It does give samples to health care professionals "for the purpose of professional evaluation or research, and all of them are clearly marked 'For medical use only – Not for Resale' on the label," the statement said.

Mead Johnson said it provided posters and "other materials to display in or around maternity wings" if requested by hospital staff. These materials "fully comply with the laws and regulations in China," it said.

PUSHING FORMULA

Mothers whom Reuters interviewed said formula was pushed to them in myriad ways: doctors gave them discount cards for infant formula during prenatal checkups;

hospital staff strapped identity bands branded by formula companies to their babies' limbs; formula representatives entered their hospital rooms to distribute samples as they recovered from giving birth.

At Beijing Tiantan Hospital, representatives from companies, including Nestle and Wyeth, visited with formula samples for mothers and presents for doctors, said Dr. Yang, who worked as an obstetrician there until 2009. "We weren't given a commission, just small gifts."

She declined to elaborate on the nature of the gifts, or be identified by her full name. Kuang Yuanshen, a hospital spokesman, said that without more detail, it was impossible to confirm Dr. Yang's allegations. Wyeth said by email that company representatives were "strictly forbidden" from visiting hospitals to distribute free samples.

Four former formula company representatives, however, confirmed these kinds of dealings take place. A former Nestle sales representative said she brought samples to

doctors and took them to dinner. A former Nestle marketing executive said it was standard industry practice in China to provide financial incentives to doctors to recommend a certain brand of formula. Chinese doctors, she said, expect it.

In an emailed response to questions, Nestle confirmed it has "a medical-trained team who visits hospitals to provide factual information about our product features and up-to-date nutrition and health-related information to doctors." Nestle "does not provide any free supply to hospitals nor incentivize doctors to promote our products," it said.

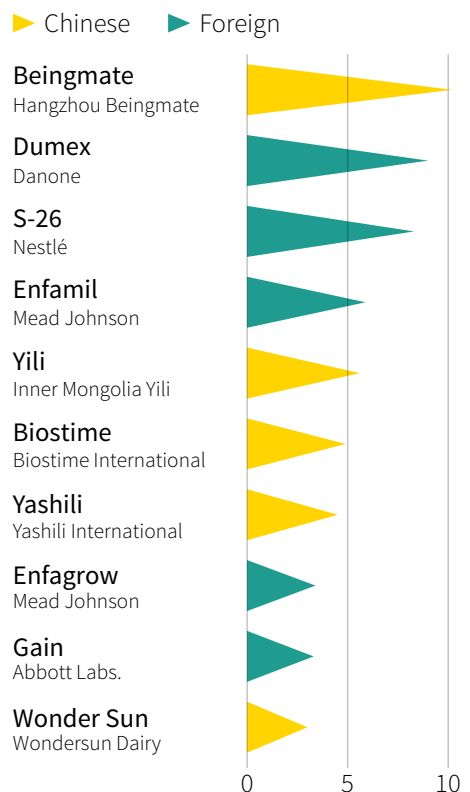
Many underpaid and overworked doctors in China's state-dominated healthcare system have no choice but to rely on incentives from companies, however, says John Cai, director of the Centre for Healthcare Management and Policy at the China Europe International Business School in Shanghai. The official annual take-home pay for an obstetrician with nearly two decades' experience in a public hospital might

Dairy kings

Foreign brands hold sway in China's baby milk formula market. 63 percent of parents would recommend a foreign infant formula brand to other nursing mothers.

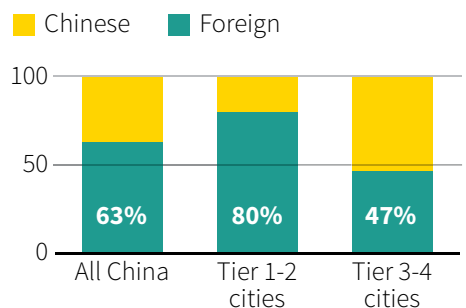
TOP TEN BRANDS

2012 share of total market



RECOMMENDED INFANT FORMULA BRANDS FOR NURSING MOTHERS

Percent of respondents*



*Based on China Reality Research's (CRR) August 2013 survey of middle-class parents in China. N=240

Sources: Euromonitor International; CRR/CLSA.

REUTERS TV

See the video <http://link.reuters.com/peb54v>



Witness: Breaking the rules in China's baby formula industry

Reuters' Alexandra Harney investigates China's multi-billion dollar infant formula business and finds global brands going to extreme - sometimes illegal - lengths to push products to new parents. See the video: <http://link.reuters.com/peb54v>



FORMULA ONE: Exclusive breastfeeding rates for infants at the age of six months were as low as 0.2 percent in parts of China, one study found. **REUTERS/ KIM KYUNG-HOON AND DAVID GRAY**

be only \$5,000, depending on the services she offers, doctors said.

“A company might approach you and say they’d like to support your work,” says Qiu Liqian, an obstetrician and associate professor at the Women’s Hospital at Zhejiang University Medical School. “If you’re organizing an academic conference, or you’re organizing an event on nutrition, or an event on preventing infection, they would offer their assistance.” Formula companies pay for prominent Chinese doctors to attend academic conferences, which she called “free holidays”.

Bribery to obtain an unfair business advantage is illegal under both China’s Anti-Unfair Competition and Criminal Laws. Bribery can include paying for sponsorship, scientific research and travel expenses under the Anti-Unfair Competition Law; under an interpretation of the Criminal Law, paying travel costs is one of many recognized forms of bribery.

UNDERGROUND MARKET

Some formula companies also utilize a large underground market in hospital patient information. This gives them immediate access to the names, phone numbers and due dates of pregnant women and new

mothers, according to a medical researcher and sales executive who have seen name lists of pregnant women for sale at hospitals in Beijing and Shanghai.

Under a 2009 amendment to China’s Criminal Law, it is illegal for employees in the medical sector to sell patients’ personal data. Stealing or acquiring such information illegally is also a crime.

Contacting mothers through prenatal classes is one way formula companies get access to expecting mothers. At one such class taught by Abbott at Shanghai East International Medical Center, participants received a 400-gram (15-oz) tub of Abbott formula, according to Gao Meng, a 33-year-old office manager from Shanghai who attended.

Shanghai East confirmed that Abbott representatives had trained their nurses in Lamaze breathing techniques and taught prenatal classes at the hospital between April and July this year, because of their “expertise” in Lamaze breathing. No infant formula was distributed at these classes,

a spokeswoman said. A spokesman for Abbott declined to comment.

Hospitals and doctors sell access to prenatal classes to third-party companies, including formula manufacturers, said a sales executive who uses Shanghai hospitals as a marketing platform for his company’s nanny services. That access allows companies to lead classes, distribute promotional materials or make an appearance to plug their products, he said.

Eighteen mothers in cities around China interviewed by Reuters said infant formula companies contacted them by phone or text message, both during their pregnancies and starting as soon as an hour after they had delivered their babies.

Yang Jing, a 33-year-old department store manager in Beijing who had a baby in 2011, said formula companies including Wyeth called her to ask about her son’s development. Formula would help her son be stronger, they told her. Samples arrived at her home. She said she had never given a formula company her address.

Wyeth said it “has clear guidelines for our sales activities to exclude any sales or marketing activities relating to breast milk substitutes that would target consumers, either by phone or face to face contact.” It



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promised an investigation into this case.

IT'S ACADEMIC

Most of the major infant formula companies have cultivated ties with the government in China — including departments affiliated with the National Health and Family Planning Commission (NHFPC), one of the agencies tasked with enforcing the 1995 regulation on formula marketing.

Companies fund hospital research and awards for doctors, sponsor conferences and train state medical personnel — the same medical professionals who are supposed to be actively advocating breastfeeding.

Nestle has been among the most active in the government relations area, breastfeeding advocates say. It has sponsored training for officials from mother-and child clinics. It backed a Chinese academic study analyzing the composition of Chinese mothers' breast milk. Peking University Third, where Lucy Yang had her baby, was among the hospitals the Swiss food giant chose to conduct clinical trials on the use of breast milk "fortifier" for premature infants between 2010 and 2011.

Nestle said it "works with the Ministry of Health and healthcare institutions to promote public awareness and knowledge of health and nutrition."

Last year, Mead Johnson launched a three-year training programme for medical personnel in the southwestern province of Yunnan, working with a Chinese foundation. The programme focused on improving staff's understanding of nutrition and "scientific feeding" for children from birth to age three, according to company public-ity materials.

Training of medical personnel that is intended as a gift is a clear violation of both the 1981 WHO code and China's 1995 regulation, said Beijing-based WHO technical officer Wen Chunmei.

In a statement, Mead Johnson described

its training project as "philanthropic".

ACCESS TO POLICYMAKERS

Nestle and other foreign formula companies also enjoy direct access to Chinese policymakers. During discussions about revising the 1995 regulation that began in December 2011, the Ministry of Health (now the NHFPC) solicited opinions from big foreign formula brands as well as global health and children's organizations.

Nestle sought to weaken some of the proposed provisions, some of which were more stringent than the 1995 regulation and would have brought China closer in line with WHO regulations, according to a copy of its submission obtained by Reuters.

Despite publicly supporting the WHO code, Nestle objected to a proposed rule that formula packaging should display in a conspicuous way the wording "breast-feeding is recommended". The WHO code says formula containers should clearly and conspicuously display a statement on the superiority of breastfeeding.

Nestle told Reuters that the proposed labeling risked inconsistency with a Chinese infant food safety standard "which provides clear guidelines to ensure that messages on labels are displayed in a standardized manner".

Nestle further opposed a proposed ban in the revised code on formula companies funding hospital research into breast milk alternatives. In its statement to Reuters, Nestle said the research was "necessary for the development of science-based products that can save the lives of those infants who cannot have adequate breast feeding." Nestle also sought to limit the proposed code's application to formula for "full term, healthy babies", an exclusion not in the WHO code, though it says it did not try to make an exception for specialty formulas.

"Quite frankly," Nestle wrote Reuters, "all our recommendations were meant to

introduce a stricter local code as well as implementation." Nestle added that it urged extending the curb on promoting formula from infants' first six months to their first 12.

SIGNS OF CHANGE

The Chinese government is showing signs of taking the 1995 regulation more seriously. After the Chinese television story about Dumex, the health ministry warned hospitals to strengthen enforcement of the code. Three government agencies jointly issued a notice reinforcing its main principles.

But while the 1995 regulation is getting more attention, the attempt to revise it remains in limbo. The NHFPC, in a faxed response to questions, said the number of government departments involved and the number of sectors the code covered, as well as the reorganization of government departments, had slowed the process of revision.

Wen, the WHO technical officer, said there may not have been sufficient public education about the 1995 code. But she stressed that infant feeding was an issue that "all of society" needed to address. "If training is confined to the medical system, public education about the code will only have a limited impact."

Additional reporting by Adam Rose, Li Hui and Megha Rajagopalan; Editing by Bill Tarrant and Bill Powell

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