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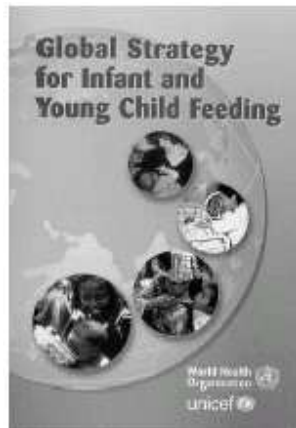


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# Conflicts of Interest and Policy Implementation

## Reflections from the fields of health and infant feeding

Judith Richter



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## INTRODUCTION

### The Global Strategy

In 2002, the World Health Organization and the UNICEF Executive Board adopted a key policy, the *Global Strategy for Infant and Young Child Feeding*. This policy document aims “to improve – through optimal feeding – the nutritional status, growth and development, health, and thus the survival of infants and young children.” (§6)

Urging collaboration, the Global Strategy stresses that no single sector can meet this challenge:

Governments, international organisations and other concerned parties share responsibility for ensuring the fulfilment of the right of children to the highest attainable standard of health and the right of women to full and unbiased information, and adequate health care and nutrition. (§35)  
[C]ollaboration between governments, international organisations and other concerned parties... will ultimately ensure that all necessary action is taken. (§9)

Other *concerned parties* include professional bodies, non-governmental and community-based organisations, and commercial enterprises.<sup>1</sup> Whether to include commercial entities among concerned parties, perhaps increasing risks of undue industry influence on public policies, was hotly debated during the development of the Global Strategy. Sections of the Strategy therefore specify the obligations and responsibilities of each party.

In the Global Strategy, terms such as *alliances* and *partnerships* are firmly associated with the term *conflict of interest*:

All partners should work together to achieve fully this strategy’s aim and objectives, including by forming fully transparent innovative alliances and partnerships consistent with accepted principles for avoiding conflict of interest. (§3, emphasis added)

Will this statement be sufficient to ensure that the interests of infants and young children are safeguarded in interactions with commercial entities?

### Purpose of this paper

It is not the aim of this short discussion paper to give an exhaustive list of the possible conflict of interest situations which could have bearing on the implementation of the Global Strategy and other public health policies. Its aim is rather to give a more general insight into the thinking underlying the concept of conflict of interest and into ways which have helped respond to the problem. The focus is on conflicts of interest arising from financial and other interrelationships between business actors and public officials or health professionals.

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## WHAT ARE CONFLICTS OF INTEREST?

Defining conflicts of interest is not simple. No document lists generally accepted principles for avoiding conflicts of interest in the field of public health and nutrition. Nor is there a coherent, comprehensive framework within the United Nations system for identifying and addressing conflict-of-interest issues in interactions with commercial actors.

### Origins of the concept and term

Most of us think that we know what conflicts of interest are. And in a way, this is right. The concept is as old as our common experience, expressed in the folk wisdom of proverbs

**Small presents maintain the friendship. (German)**

**He who pays the piper calls the tune. (English)**

**Who pays gives orders. (Dutch)**

**Whose bread I eat, their song I sing. (Czech, Dutch, German)**

**You don't bite the hand that feeds you. (English)**

**If you eat salted fish, you must stand the thirst. (Chinese)**

**Only in a mousetrap can you find cheese for free. (Russian)**

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**Don't invite the fox into the chicken coop. (English)**

**You don't trust the goat with the cabbage. (Hungarian)**

**You don't make a billy-goat into a gardener. (Czech and German)**

**One cannot be the judge and the party to be judged. (French)**

Scholars suggest different origins for the concept of conflict of interest. Law Professor Marc Rodwin traces one origin back to 1690 when the English political philosopher John Locke suggested that governments are a public trust, bound by a kind of social contract. The people authorize a government to act on their behalf, with the condition that this power should be used to their benefit. It should not be abused.

Another root of the concept is in what are called *fiduciary principles*, based on *fides*, the Latin word for trust. These principles can be applied to professionals who are in a position of trust to act in the interest of other persons, who need to be able to trust their judgement and loyalty. Government officials can be seen as fiduciaries, obligated legally and ethically to work for the interests of the public which has delegated power to them.

Despite the long history of the underlying concept, the term *conflict of interest* is relatively new. Even though a major source of the concept is in Anglo-Saxon fiduciary law, conflict of interest appeared as a heading in Black's Law Dictionary only in 1979. The first appearance of the term in ethics codes date to the early 1970s. It took another ten years before the medical literature started to pay serious attention to the topic, but the term has now spread around the world and entered common parlance.<sup>2</sup>

### Some definitions

Today we find myriad definitions:

- A conflict between the private interests and the official responsibilities of a person in a position of trust (*Merriam-Webster Online Dictionary, 2004*)
- *Conflict of interest* means that the expert or his/her partner ('partner' includes a spouse or other person with whom s/he has a similar close personal relationship), or the administrative unit with which the expert has an employment relationship, has a financial or other interest that could unduly influence the expert's decision with respect to the subject-matter

being considered... (*Website of the World Health Organisation, Declaration of Interests for WHO Experts, 2000*)

- A 'conflict of interest' involves a conflict between the public duty and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities. (*OECD Guidelines for Managing Conflict of Interest in the Public Service, 2003*)

This short list shows that definitions tend to focus on the individual professional. They vary depending on the specific area of application, the context in which they have emerged and the analytical clarity of those who propose them. It is of utmost importance to ensure that the definition applied in infant and young child feeding provides a good basis for identifying and addressing the relevant issues.

### A general definition

A useful general definition to start from is proposed by Rodwin, going beyond most definitions by distinguishing two main kinds of conflict of interest, stemming from:

- financial and other *personal interests*, or
- *divided loyalties* of an actor performing competing roles. (Rodwin 1993: 9)

**Professionals have a conflict of interest**, says Rodwin, **"when their interests or commitments compromise their independent judgement or their loyalty to individuals [whom] they have an [ethical and/or legal] duty to serve."** (Rodwin 1993: 9, emphasis added)

### Obligations of professionals in positions of trust

The public is vulnerable, rarely able to check on the details of what officials and civil servants do. This is why society in many countries imposes legal obligations on officials to ensure that they act as expected, "that is to be *loyal*" to those they are meant to serve, "to be

*scrupulously honest* with them, and *to act solely* for their benefit." (Rodwin 1993: 183, emphasis added)

The same reasoning can be applied to **health professionals, physicians being in a fiduciary-like relationship with their patients.**

Patients depend on their doctor's decisions but cannot very well check whether he or she is acting solely for their benefit or has been influenced by some personal interest or divided loyalty.<sup>3</sup>

**The particular vulnerability of infants and young children makes all the more important the health professional's obligation to counsel their mothers or caretakers appropriately on infant feeding.** Public officials who establish infant feeding policies and programmes need to keep this particular vulnerability in mind.

**In the field of infant feeding, the duty to serve is defined in the Global Strategy as:**

**[the] responsibility for ensuring the fulfilment of the right of children to the highest attainable standard of health and the right of women to full and unbiased information, and adequate health care and nutrition.... (§35)**

### Another general definition

But why are we talking about conflicts of interest? A helpful clarification appears in an article by Dennis Thompson, Professor of Political Philosophy at the Harvard Center for Ethics and the Professions. His definition focuses on the relationship between conflicts of interests and professional judgement:

a conflict of interest is a set of conditions in which professional judgement concerning a primary interest...tends to be unduly influenced by a secondary interest... (Thompson 2005: 290)

## Primary and secondary interests

He gives as examples of *primary interests* the patient's health or education, or validity of research, or education of students. He suggests that primary interests are often defined in professional ethics codes. What Thompson characterises as primary interests are in a way what other definitions may call fiduciary or professional duties, or patients' or public interests.

*Secondary interests* encompass the most varied kinds of financial interests and ties as well as some personal and political interests which may adversely affect the judgement of a professional. As Thompson points out:

The secondary interests are usually not illegitimate in themselves... Only their relative weight in professional decisions is problematic. The aim is not to eliminate or necessarily to reduce financial gain or other secondary interests (such as preference for family and friends or the desire for prestige and power). It is rather to prevent these secondary factors from dominating or appearing to dominate the relevant primary interest in the making of professional decisions. (Thompson 2005: 291)

In case of conflict between primary and secondary interests, he says, the primary interest must always prevail.

This way of looking at conflicts of interest sounds easy. However, when it comes to identifying and analysing specific conflict of interest situations, opinions may vary on how to concretely define primary and secondary interest, and through which process. Moreover, physicians often may find themselves with the divided loyalties from performing potentially conflicting roles, as healers, researchers, teachers, hospital administrators or public health advocates.<sup>4</sup>

Thompson sees two main purposes of conflict-of-interest regulation in the medical field:

- to ensure the *integrity of professional judgement*, and
- to maintain *confidence* in professional judgement.

## Integrity of professional judgement

One major driving factor behind conflict-of-interest regulation has been scandals caused by unchecked financial interests of persons and institutions in positions of trust. Another has been attempts by commercial actors to influence the judgement of professionals and public officials in order to gain marketing, political or other advantages.

In the medical field, much attention has focussed on financial ties between pharmaceutical companies and health professionals. At risk might be the integrity of professional judgement of prescribers, researchers, technical experts, reviewers of medical knowledge, administrators and regulators.

The particular focus on financial conflicts of interest does not mean that the judgement of health professionals and civil servants is invariably biased. There are many health professionals and public officials who fulfil their duties with absolute integrity. Overall, however, statistical evidence indicates that financial interests are known to sway professional judgement. Even professionals who are aware of a conflict of interest tend to underestimate the extent to which it affects their judgement and behaviour.<sup>5</sup>

For example, many physicians think that they cannot be influenced by small gifts from companies. Yet a great body of research on the link between gifts and samples from pharmaceutical companies and prescribing behaviour shows that even insignificant tokens tend to affect physicians' judgement and induce them to prescribe products of the gift-giving company.<sup>6</sup>

## Confidence in professional judgement

As mentioned above, patients or citizens rarely can assess whether or not the professional to whom they entrust decisions has been influenced. If people cannot be sure whether they can rely on the integrity of a professional's decision-making, they may end up distrusting the profession or public institution at large. Loss of trust is

a serious matter for professions and institutions whose legitimacy flows from acting in the interest of others. This is why a secondary purpose of any conflict-of-interest regulation is to ensure that the public sees no reason for distrust. As Thompson points out:

The aim is to minimize conditions that would cause reasonable persons (patients, colleagues, and citizens) to believe that professional judgement has been improperly influenced, whether or not it has been. (Thompson 2005: 293)

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## RESPONDING TO CONFLICTS OF INTEREST

Helping people to better identify conflicts of interest is not enough. From a legal perspective, **conflicts of interest are seen as problematic because “they have the capacity to cause harm – harm must not have occurred.”** (Rodwin 1993: 9) The inherent potential of conflict of interest situations to cause harm – and the difficulty of checking on persons in positions of trust – have been the two primary driving forces behind societal demands for effective safeguards.

### Blanket prohibition?

Recently WHO member states have endorsed not just the *Global Strategy for Infant and Young Child Feeding* but also other policy documents which include calls to avoid all conflicts of interest.

It is certainly welcome that conflict-of-interest issues are increasingly taken into account. Yet calls for blanket avoidance or prohibitions may yield a paradoxical result: inaction in setting up policies and mechanisms to deal properly with conflicts of interest.

Such wordings do not take into account that it is not always possible to avoid every conflict-of-interest situation. They also rest on the false assumption that all conflicts of interest are the same. Some may be very serious and should be prohibited at all costs. Others may be minor and could be permitted with appropriate management.

To catalyse effective approaches for dealing with conflicts of interest, there may be a need to **replace demands that individuals and institutions avoid all conflicts of interest by requirements that they avoid conflicts of interest and/or manage them appropriately.**

According to Rodwin, conflict of interest policies are only effective if they:

- Set high standards of ethical conduct;
- Clearly delineate the unacceptable from the permissible;
- Develop institutions to monitor behaviour;
- Impose meaningful sanctions to ensure compliance; and
- Provide for possibilities of public scrutiny. (1993: 188-189; 209; 219)

### Delineating the unacceptable from the permissible

**A first step of response to conflicts of interest consists of identifying the various types. This needs to be followed by distinguishing between unacceptable activities and relationships that should be prohibited and those that could be permitted and regulated.** Questions for assessing the seriousness of a conflict of interest include:

- What is the probability that professional judgement will be, or appear to be, influenced by the secondary interests?
- What kinds of risks are posed?
- How serious might the consequences be?<sup>7</sup>

Serious consequences include not just avoidable harm to infants and young children, or to society, but also the insidious damage associated with the loss of public confidence.

To draw the line between the unacceptable and the permissible, there must in addition be an evaluation of the *value to society* of an activity. Some conflicts of interest may stem from an action or relationship that is considered socially desirable.

From a policy perspective:

As the social value of activities increases, it makes sense to bear greater risk from conflicts of interest. And for activities that have little social value, society may want to curb conflicts of interest that create even small levels of risk. (Rodwin 1993: 224)

Looking at the value of an activity to society should not be interpreted as an invitation to disregard the problem of conflicts of interest. There is always a need to assess whether any new health and nutrition policy, or offer to finance related services and activities, risks exacerbating existing conflicts of interest or creating new ones. Rodwin advises always checking whether there are alternatives which may create fewer or less serious conflicts of interest and investigating how best to mitigate predictable ill effects from unavoidable conflicts of interest. (Rodwin 1993: 243)

### **Gift relationships**

Gifts from commercial actors to health professionals in the form of notepads, stethoscopes, free samples of pharmaceuticals or baby food, invitations to dinners, sponsorship of the costs of attending seminars, and sponsorship of educational seminars all create financial conflicts of interest. There is increasing focus in medical literature on the effects of gift relationships between the pharmaceutical industry and medical practitioners:

Gift-giving invokes the reciprocity rule, which creates a feeling of indebtedness in the recipient together with the desire to repay the favour in some way. Awareness of this obligation underlies our reluctance to accept gifts from those we would prefer not to be indebted to, or when we do not know what is expected in return. With gift giving to medical practitioners, the obligation, although often tacit, is very real: prescribe this company's drugs rather than any other alternatives. (Rogers et al. 2004: 411)

All free items from companies have the same effect: putting recipients in debt to the donors and potentially compromising their judgement.

### **Small gifts**

A number of medical associations and pharmaceutical companies argue that it is not necessary to ban all gift relationships. They distinguish between gifts of smaller and larger value, and suggest setting a limit to the amount which is permissible.

Yet a growing number of physicians and outside observers advocate an overall prohibition of gifts from commercially interested sources, contending:

- that gift-relationships are highly likely to bias the judgement of physicians;
- that they introduce a risk of harm to the patient and society, for example through over-prescription of costly and often sub-optimal medicines;
- that patients seeing a product or company name will presume endorsement by the doctor or facility; and
- that small gifts are in any case of little or no value to society.<sup>8</sup>

### **Professional education**

Another contested area concerns corporate sponsorship of scientific seminars and industry funding for medical education. Pharmaceutical companies as well as infant food manufacturers argue that the purpose of these activities is educational, not promotional, so there need be no concern.

Dr. Marcia Angell, former editor-in-chief of the New England Journal of Medicine, closely investigated this claim. She concluded that the justification was false, and that corporate-sponsored symposia and medical education cannot be disinterested. These activities, she points out, are funded from commercial marketing budgets. She addresses those who try to draft safeguards for taking such marketing money and still remaining independent and unbiased:

Drug companies are not providers of education, and they cannot be. No laws, regulations, or guidelines should be based on the idea that they are. (Angell 2004, 251)<sup>9</sup>



## Medical research

A similar debate is taking place regarding medical research. Members of the scientific community have argued that the way research for new drugs is organised has greatly increased conflicts of interest – to the extent that scientists and academics have started accepting such conflicts as normal rather than exceptional.

Critics further say that reliance on corporate funding skews the whole research endeavour. There is strong and consistent evidence of a systematic bias in biomedical research studies funded by commercial enterprises, since they tend to produce results favourable to the commercial sponsors. At the same time, the drive towards university-industry joint ventures and the overall entrepreneurial trend in universities is leading to a neglect of research on fundamental but non-profitable aspects of public health such as problems from environmental pollutants or benefits of breastfeeding through the second year.<sup>10</sup>

## Disentangling overly close relationships

The increasing inter-penetration of the public and private sectors can lead to conflicts of interest which sometimes have little to do with decisions of the individual researcher or physician but more with institutional decision-making processes. **If interactions are creating a particularly high incidence of conflicts of interest,**

**the most effective solution would be to change the practices of the institutions that give rise to the conflicts of interest, rather than to place the onus on physicians [or other professionals] to change their conduct.** (Rodwin 1993: 240)

Today, there are some encouraging first signs of moves toward disentanglement, establishment of clearer boundaries, and redefinition of what are seen as overly close relationships between medical associations, academic institutions, drug regulatory authorities, and the pharmaceutical and biotechnology industries. Clarifying conflict of interest rules and strengthening their application is seen as an important, but not sufficient, part in the endeavour to reclaim science in the public interest.<sup>11</sup>

The other part of the endeavour is a public debate about the direction in which society has been heading in the past twenty five or so years, as well as about the role and ultimate interests of industry. As the economist Milton Friedman pointed out long ago, in the business world, “there is no such thing as a free lunch.” For companies, whose ultimate fiduciary duty is to increase profits for their shareholders, gifts and funding cannot be the expression of altruism.

Wherever this awareness remains alive, corporate philanthropic contributions as well as financial relationships between corporations, public institutions and professional associations, are likely to receive far greater public scrutiny. This is why one could argue that **a thorough, contextual, risk-benefit analysis of any proposed joint project or financial or other interaction is in itself one of the best protections against many conflicts of interest and their harmful consequences.**

## Questions about partnerships and alliances with commercial actors

**Close interactions between actors with for-profit interests and others whose duty is to work in the public interest can be seen as *at-risk areas* for potential conflict-of-interest situations.**

(OECD 2003: 33) This is why an increasing number of health professionals, academics and public interest groups call for disengagement from overly close relationships between health care institutions and commercial enterprises.

In much of the international health arena, however, the current trend is in the opposite direction. Since the late 1990s, there has been increasing pressure on WHO Member States and public-interest non-governmental organizations to engage with the private sector in what are presented as innovative partnerships, alliances or multi-stakeholder initiatives.

There is not yet a UN-wide accepted definition for public-private partnerships. Nor is there any classification which would appropriately distinguish among the interactions and relationships

which are subsumed under this phrase. Member states have requested the UN Secretary-General to explain the difference between traditional UN relationships with the private sector and public-private partnerships.

Pending an ultimate response, it appears that a key feature distinguishing partnerships from other interactions and collaborations with the private for-profit sector is the *shared process of decision-making*. As an UN-sponsored book explains:

In the most strategic partnerships, the partners will work together at all levels and stages, from the design and governance of the initiative, to implementation and evaluation. (Nelson 2001: 47)

Reviewing UN-business partnerships for the United Nations Research Institute for Social Development (UNRISD) and the South Centre, researcher Ann Zammit concluded:

The term [partnership] covers a multitude of activities and relationships, perhaps best conceptualised as a special case of ‘close’ rather than ‘arms-length’ relationships between government and business. (Zammit 2003: xxv)

Will the move toward closer relationships have a negative impact on the implementation of the *Global Strategy for Infant and Young Child Feeding*?

How great is the risk that under the flag of innovative alliances, or multi-stakeholder dialogues, infant food companies and their trade associations will seek to gain new marketing avenues, to influence decision-making, and to polish their own image?

How great is the risk that this move may undermine the advances in awareness of the need for arms-length relationship between public- and profit-interest actors which has been fostered through more than 20 years of debate and action to implement the *International Code for Marketing of Breast-milk Substitutes* and relevant World Health Assembly Resolutions?

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## MEASURES TO BETTER ADDRESS CONFLICTS OF INTEREST IN INFANT AND YOUNG CHILD FEEDING

### Specifying the role of commercial enterprises

Concerns that the Global Strategy’s call for innovative alliances may have negative effects can be addressed if the UN, governments, professional associations and other concerned parties look closely at the Global Strategy and particularly its sections on obligations and responsibilities.

**Paragraph 44 clearly delineates the appropriate roles of manufacturers and distributors of industrially processed foods intended for infants and young children.** It calls on these commercial enterprises to focus their activities on the fulfilment of two basic responsibilities:

- to meet specific quality, safety, and labelling standards set by the Codex Alimentarius and the Codex Code of Hygienic Practice for Foods for Infants and Children,

and with regard to the *International Code of Marketing of Breast-milk Substitutes*:

- to ensure that their conduct, at every level conforms to the Code, subsequent relevant Health Assembly resolutions, and national measures that have been adopted to give effect to both.

Employing their considerable resources to completely fulfill the obligations and responsibilities of these specified roles may allow commercial enterprises to best contribute to the overall aim of the Global Strategy.

### Revising and updating conflict-of-interest policies

However, the work for public-sector actors is far from over. Undue infant food industry influence in the decision-making processes of the Codex Alimentarius is but one area where continued effort is needed to prevent unacceptable conflicts of interest.

WHO's Secretariat in 2002 undertook commitments to revise its systems of checks and balances, including guidance for its staff and for Member States on how to prevent, and if necessary manage, conflicts of interest. This endeavour has not been completed. To do so would entail overcoming obstacles which have hitherto stood in the way of WHO's adopting an institutional definition of conflict of interest, clarifying the ethical basis of its policy, and ensuring a lively public debate.<sup>12</sup>

This may involve sailing in partially uncharted waters. Coordination of efforts with the Organisation for Economic Cooperation and Development may be of help. The OECD is currently urging its 30 Member States to review their conflict of interest policies compared to their *Guidelines on Managing Conflict of Interest in the Public Service*. It contains very pertinent advice, including that public institutions should:

- ensure that effective procedures are deployed for the identification, disclosure, management, and promotion of the appropriate resolution of conflict-of-interest situations;
- support transparency and scrutiny;
- and create an organisational culture in which dealing with conflict-or-interest matters can be freely discussed and raised.<sup>13</sup>

The OECD Guidelines do not yet give good guidance on a number of interactions and relationships which they admit pose major challenges to the integrity of public institutions and their reputation. Among them, they identify the following *grey* or *emerging* areas:

- public-private partnerships,
- private-sector sponsorships,
- privatisation and deregulation programmes,
- interchange of personnel between sectors,
- employment after public office, and
- lobbying.<sup>14</sup>

So-called institutional conflicts of interest are also not addressed, but the OECD plans to shed some light upon the above issues by 2006.

Using the phrasing of the OECD, much remains to be done towards “ensuring effective procedures are deployed for the identification, disclosure, management, and promotion of the appropriate resolution of conflict-of-interest situations.”

Regarding close interaction between public-interest and business-interest actors, **measures to address conflicts of interest should:**

- ensure the *integrity of decision-making processes* of both professionals in a position of trust and public institutions;
- ensure that the *public has reason to trust* in their independence and integrity.

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## CONCLUSION

This exploration of the conflict-of-interest maze shows that conflict of interest definitions and theories are complex, often contradictory, and constantly evolving as new challenges emerge. It could only highlight some key elements of conflict of interest thinking. As the American Bar Association has pointed out, the conflict of interest problem “is not a single dragon to be slain and then enshrined in a song; it is a nagging harpy constantly near at hand.”<sup>15</sup>

It is hoped that the reflections in this paper may encourage discussion on how to better identify such conflicts, how to avoid or manage them, and how to develop adequate, coherent and effective policies that will protect infants and young children and help maintain public trust in health professionals, civil servants and public institutions.

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## Notes

- <sup>1</sup>Global Strategy, footnote 1, p. 7. For WHO's definition of commercial enterprises, see WHO 2000.
- <sup>2</sup>See Rodwin, 1993, pp. 181-185; Rodwin 1995, p. 243; Davis, 2001 p. 17; Thompson 2005, p. 290. For a short introduction to gaps and contradictions in theoretical work on conflicts of interest, see Rodwin 1993, pp. 253-255
- <sup>3</sup>For an introduction to Rodwin's conceptualisation of conflict of interest, cf. Rodwin 1993, pp. 8-11. For more details, see Rodwin 1993, chapters 1, 7, and 8; and Rodwin 1995
- <sup>4</sup>For discussions on the limits of current conflict of interest and individual ethics based conceptions, see e.g. Rodwin 1995; and Thompson 2005, in particular the introduction, and chapters 12, 13, and 16
- <sup>5</sup>Davis 2001, p. 11; Rodwin 1993, p. 191;
- <sup>6</sup>See for example, Dana, J., & Loewenstein, G. 2003. and Katz, D; Caplan, A; Merz, J 2003
- <sup>7</sup>Based on Rodwin 1993, p. 10; Thompson 2005, p. 294
- <sup>8</sup>See e.g. Rodwin 1993, p. 231; Dana et al., 2003; Katz et al, 2003.
- <sup>9</sup>For more details – including on alternatives to dependency relationships to pharmaceutical companies - see Angell 2004, pp. 99-156.
- <sup>10</sup>See Krimsky 2003; Moynihan 2003a; and Angell 2004, in particular pp. 99-114
- <sup>11</sup>Moynihan 2003b; see also [www.nofreelunch.org](http://www.nofreelunch.org); and [www.cspinet.org/integrity](http://www.cspinet.org/integrity)
- <sup>12</sup>See WHO 2001; and WHO 2002, pp. 41-44. For the context see also Richter 2004, pp. 14-16; 19-32; for some suggestions on how to deal with the problems, see e.g. Anello 2001; Beigbeder 2004, pp. 36-42; 154-6; and Richter 2004, pp. 82; 85
- <sup>13</sup>OECD 2003, p. 23; 26-27. While the OECD Guidelines provide many useful advices, they have still some significant shortcomings. Very problematic, for example, is their recommendation to “create new partnerships with the business... sector” whose aims include, among others, to involve business sectors “in the elaboration and implementation of the conflict-of-interest policy for public officials.” ( p. 36)
- <sup>14</sup>OECD 2003, pp. 17, 20, 22, 29.
- <sup>15</sup>Bar Association Report 189, quoted in Perkins, R. (1963). The New Federal Conflict-of-Interest Law. *Harvard Law Review*, 76 (6), p. 1169

## About the author

Judith Richter is an independent researcher and author who has an MA in Development Studies and a PhD in Social Sciences. Her recent publications include *Public-Private Partnerships and International Health Policy-Making: How can public interests be safeguarded?* (Ministry for Foreign Affairs of Finland, 2004), *Building on Quicksand? The Global Compact, democratic governance and Nestlé* (CETIM, IBFAN-GIFA, Berne Declaration, 2004), *'We the Peoples' or 'We the Corporations'?* *Critical reflections on UN-business partnerships* (IBFAN-GIFA, Geneva 2003), *Holding Corporations Accountable: Corporate Conduct, International Codes and Citizen Action* (Zed Books, London and New York, 2001, copyright Unicef),

## ABOUT IBFAN

The International Baby Food Action Network is a coalition of voluntary organisations in both developing and industrialised nations, working for better child health and nutrition through the PROTECTION, SUPPORT and PROMOTION OF BREASTFEEDING and the elimination of irresponsible marketing of breastmilk substitutes. IBFAN was founded in October 1979 and now counts over 200 groups in about 100 countries around the world. The network was involved in the development of the *International Code of Marketing of Breastmilk Substitutes* and is committed to seeing marketing practices everywhere change sustainably for the better. IBFAN has successfully assisted governments in Code implementation as well as used company campaigns and adverse publicity to press manufacturers into respecting their obligations under the Code. It also assists in programmes and interventions to promote and support breastfeeding, such as Baby-Friendly Hospital Initiative (BFHI).

## ABOUT IBFAN-GIFA

The Geneva Infant Feeding Association (GIFA) was founded in 1979 as the first office of IBFAN and serves as a liaison office with international agencies and organisations. It also hosts a coordinating office for Europe. From the original solidarity work with Southern partners, IBFAN activities in Europe expanded from the Western part also to the countries of Central and Eastern Europe, making the network one of the most successful NGO movements in that region with 24 local groups. IBFANGIFA supports these national groups and assists them in building their capacity in protecting health of infants and young children.