




# Thematic Roundtable

## “Corporations, Governance, and Crime”

Manchester Metropolitan University  
November 17, 2022




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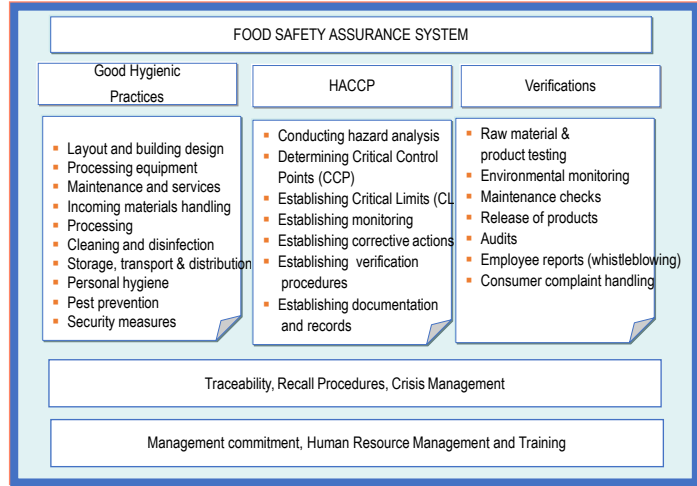
# The story of a food safety scandal in a swiss multinational food company

Yasmine Motarjemi,  
Former Nestlé Corporate Food Safety Manager  
Former Assistant Vice President



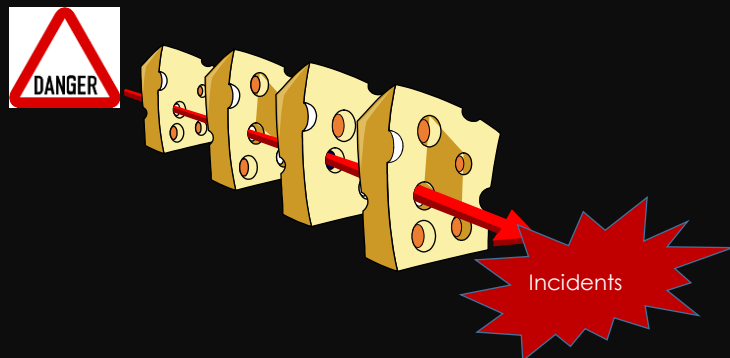
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# Food Safety Management System



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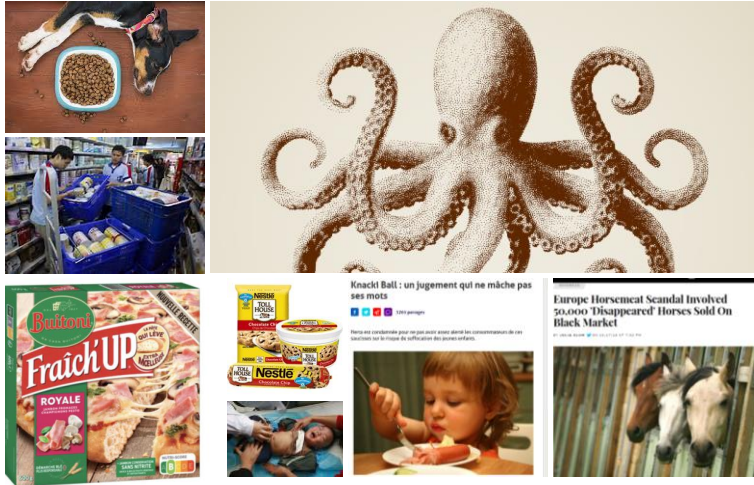
# Food Safety Management system



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**FAILURE**

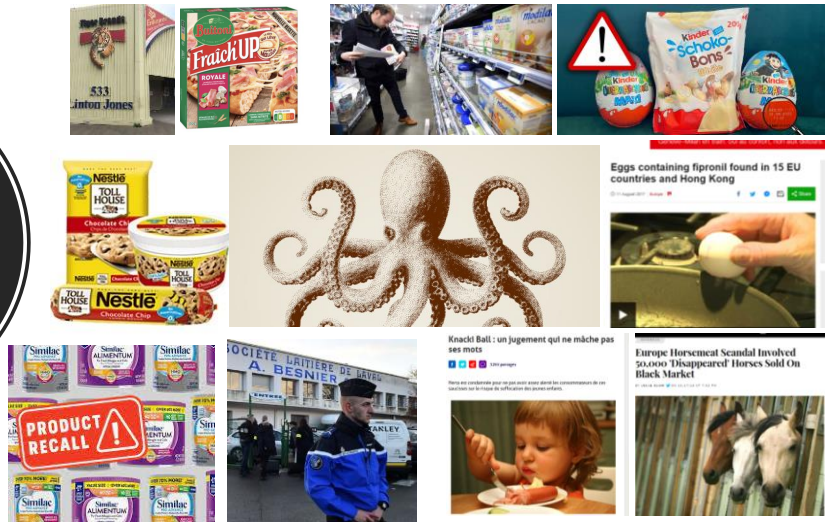
Corporate Governance, Nestlé



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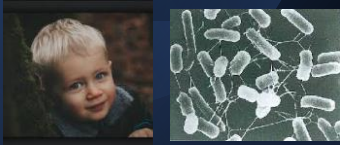
**FAILURE**

Regulatory control & Global Governance



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France, March  
2022, 56  
persons ill  
with



Enterohemorrhagic E. coli (EHEC) infection,

55 were children

Two died

some others suffered severe sequelae.

The factory Caudry closed from April; one line is planned to open in November

By 28 July 2022, the sale of frozen pizzas in supermarkets, dropped by 34.2%.

The sale of fresh pizza also fell by 9.4% during the same period.

Flour



- Caudry factory, France
- Worldwide, Buitoni produces 150 000 to 200 000 frozen pizzas per day. In France, every 2 seconds a pizza is sold
- In 2013, Buitoni was implicated in horsemeat scandal

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## A crisis that turned into a scandal

- Famous brand
- Almost exclusively children
- Death
- Visible signs of poor hygiene
- Negligence: internal reporting was ignored (Whistleblowing failed)
- There were also views that Nestlé delayed in recalling products
- The news of another major incident followed the outbreak (Ferrero Kinder chocolate).
- **The outbreak was a repeat of another outbreak: similar cause and similar errors**
- **Media**

Don't eat Kinder products linked to salmonella over Easter, officials warn

Health agencies warn of Kinder Surprise, Mini Eggs and Soko-Bons after 70 cases in UK linked to outbreak.



UK agencies warned people to look out for eggs that may have been bought and stored as gifts or for an Easter treat. Photograph: Gavin Brindley/Reuters

Kinder chocolate products linked to a salmonella outbreak should not be consumed over the Easter weekend, health officials have warned.



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## Nestlé Toll House Cookie Dough, USA 2009

- Multistate Outbreak of *E. coli* O157:H7 Infections in 35 states
- Raw Refrigerated, Prepackaged Cookie Dough
- 77 persons in the age range from 2 to 65 years
- Nestlé recalled 3.6 million packages of its popular chocolate chip batter.
- The prime suspect was **flour**
- Flour was not cleared at the supplier level
- Consumers had the habits of eating the cookie dough raw
- Consumer labeling was not explicit on the importance of cooking for safety
- After the incident, Nestlé had to introduce **a heat treatment step for the flour and improve its labeling**
- Before the incident, for three years, Nestle's food safety manager sounded the alarm on failures in food safety management



Multistate Outbreak of *E. coli* O157:H7 Infections Linked to Eating Raw Refrigerated, Prepackaged Cookie Dough (FINAL UPDATE)  
<https://www.cdc.gov/ecoli/2009/cookie-dough-6-30-2009.html>

Flour Prime Suspect in 2009 Cookie Dough Outbreak  
<https://www.foodsafetynews.com/2011/12/flour-was-prime-suspect-in-cookie-dough-outbreak/>

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### Investigation and failures in communications

March to November 2022

<https://www.lefigaro.fr/societes/affaire-buitoni-le-patron-de-nestle-france-sort-du-silence-et-fait-acte-de-contrition-20220711>

#### Authorities

- No official investigation report or communication as to the possible cause of the outbreak
- Lack of communication and explanations by authorities

#### Nestlé

- Late apologies
- July 7, and September 21, 2022, Christophe Cornu, CEO of Nestle France, presents excuses.
- Several investigative media report
- Media criticism of Nestlé communication
  - « Staying silent was kamikaze»
  - « whistleblowers have unearthed their files»

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**Erroneous scientific explanations by CEO Nestlé France show a wrong vision of food safety management**



**Buitoni Fraich'Up pizza in France**

**'I want Nestlé to explain': families fight for answers in Buitoni E coli scandal**

Pizza night turned to tragedy after Nathan Aiech, 8, died from an infection linked to E. coli. A group of 48 families have filed a €250m civil suit for gross negligence against Nestlé France



© Nathan Aiech holds a photograph of his son, Nathan, who died of E. coli contamination after having

[https://www.nestle.com/ask-nestle/our-company/answers/buitoni-fraich-up-pizza-france?gclid=CjwKCAIAvK2bBh8BEiWAZUbP1HdgtwLD76nHDSoySKwtQudHcPup5eqqab6aFEM5jwT5-m6T1b1UDxoc-eEQAVD\\_BwE](https://www.nestle.com/ask-nestle/our-company/answers/buitoni-fraich-up-pizza-france?gclid=CjwKCAIAvK2bBh8BEiWAZUbP1HdgtwLD76nHDSoySKwtQudHcPup5eqqab6aFEM5jwT5-m6T1b1UDxoc-eEQAVD_BwE)

What is your response to the ongoing investigation into the Hemolytic Uremic Syndrome (HUS) outbreak in France and a potential link with Buitoni Fraich'Up pizza

We reiterate our deepest sympathy and compassion to the families of the victims and individuals impacted by the Hemolytic Uremic Syndrome (HUS) outbreak in France.

When the French health authorities informed the Buitoni team of a potential link between Fraich'Up pizzas and the HUS outbreak, we immediately conducted a voluntary recall of all Fraich'Up pizzas, suspended production, and rolled out an extensive information campaign aimed at consumers and our customers.

Our local teams have been fully transparent and collaborative with the authorities as part of the ongoing investigations, and have been working hard to understand the origin of the contamination of Fraich'Up pizza.

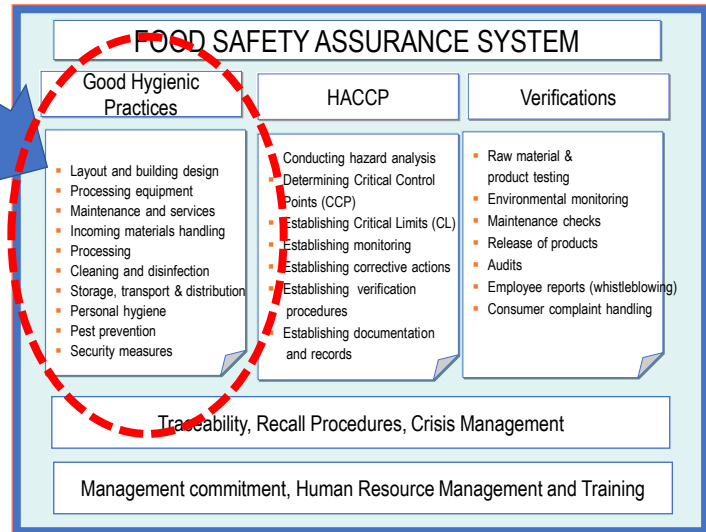
Our own detailed investigation to date, validated by the French authorities, comprised nearly 2,000 samples and analyses of the factory environment, raw materials and finished products.

At this stage, our investigation and analyses indicate that the most likely source of contamination appears to be the flour used on the specific manufacturing line dedicated exclusively to producing Fraich'Up pizza.

We are strengthening our testing and monitoring of ingredients, in particular for E. coli STEC, to ensure that something like this never happens again.

**CORPORATE CRIME OBSERVATORY**

**Media investigation of food safety management**



# Investigative media reports

## Poor hygiene in the factory

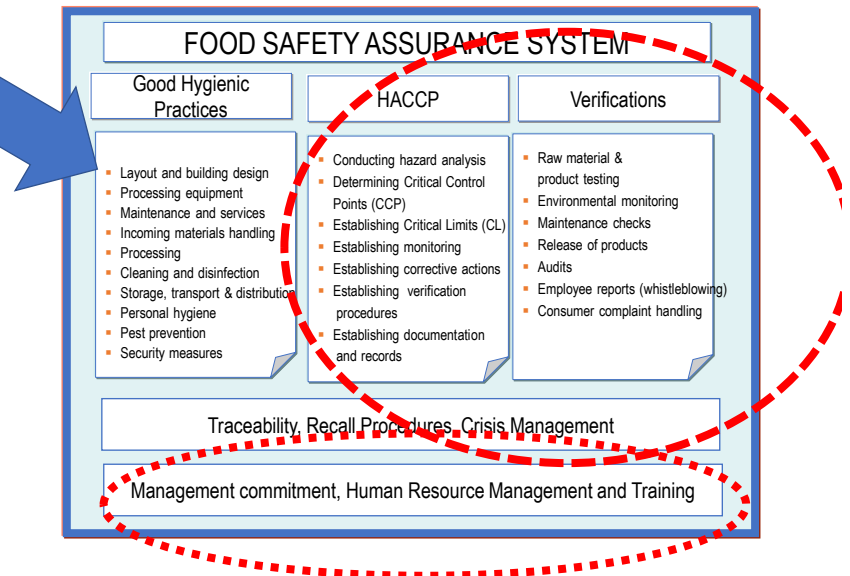


## Photos reported by an employee in Mai 2021, a year before the outbreak



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# Food Safety Management System



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## Report of inspections

### Disclose:

- 3 inspections 2012, 2014, 2020
- by Directorate-General for Competition, Consumer Affairs and Fraud Control (Direction Générale de la concurrence, de la consommation, et de la répression des fraudes.)

## Failures in overall food safety management

- In the implementation of the Food Safety Management System: Hygiene, HACCP, verifications, employee reports
- According to inspection reports: Nestlé did not even have the EHEC on their radar, despite a previous incident in 2009 in the USA showing risk with flour.



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## Report of inspections



### Disclose:

- 3 inspections 2012, 2014, 2020
- by Directorate-General for Competition, Consumer Affairs and Fraud Control

### Failures in inspection service

Basic hygiene problems: no evidence of follow up, or fines

Too little focus of inspection on Food Safety Management System, except basic hygiene issues

No investigation on the management of staff and company culture

Evidence of lack of understanding of inspectors on the Food Safety Management System

No proper assessment of HACCP : what kind of controls for EHEC, validation of control measures, etc.

No evaluation of employee situation : skills, workload, grievances, ...

Evaluation of auto-controls/verifications

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## Other questions and failures ?



Nestlé policy:  
Certification of  
factories for ISO 22  
000 standards,



Distributors  
responsibility to  
audit

- Was the factory certified for ISO 22 000 ?
  - Was the policy implemented?
  - Why did ISO auditors not pick up failures in the Food Safety Management system?
- Why didn't retailers and distributors audit or detect the problems in the factory?

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## Key Question: Could the incident have been prevented?

GOVERNANCE

WHISTLEBLOWING

FOOD SAFETY  
MANAGEMENT

### A chain of failures

There is no zero risk.

In view of the complexity of food safety and the food supply chain **there is always the risk of an accident.**

However, the examinations of the factors leading to this incident and in view of there was previous alerts, we can conclude there **were serious and multiple negligence at all levels.**

**These minimized the potential for prevention and points to a negligence of criminal nature.**

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# Operational Failures in Nestlé Buitoni factory



- Management Commitment
- Company Culture: Negligent

- Failure in whistleblowing by unions
- Failure in the follow-up of internal reports, i.e., employee complaints in the factory and by Nestlé France



- Failures in food safety management in Nestlé Buitoni

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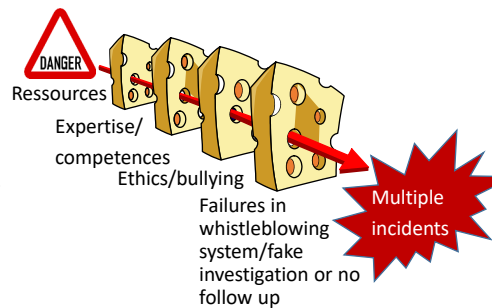
# A chain of failures: Nestlé Head Office



- A negative company culture, characterized by harassment, neglect and lies, wrong reporting structure, fake investigations by Corporate Governance (proven in 2020 by the Swiss court of justice)

- Failure to follow up reports of whistleblowers by the Nestlé Corporate Governance (proven in 2020 by the Swiss court of justice)

- Failures in the management of food safety



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# A chain of failures: Regulatory authorities

Competences of inspection services

Lack of follow-up of inspection services

Failure of french and EU authorities in following up reports of whistleblowers / similar experience in USA with FDA

Failure of professional and consumer organisation to follow-up on the reports of whistleblowers

**DANGER**

**Multiple Incidents industry**

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Competency and organisation of inspection service

Structural problem ? Is inspection service under competent authorities ?

Failure of French authorities and EU authorities in following up reports on dysfunctions in food safety management system (whistleblowing failure)

Lack of an international regulatory body for investigating the reports of whistleblowers in multinational companies.

Failure of the judiciary system forcing whistleblowers & employees to silence and according impunity to the top management of the company.



# A chain of failures: Civil society

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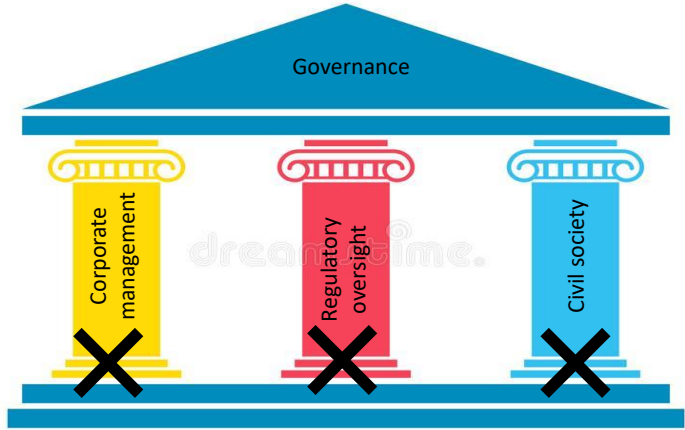
- No professional or consumer organization expressed interest in learning from the experience of whistleblowers !
- Even when the Lactalis or Nestlé CEO made false technical statements, no reaction from the professional community !
- Unions also ignored food safety concerns. The connection between company culture, human factors, and risk management is often not made !
- The private sector also influences academic institutions. A case in point is a professor of labour law in Switzerland who works for Nestlé and influences the judiciary system.
- Media censures whistleblowers, and no true, or in-depth, analysis
- Most consumers take safety for granted and care too little for ethical issues. Cost and organoleptic quality are more most important.

## Productivity versus consumer protection

- 1998-2002 Choking of infants, No death
- 2008-2012: choking of children, several deaths
- 2007 intoxication of pets with melamine
- 2008 intoxication of infants with melamine
- 2003 Contamination of baby food with packaging contaminants
- 2005 Contamination of infant formula with a chemical agent in ink, a major crisis
- 2009: 77 cases of EHEC, no death
- 2022: 58 cases of EHEC, 2 deaths

CORPORATE  
CRIME  
OBSERVATORY

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Thank you