

# The IMS Act: Making it known to People

*Let people monitor company behaviours!*

The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 as Amended in 2003 (The IMS Act)



Ideally, infants thrive best on exclusive breastfeeding for the first six months and continued breastfeeding for two years or beyond along with adequate and appropriate complementary feeding starting after six months. Recent research on accelerating child survival clearly establishes that the universal practice of exclusive breastfeeding for the first six months is the single most effective child survival intervention, which reduces the under five child deaths about 16% in India. (Jones et al. Lancet 2003;362:65-71) However, in India these practices are far from optimal. There are several reasons for this. One important reason being the commercial influence on breastfeeding whereby baby food manufacturers promote their products by overshadowing the significance of mother's milk. The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (The IMS Act), amended in 2003, protects breastfeeding practices by controlling the marketing and promotional activities of baby food manufacturers.

### Why Breastfeeding?

Exclusive breastfeeding for the first six months and continued breastfeeding for two years or beyond along with adequate and appropriate complementary feeding starting after six months, provides ideal nutrition to infants and young children. It is the basis for their sound development, health as well as survival. For establishing adequate breastfeeding it is very important to have an early start within one hour of birth

and to have breastmilk alone as the first feed. Recent research on accelerating child survival clearly establishes that exclusive breastfeeding for the first six months is the single most effective child survival intervention. When practiced universally it reduces the under five child deaths by 16% in India (Lancet 2003). A recent study of over 10,000 babies done in Ghana and published in the American Journal of Pediatrics has shown that if all the newborns are breastfed within an hour of their birth, neonatal deaths will be reduced by 22%.

Delaying and restricting breastfeeding and giving other products before six months are still common practices that increase the risk of infection, allergy, long-term disease and death. Other factors that contribute to these problems are ignorance, beliefs and cultural practices; inadequate training, knowledge and skills of health and child care workers and neglect of women's rights to access accurate information.

### Why the IMS Act?

Improper marketing practices of companies, especially through advertisements of infant milk substitute/formula and infant foods, undermine breastfeeding, leading to increased infant malnutrition, morbidity and mortality. Recognizing this to be a major public health problem, the Government of India, in 1992, enacted the 'Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of

Production, Supply and Distribution) Act, 1992'(IMS Act).

This Act sought to regulate the production, supply and distribution of infant milk substitutes, feeding bottles and infant foods (the products under the scope of the Act). The Act sets out requirements such as labeling of containers of these products and providing information on infant feeding.

**The need for Amendments** - In spite of enactment of the IMS Act in 1992, baby food manufacturers continued, year after year, to find loopholes to market their products, by influencing health professionals and by directly approaching breastfeeding mothers. This reduced women's confidence in breastfeeding and natural homemade foods. It thus became necessary to plug these loopholes, in order to stop these improper marketing practices and to protect the survival, growth and development of infants and young children.

To harmonize the National Policy with the Global Strategy for Infant and Young Child Feeding passed by the 55th WHA in May 2002 and endorsed by the UNICEF Executive Board in September 2002, it also became imperative to incorporate recommendations of recent WHA resolutions, including the recommendation for exclusive breastfeeding for the first six months of life.

The then Department of Women and Child Development (DWCD) constituted a multisectorial National Task Force to deliberate and suggest amendments to the existing IMS Act. The committee suggested the necessary amendments, which were placed as an Amendment Bill to the Parliament in March 2002, that was passed by the Parliament in June 2003 and came into force from 1st January 2004.

*'Inappropriate feeding practices remain the greatest threat to child health and survival globally'*

Innocenti Declaration on Infant and Young Child Feeding 2005



# The Highlights of the IMS Act are to:

- Prohibit any kind of promotion of infant milk substitutes, feeding bottles and infant foods to protect breastfeeding from commercial influences.
- Educate pregnant women and lactating mothers about breastfeeding to create awareness about the benefits of breastfeeding. The aim of the IMS Act here is to provide accurate and factual information about breastfeeding to reverse its decline and prevent incorrect information from reaching mothers.
- Restrict and control the use of infant milk substitutes and infant foods, which can otherwise be harmful. The aim of the IMS Act is to restrict and control the use of these products by advocating their use only on the advice of the health worker.
- Define the roles and responsibilities of healthcare institutions and health workers to ensure optimum breastfeeding practices.

## What is **Banned** under the IMS Act?

Based on an analysis of the IMS Amendment Act, 2003, a simple interpretation of important provisions is provided below.

### 1. All forms of promotion of baby foods by manufacturers for babies under two years of age

"Promotion means using any direct or indirect method of encouraging a person to purchase or use these products". Often companies promote their products directly to the families or through doctors or health workers in the healthcare system e.g., a doctor prescribing these products without assessing the need of introduction.



The Act bans commercial promotion of **baby food** for consumption of children under the age of two years

### 2. All advertisements in any media

Advertisement of products is the most common way of marketing and it includes print media, electronic media or any other media. These advertisements often carry emotional proverbs and the mothers are carried away with them.

"promotion" means to employ directly or indirectly any method of encouraging any person to purchase or use *infant milk substitute, feeding bottle or infant food*.



The Act bans **all advertisements** by companies through

- Print Media - e.g. newspapers, magazines, billboards, pamphlets etc.
- Electronic Media - e.g. television, cable television, SMS, radio etc. or any other method

### 3. Gifts and free samples to mothers and health care providers

Another way of influencing the minds of mothers is by providing gifts and free samples to mothers and healthcare providers, use of tied sales by providing free consumer products like soap/bowls with infant milk substitutes, feeding bottles and infant foods. Such inducements undermine breastfeeding and create new customers for the industry.



#### The Act bans

- Distribution of samples and gifts to pregnant women, lactating mothers, doctors, nurses etc.
- Contacting pregnant women or feeding mother in hospital, residence, market place or by sending mailers etc.

### 4. Donation of educational materials, equipment or baby foods

The educational materials brought out by the companies directly or under their sponsorship are often misleading and undermine the importance of breastfeeding.



The Act bans donation and distribution of baby foods, educational material, and equipment to the healthcare system or to mothers directly.

### 5. Picture of the mother or baby on the labels of baby foods

Companies often use graphics such as a teddy bear, a bird, cartoons etc. on the labels and information packs to



idealize their products. Pictures of healthy babies or such graphics catch the attention of the mothers and families. This also overshadows the factual information contained on the labels for the benefit of the mother and the family.

The Act bans pictures of an infant or a woman or both or a graphic on the label of these products.

### 6. Sponsorships and displays in the healthcare system

It has been observed that companies bypass the health care system to reach mothers. Often companies are found disseminating educational material with irrelevant and incorrect information in an attempt to influence doctors for advising mothers to use their baby foods. The infant food industry sponsors/hosts professional conferences, meetings, research and other educational events for doctors.

Sponsoring hoardings for hospitals and chemist shops is yet another strategy.

**Section 9 (2)**  
 "No producer, supplier or distributor referred to in sub-section (1), shall offer or give any contribution or pecuniary benefit to a health worker or any association of health workers, including funding of seminar, meeting, conferences, educational course, contest, fellowship, research work or sponsorship



The IMS Act bans the use of the Healthcare System for

- Display such as posters, hoardings etc. and distribution of promotion materials in hospitals or chemist shops.
- Offering gifts or making any payment to health workers or to any member of his/her family.
- Funding seminars, meetings, conferences, educational courses, contests, fellowships, research work or sponsorships.

### 7. Payment of commissions to staff by companies for promoting sales

Often companies are found persuading their staff for promoting sales of baby foods by giving them sales targets or commissions on the volume of sales.

The Act bans giving commission to company staff on the basis of sales of its products.

## The Act controls the marketing and promotional activities of the following products:

- 1. Infant milk substitutes**, includes any food being marketed to replace mother's milk upto two years of age. Therefore the said Act intends to promote breastfeeding for two years or beyond. Examples: *Lactogen-I, Lactogen-II, Nestogen-I, Nestogen-II, Lactodex-I, Lactodex-II, Amul Spray, Zerolac, Dexolac, ProSoyal, Simyl- MCT, Similac Neosure* or any other such infant formula.
- 2. Feeding Bottles** of any brand like *Bonny Baby, Hello Baby, Wipro* or any other brand.
- 3. Infant food**, includes any food, marketed for use after the age of six months as a complement to mother's milk. The Act intends to promote exclusive breastfeeding for the first six months. Example: *Nestum, Cerelac, Farex, Weano, Veelac, Infacare, First Food, Dexrice, Easum*, any health drinks and other food products promoted for the consumption of babies under the age of two years.

## Penalties

According to the Act, any person who contravenes Section 6 of this Act with regard to the label on the containers of the infant milk substitutes or infant foods or Section 11(1) and rules made under the Act, on the quality of infant milk substitutes, feeding bottles or infant foods, shall be punishable with imprisonment and fine. The imprisonment shall not be less than 6 months, which may extend up to 3 years and the fine shall not be less than 2,000 rupees.

Any person who violates the provisions of the sections 3,4,5,7,8,9,10 and subsection (2) of section 11 and the rules made under section 26 of the Act, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to five thousand rupees or both.

The court may for any adequate and special reason reduce the fine and punishment to a minimum of 3 months of imprisonment, which may be extended up to 2 years. The minimum fine shall be 1,000 rupees.

## Where to report

Under the Section 21 of the Act, the following voluntary organizations have been notified as monitoring agencies by the Central Government to make complaints to the court of law throughout India. Complaints should be sent regarding the violations under the Act to any of the following:

### 1. Breastfeeding Promotion Network of India (BPNI)

BP-33 Pitampura, Delhi 110088,

Tel: 011-27343608, Fax: 011-27343606

Email: [bpni@bpni.org](mailto:bpni@bpni.org), Website: [www.bpni.org](http://www.bpni.org)

Report any violation at this URL -

<http://www.bpni.org/cg1/imswhat.asp>

### 2. Association of Consumer Action on Safety and Health (ACASH)

Room No. 21, Lawyer's Chambers,

R.S. Sapra Marg, Mumbai 400002

Tel: 022-23886556, 022-23887354, Fax: 022-23887340,

Email: [acashorg@vsnl.com](mailto:acashorg@vsnl.com)

### 3. Indian Council for Child Welfare

4, Deen Dayal Upadhyay Marg, New Delhi 110002,

Tel: 011-23239539, 23232427, 23236616

### 4. Central Social Welfare Board

Samaj Kalyan Bhawan, B-12 Tara Crescent,

Institutional Area South of IIT, New Delhi 110016,

Tel: 011-26960059, 26960060

Email: [info\\_cswb@cswb.org](mailto:info_cswb@cswb.org), Website: [www.cswb.org](http://www.cswb.org)

## Different Provisions of the Act

Section 3:	Bans promotion or advertisements to the public
Section 4:	Prohibits giving incentives
Section 5:	Restricts donation of products, educational materials or equipments
Section 6:	Prescribes guidelines for labeling
Section 7:	Ensures accurate information through educational materials
Section 8:	Bans promotions and displays in hospitals, clinics, and chemist shops etc.
Section 9:	Bans direct or indirect benefits to health workers or their associations
Section 10:	Bans commission on sales
Section 11:	Lays down standards and quality control requirements
Section 12-19:	Specify powers and rules for enforcement of the Act
Section 20:	Prescribes penalties
Section 21:	Refers to power of the court and procedure of prosecution
Section 22:	Fixes liability on key officials for offences by the companies and firms
Section 23:	Violations are cognizable

## World Health Assembly (WHA) Resolutions

World Health Assembly has passed resolutions in recent years, which address new health and development issues, by advocating early and exclusive breastfeeding for the first six months of life, appropriate complementary feeding after six months, along with continued breastfeeding upto two years or beyond. These also ensure that baby food manufacturers have specific roles to play and have to follow the Codex Standards and the International Code of Marketing of Breastmilk Substitutes or National Standard/legislations.

# What can you do?

Equip the people so that they can themselves monitor the companies' behavior:

- Translate the IMS Act materials in your local language and distribute it to as many people as possible.
- Involve the local ICDS worker in spreading the word about the IMS Act and accurate information on breastfeeding.
- Hold public meetings or public seminars, give a radio talk, and come on television.
- Establish links with consumer groups, teacher's unions, universities, political parties etc and spread the message and do the 'marketing surveys'.
- Monitor the marketing practices of companies and report any violation to the local MLAs, MPs, write letters to the Ministry of Women and Child Development and its State Departments.
- On finding any violation of the Act on Cable TV ask cable operators to stop airing them and report the same to the District Magistrate, the Sub Divisional Magistrate or the Commissioner of Police.
- Provide them with the addresses of the above-mentioned reporting agencies.
- Start a campaign for 'Bottle-free' villages and towns as a step towards baby friendly community.
- Start a protest campaign against any violating company by writing letters to them pointing out the violations and urging them to stop illegal marketing.

## Useful Resources

- Protecting Mothers and Children- Law to Protect, Promote and Support Breastfeeding - Information Sheet No. 2 (<http://www.bpni.org/cgi/protectingsheet2.pdf>)
- Breaking the Law and Undermining Breastfeeding 1 - Information Sheet No. 10 ([http://www.bpni.org/cgi/information\\_sheets/informationSheet10.pdf](http://www.bpni.org/cgi/information_sheets/informationSheet10.pdf))
- Nestle Breaks the Law by Sponsoring Homeopaths: *Breaking the Law and Undermining Breastfeeding Series 2 (2005)* - Information Sheet No. 12 ([http://bpni.org/cgi/information\\_sheets/informationSheet12.pdf](http://bpni.org/cgi/information_sheets/informationSheet12.pdf))
- Say no to Sponsorships - IBFAN Asia Pacific
- Protecting Breastfeeding from Commercial Influence IYCF Update 7 (<http://www.bpni.org/cgi/update7.pdf>)
- India Protects Breastfeeding - Raising the bar : India sets even higher standard for breastfeeding protection (<http://www.bpni.org/cgi/indiaprotectsbreastfeeding.pdf>)
- The Law to protect, promote and support breastfeeding (Updated edition, 2004) - This book explains the detail of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Amendment Act, 2003. Rs.60.00
- Government of India Puts Health Before Profits - A Press Release (<http://www.bpni.org/cgi/news.asp?id=724>)

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## What is BPNI

BPNI is a registered, independent, non-profit, national organisation that works towards protecting, promoting and supporting breastfeeding and appropriate complementary feeding of infants and young children. BPNI works through advocacy, social mobilization, information sharing, education, research, training and monitoring the company compliance with the IMS Act. BPNI does not accept funds or sponsorship of any kind from the companies producing infant milk substitutes, feeding bottles, related equipments, or infant foods (cereal foods).

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**Breastfeeding Promotion Network of India (BPNI)**

BP-33, Pitampura, Delhi-110 034  
Tel: 91-11-27343608, 42683059, Fax: 91-11-27343606  
e-mail: [bpni@bpni.org](mailto:bpni@bpni.org), website: [www.bpni.org](http://www.bpni.org)

*Your Local Contact:*