



BPNI's STATEMENT OF CONCERN

FSSAI's ACTION TO EXEMPT SPECIAL FOODS FROM IMS ACT

BPNI supports government's efforts to support children born with inborn metabolic errors (IEM) and to ensure availability of special foods for these children. However, BPNI condemns the continued efforts of the FSSAI to keep foods for special medical purposes (FSMPs) out of the IMS Act. We believe the exemption to FSMPs is a flawed policy as we believe all baby foods should be under the purview of IMS Act.

The exemption for FSMPs came out of the FSSAI steering committee at a time when a front organization of the baby food industry (which also manufactures FSMPs) IYNCI was part of this committee. Infant Young Child Nutrition Council of India (IYNCI) was formed by the four big baby food multinationals Nestle, Danone, Abbott and Mead-Johnson. We appreciate the fact that the FSSAI has now heeded out cautionary advice regarding conflict of interest and removed IYNCI from the Steering Committee.

BPNI respects the *Infant Milk Substitutes Feeding Bottles, and Infant Foods (Regulation of Production, Supply, and Distribution) Act 1992, and Amendment Act 2003*. IMS Act is a strong law that restricted the growth of milk formula in India. According to the Euromonitor reports, in India sales of baby formula from the years 2008 to 2012 grew from 24,428 to 27,783 Tonnes; whereas during the same period, in China, where the law is not that stringent, sales went up from 294,800 to 560,000 Tonnes. When we curtail the promotion of baby foods it results in enhancing breastfeeding and save babies.

A recent global report [1]"Don't Push It: Why the formula milk industry must clean up its act " has hailed IMS Act to be one of the most effective tool to curtail promotion of baby milk. **The report shows the deterrent value of IMS Act in India.** Major food companies like Abbott, Danone and Nestle have been heavily implicated in this report for violating norms in many countries pushing their milk formulas. These companies continue to look for ways to escape the jurisdiction of the IMS Act in India.

FSSAI indicates that special foods for IEMs fall under the category of foods for special medical purposes (FSMP) and in January 2018 **listed four types of foods under FSMP category these are: i) foods for low birth weight babies, ii) for babies with an allergy to cow's milk, iii) for babies with lactose intolerance and iv) babies with inborn errors of metabolism (IEM).**

BPNI's analysis reveals that FSSAI has allowed import of 93 products including foods for IEMs (66), hypoallergenic infant formulas for use in cow's milk allergy, (18), infant formulas for lactose

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intolerance (4), miscellaneous products like oils and nutrition supplements (3), and some carbohydrate drinks (2) etc.

FSSAI has approved labels of many of these special foods with a sticker applied on them that says **"This is neither an infant milk substitute nor an infant food"**, even though currently many of these special foods are available in India and are labelled as infant milk substitute. "Infant milk substitute" and "Infant food" are the two categories of foods that come under the IMS Act. This focus on taking these terms off the labelling is the key concern as that allows companies to go scot-free from IMS Act.

FSSAI says its efforts are to make sure that parents of children with IEM can easily get these special foods in India. However, the focus of the efforts seems to be more on keeping them out of IMS Act than on resolving their availability issues. **BPNI believes it is being done on the insistence of baby food corporations and it is being done to help baby food makers so that they can claim confusion between the FSSAI Act and the**

IMS Act and get away with violating the strict provisions of the IMS Act, an excuse the industry has used earlier.

FSSAI has stated that there are some labeling challenges posed by IMS Act saying it is difficult to label "Mothers milk is best for your baby" and "to be used under medical supervision" in some IEMs. The picture below shows such a label already being used and sold in the market under the existing regime. Special stickers may be applied to meet such challenges.

In conclusion BPNI recommends:

- i) Any types of foods for children up to age two should be treated as infant milk substitutes/infant foods as already defined under the IMS Act.
- ii) FSSAI can look after the food safety standards as mandated and stick to the existing laws, and proposed FSMP regulation need not redefine special foods.
- iii) All concerned authorities are requested to examine this issue carefully before taking any step towards exemption of any foods from IMS Act, as they can put the health of millions of children at risk.

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