

# Is India's food safety authority above Parliament?

By Arun Gupta | 25 February, 2018



*The Food Safety and Standards Authority of India (FSSAI) is working in partnership with the baby food industry, which is in the limelight for violating an Indian law enacted for the safety and health of children in 1992: In whose interest?*

Indian Parliament enacted the Infant Milk Substitutes Feeding Bottles, and Infant Foods (Regulation of Production, Supply and Distribution) Act 1992, and Amendment Act 2003 (IMS Act) as a follow up of the “International Code of Marketing for Breastmilk Substitutes”. Members of Parliament recognised that commercial promotion of baby foods leads to inappropriate feeding practices and is a health hazard for infants and young children, contributing to malnutrition, disease and deaths. This Act bans any kind of promotion of infant milk substitutes, infant foods and feeding bottles (products under its scope) by any means. It also bans sponsorships of doctors and their associations directly or indirectly by the manufactures.

This Act is under threat by the action of Food Safety and Standards Authority of India (FSSAI) to exempt four types of baby foods from the IMS Act and its regulations. It has redefined them as foods for special medical purposes (FSMPs) in its communications and proposals. FSMPs include infant milk substitutes for premature/low birth weight babies, for babies with allergy to cow's milk, for babies with lactose intolerance and for those suffering from inborn errors of metabolism.

It is no surprise. This is the result of FSSAI's project “Diet4Life” in partnership with Infant and Young Child Nutrition Council of India (IYNCI), which is a front organisation of four leading baby food companies, namely, Abbot, Nestle, Danone and Mead Johnson, masquerading as an NGO.

What has gone wrong?

The project Diet4Life intends to import special foods for medical purposes for children suffering from “inborn errors of metabolism” and educate parents and doctors about it. While the project focuses on IEMs the exemption is granted to all FSMPs.

Following facts substantiate this assertion.

Firstly, the FSSAI provides a blanket exemption to these companies that their FSMPs do not come under the preview of IMS Act. Statement on its website substantiates this fact.

“...These foods are neither infant milk substitute nor infant food but are intended to meet special medical needs arising out of rare disorders/medical conditions. These foods are required to be consumed under medical

supervision. These foods are covered under special category of foods defined as Foods for Special Medical Purposes (FSMP) which are out of scope of the Infant Milk Substitutes, Feeding Bottles and Infant foods (Regulation of Production, Supply and Distribution) Act, 1992.”

Secondly, the FSSAI has already approved labels of such foods with a statement that appears on the labels that these “are neither infant milk substitutes nor infant foods”.

Thirdly, the FSSAI issued a call for comments (now closed) on a notification that proposes to exempt the FSMPs from the IMS Act.

Out of four types of foods included in the FSMP list, in three types, babies should be following norms for breastfeeding. In the case of babies with IEM, according to WHO, there is one disease among a range of diseases, where breastfeeding is absolutely contraindicated and in all others breastmilk is given partially. While importing these special foods one would not see any problem, why FSSAI is interested in exemption from IMS Act. The IMS Act does not interfere to achieve all the objectives set by “Diet4Life” project.

Therefore the question: Is FSSAI above Parliament? Should Indian lawmakers be worried?

The IMS is under threat now. What FSSAI is doing is contrary to the spirit of Parliament. Therefore, lawmakers should be worried.

There are two issues here. One is allowing free hand to baby food companies to market its products in any manner whatsoever, and the other is institutional conflict of interest. For the readers let me explain these one by one.

On the first issue, the baby food industry has already taken advantage of this partnership as evidenced by sponsorship of National Conference of the National Neonatology, in December 2017. Sponsorship of such conferences is banned under the IMS Act. When asked, the organisers said we have the permission from Government of India. This is a tactic that the baby food industry uses commonly. These companies have a huge stake to undermine breastfeeding systematically in health facilities, through their relationship with health workers. In the guise of promoting or informing the doctors of this rare disorder and products for use, the baby food industry gets a free hand for surrogate marketing.

The second issue is that there is an institutional conflict of interest in the FSSAI governance. IYNCI, an NGO of four baby food companies, sits in the steering committee/expanded steering committee for IEMs on of the FSMP. The CAG's report on Implementation of Food Safety and Standards Act, 2006 tabled in Parliament, also noted that “FSSAI has, for some food categories, entrusted the task of suggesting revision of standards to representatives of the Food Business Operators (FBO), whose opinions cannot be considered unbiased”.

WHO calls these products as “breastmilk substitutes”, which is equivalent to what “infant milk substitutes” in the IMS Act are.

Why can't the IMS Act run concurrently with the FSSAI's project? Several international frameworks and countries do regard FSMPs as breastmilk substitutes. Why can't India do the same?

In conclusion, this is a flawed proposal of exemption moved by FSSAI, and should be withdrawn. It may reach both Houses of Parliament. Lawmakers should reject it outright to save the IMS Act they had so proudly enacted in the interest of India's children.

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