UNDER ATTACK
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2019-20-21

Dr. Arun Gupta, MD
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Ethical Policy: BPNI does not accept funds or any support from the companies manufacturing baby foods, feeding bottles or infant feeding related equipment. BPNI does not associate with organizations having conflicts of interest.
Acknowlegdements

BPNI thanks several members of the independent network for their time and effort in volunteering to report these violations of the IMS Act. Dr. J.P Dadhich for compiling and analysis, and Mr. Ajay Kumar, Senior Advocate, for legal analysis, both deserve my special appreciation. Veena has been meticulously managing the database in the office and I am so proud of her work. I sincerely acknowledge the assistance provided by Amit who has always been there to put this report to design. To Nupur and Yashika, for their always available assistance, I do want say thank you!

Finally, I am grateful to the MOHFW GOI for initiating important actions that are showing impact this year. And to UNICEF-India, I must thank, for supporting part of this work, and inputs by Gayatri Singh and Arjan De Wagt.
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Introduction

The Government of India enacted the Infant Milk Substitutes Feeding Bottles, and Infant Foods (Regulation of Production, Supply and Distribution) Act 1992, and Amendment Act 2003 (IMS Act) in order to control marketing of the baby foods as follow up to the International Code of Marketing of Breastmilk Substitutes and subsequent World Health Assembly resolutions. This action protects breastfeeding. The aggressive promotion of commercial baby food industry attacks breastfeeding to make profits on their harmful products.

The Statement of Objects and Reasons presented by the then Human Resource Development Minister while introducing the Bill in the Parliament in 1992, included “Promotion of infant milk substitutes and related products like feeding bottles and teats do constitute a health hazard. Promotion of infant milk substitutes and related products has been more extensive and pervasive than the dissemination of information concerning the advantages of mother’s milk and breastfeeding and contributes to decline in breastfeeding…”

The scope of the IMS Act extends to the infant milk substitutes, feeding bottles and infant foods(See Definitions on next page). The Act prohibits any kind of promotion by any means. It also prescribes labelling requirements and standards for these products.

The Government of India has notified the Breastfeeding Promotion Network of India (BPNI) in the Gazette of India (No G.S.R. 540 (E), dated the 27th July, 1995) as child welfare NGO to initiate action under section 21(1) of the IMS Act for officially monitoring and implementing the Act.

This report is the result of monitoring of the IMS Act undertaken by BPNI from Jan 2019 to May 2021. The report documents violations of the IMS Act. While the report is just a tip of the iceberg. We report 33 such violations of different sections of the Act. The violation and its content is marked red in the text. Impact of this reporting is visible and briefly given before we conclude and make some recommendations for the Government of India for future protection of moms and babies. BPNI proudly launches this report on the 21 May 2021, the World Breastfeeding Protection Day.
1

Introduction

International Code of Marketing of Breastmilk Substitutes (The Code) 1981 and subsequent World Health Assembly Resolutions on this issue

On May 21, 1981, the World Health Assembly adopted the Code and urged its Member States to enact legislations as a follow up, recognising the negative impact of marketing of baby foods on infant health. Subsequently the WHA adopted several resolutions strengthening the application of the Code. Now onwards, this day, May the 21st, will be celebrated as World Breastfeeding Protection Day.
Box-1 Key Definitions of the products under the scope of IMS Act

'Infant Milk Substitute': "any food being marketed or otherwise represented as a partial or total replacement for mother's milk, for infant up to the age of two years."

'Infant food' is defined as, "any food (by whatever name called) being marketed or otherwise represented as a complement to mother's milk to meet the growing nutritional needs of the infant after the age of six months and up to the age of two years."

'Feeding bottle' is defined as, "any bottle or receptacle used for the purpose of feeding infant milk substitutes, and includes a teat and a valve attached or capable of being attached to such bottle or receptacle."

'Health care system' means an institution or organisation engaged, either directly or indirectly, in health care for mothers, infants or pregnant women, and includes a health workers in private practice, a pharmacy, drug store and any association of health workers;

'Health worker' means a person engaged in health care for mothers, infants or pregnant women;

"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.

Introduction

BPNI is notified in the official Gazette. This means BPNI can file a complaint if there is a violation of the law anywhere in India.
Methodology
2 Methodology

This report is the result of ongoing monitoring done by the BPNI’s independent monitoring group of volunteers from different parts of India, between January 2019 to May 2021. The vigilant volunteers shared reports as they came across with the BPNI via email or through the BPNI mobile App "Stanpan Suraksha". BPNI experts and a senior advocate (legal advisor) analysed the reports to see if any of these were attracting one or another section of the IMS Act. We have listed here 33 examples that violate different sections of the IMS Act.

The team used standard format for analysis of violations. The next pages provide examples of violating the IMS Act.
Methodology

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The IMS Act is Violated...

1. If any person promotes any food by whatever name it is called, for children up to two years of age.
2. If any person advertises the products under the scope of the IMS Act, i.e. Infant milk substitutes, feeding bottles or infant food by any means through television, newspapers, magazines, journals, SMS, emails, radio, pamphlets, internet etc.
3. If the manufacture or its representative distributes the products or samples of infant milk substitutes, feeding bottles and infant foods to any person or if the representative contacts pregnant or lactating mothers directly.
4. If the manufacturer/distributor/supplier of the infant milk substitutes, feeding bottles or infant foods gives any kind of incentives like discounts or free gifts etc. for the use or sales of these products to anyone.
5. If the manufacturer/distributor/supplier distributes information and educational material related to promotion of infant milk substitutes, feeding bottles and infant foods to mothers, families etc.
6. If the labels of tins, cartons and accompanied leaflets of these products carry pictures of mothers or babies, cartoons, graphics, phrases or any other such images for increasing saleability of the infant milk substitutes, feeding bottles or infant foods
7. If the hospital, nursing home, chemist shop displays placards, posters of baby food companies for promoting their products.
8. If the manufacturer/distributor/supplier makes financial inducements or gifts to health workers or to any members of their family for the purpose of promoting the use of infant milk substitutes, feeding bottles or infant foods
9. If the manufacturer/distributor/supplier of baby foods provides sponsorships/research grants/funding of seminar, meetings, conferences, educational courses/fellowships/sponsorship of health workers of their associations.
10. If the manufacturer/distributor/supplier of baby foods fixes commission of employees on the basis of volume of sales of these products.
Result : 1
Result 1
Promotion to Public

BPNI | IMS Act Monitoring Report 2019-20-21

Result: 1

In this section we show you some of the violations in which companies promote their products directly to public either through advertisements, discounts, YouTube promotion or free distribution of the products. All these are prohibited under Section 3 and 4 of the IMS Act.

Section 3 and 4 of the IMS Act
3. No person shall -
(a) advertise, or take part in the publication of any advertisement, for the distribution, sale or supply of infant milk substitutes, feeding bottles or infant foods; or
(b) give an impression or create a belief in any manner that feeding of infant milk substitutes and infant foods are equivalent to, or better than, mother’s milk; or
(c) take part in the promotion of infant milk substitutes, feeding bottles or infant foods;

4. No person shall -
(a) supply or distribute samples of infant milk substitutes or feeding bottles or infant foods or gifts of utensils or other articles; or
(b) contact any pregnant woman or the mother of an infant; or
(c) offer inducement of any other kind, for the purpose of promoting the use or sale of infant milk substitutes or feeding bottles or infant foods.
In June 2019, BPNI detected an advertisement of NAN OPTIPRO, an infant milk substitute manufactured by Nestle India Limited in a pamphlet of the Krishna Super Marche, Ashok Vihar, Delhi. This is prohibited.
In August 2019, BPNI detected that **NAN PRO**, an infant milk substitute manufactured by Nestle India Limited is being sold on discount in the Krishna Super Marche store in south Delhi. This is prohibited.
Result 1

Promotion to Public

BPNI | IMS Act Monitoring Report 2019-20-21

SELLING ON DISCOUNT

The AMAZON India E-shopping offered discounts on the feeding bottle brand 'Medela' (MRP-2100 and sold at 1879); an activity prohibited by the Act.
Result 1
Promotion to Public

BPNI | IMS Act Monitoring Report 2019-20-21

SELLING ON DISCOUNT

The AMAZON India E-shopping offered discounts on the feeding bottle brand 'Philips Avent', (MRP- INR 895 and sold at 815) an activity prohibited by the Act. This was detected in 2020. We checked in May 2021 again and it continues to sell even on a higher discount. This is prohibited.
Result 1

Promotion to Public

BPNI | IMS Act Monitoring Report 2019-20-21

SELLING ON DISCOUNT

The AMAZON India E-shopping offered discounts on the feeding bottle nipple Enfamil Soft Flow Nipple 12-count (MRP- INR 3999 and sold at 3095) an activity prohibited by the Act. This was May 2021.
Result 1

Promotion to Public

BPNI | IMS Act Monitoring Report 2019-20-21

SELLING ON DISCOUNT

The AMAZON India E-shopping offered discounts on the Farex-1 Infant Formula by Danone Nutricia (MRP- INR 525 and sold at 524) an activity prohibited by the Act. (May 2021).
Result 1
Promotion to Public

BPNI | IMS Act Monitoring Report 2019-20-21

SELLING ON DISCOUNT

The AMAZON India E-shopping offered discounts on the Similac Advance Infant Formula Stage -1 (MRP- INR 585 and sold at 560) an activity prohibited by the Act. This was May 2021.
Result 1

Promotion to Public

BPNI | IMS Act Monitoring Report 2019-20-21

SELLING ON DISCOUNT

The Apollo Pharmacy sells Enfamil A+ Infant formula for up to 6 months on discounts (MRP- INR 715 and offered cash back of 35.75 ) an activity prohibited by the Act. This was May 2021.

VIOLATION
Result 1

Promotion to Public

BPNI | IMS Act Monitoring Report 2019-20-21

VIDEO BLOGGERS PROMOTING TO PUBLIC

BPNI detected YouTube channels and video bloggers directly targeting pregnant and lactating mothers and promoting baby food products and disseminating incorrect or inadequate information. This is prohibited under section 3 and 8 and section 7.

A person other than a health worker cannot do this.

The IMS Act section 4 (b) states, “No person shall, contact any pregnant woman or the mother of an infant for the purpose of promoting the use or sale of infant milk substitutes or feeding bottles or infant foods.”

IMS Act section 8 (3) states, “No person, other than a health worker, shall demonstrate feeding with infant milk substitutes or infant foods to a mother of an infant or to any member of her family and such health worker shall also clearly explain to such mother or such other member the hazards of improper use of infant milk substitutes or feeding bottles or infant foods.”
Result 1
Promotion to Public

A YouTube channel Mom Com India directly reaching to the lactating mothers and describing and promoting use of infant formula 'Nan Pro' by (Nestle), Enfamil (Mead Johnson) and Similac (Abbott). This is a violation of section 3 and 7.

Link: https://www.youtube.com/watch?v=zykiw6DaDa4
Accessed on: 18 May 2021, 18:36 pm
Another YouTube channel VAANI VLOGS promoting use of infant formula Lactogen (Nestle) and Nan Pro (Nestle) and describing formula use to the lactating mothers. This is a violation of section 3 and 7.

Link: https://www.youtube.com/watch?v=LcFYcrTet60&t=11s
Accessed on: 18 May 2021, 18:39 pm
Result 1

Misinformation to Public

Danone India created a voice of experts on the YouTube that ended up promoting brand and giving false information during Covid-19 times asking mothers to stay 6 feet away. Such misinformation is prohibited under section 7.

Section 7 of the IMS Act states that "(1) Every educational or other material including advertisements or material relating to promotion of infant milk substitutes, feeding bottles and infant foods whether audio or visual, dealing with pre-natal or post-natal care or with the feeding of an infant and intended to reach pregnant women or mothers of infants shall include clear information relating to
(a) the benefits and superiority of breast feeding;
(b) the preparation for, and the continuance of, breastfeeding;
(c) the harmful effects on breast feeding due to the partial adoption of bottle feeding;
(d) the difficulties in reverting to breastfeeding of infants after a period of feeding by infant milk substitute;
(e) the financial and social implications in making use of infant milk substitutes and feeding bottles;
(f) the health hazards of improper use of infant milk substitutes and feeding bottles;
(fa) the date of printing and publication of such material and the name of the printer and publisher;
(g) such other matters as may be prescribed.
(2) No material referred to in sub-section (1) shall be utilised to promote the use or sale of infant milk substitutes or feeding bottles or infant foods."
Result 1
Promotion to Public

FREE DISTRIBUTION TO PUBLIC

During the on-going Covid-19 pandemic, BPNI received reports from different parts of the country about free distribution of baby foods to mothers by Nestle and some organisations in collaboration with local government agencies including police.
As per the section 5 (a) of the IMS Act free donation and distribution of infant milk substitutes or infant foods to any other person except to an orphanage is prohibited.

Below you will see a government officer distributing free infant foods Cerelac manufactured by by Nestle.
Result 1
Promotion to Public

BPNI | IMS Act Monitoring Report 2019-20-21

FREE DISTRIBUTION TO PUBLIC

During the on-going Covid-19 pandemic, in 2020, BPNI received reports from different parts of the country about clever collaboration of Nestle with police or armed forces and NGOs for free distribution of baby milks/foods. This is prohibited.
Result 1
Promotion to Public

BPNI | IMS Act Monitoring Report 2019-20-21

FREE DISTRIBUTION TO PUBLIC

During the on-going Covid-19 pandemic, in 2020, BPNI received a report that Amulspray, a baby milk by Amul India is distributed free in a village of Delhi by a NGO. This is prohibited.
Result 2
Result 2

Promotion to Health Professionals

BPNI | IMS Act Monitoring Report 2019-20-21

Result: 2

In this section we show you some of the violations in which companies promote their products to health professionals through advertising in the journals, sponsoring meetings/seminars/webinars/or research; this is prohibited under Section 9.1 and 9.2 of the IMS Act.

Section 9 of the IMS Act

9. (1) No person who produces, supplies, distributes or sells infant milk substitutes or feeding bottles or infant foods shall offer or give, directly or indirectly, any financial inducements or gifts to a health worker or to any member of his family for the purpose of promoting the use of such substitutes or bottles or foods.

(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.
Result 2
Promotion to Health Professionals

BPNI | IMS Act Monitoring Report 2019-20-21

ADVERTISEMENT IN JOURNALS

In February 2020, BPNI detected an advertisement of "Neolact MMF" (sachets) and "Neolact MMF" (liquid), an infant milk substitutes manufactured by ‘Neolacta Life Sciences Pvt Ltd’ in the Journal of Neonatology, official journal of National Neonatology Forum of India. This company also provides awards to doctors. It is prohibited under section 3 (a), 3 (c) and Section 9(2) of the IMS Act. Pictures below show the journal and advertisement content.
Result 2
Promotion to Health Professionals

BPNI | IMS Act Monitoring Report 2019-20-21

SPONSORSHIPS

“Nestle Health Science” is a subsidiary of Nestle and provided sponsorship of the 11th Apollo International Clinical Nutrition in September 2019 organised at Indore, Madhya Pradesh. This is a violation of section 9 (2) of the IMS Act.
Result 2
Promotion to Health Professionals

SPONSORSHIPS

During the 2020 Covid times, baby food industry sponsored webinars of pediatricians and obstetricians & gynaecologists, thereby violating the section 9 (2) of the IMS. Many examples are visible in the online invites’ pictures, Abbot India, sponsoring Indian Academy of Paediatrics (IAP) webinars or individuals.
Result 2
Promotion to Health Professionals

BPNI | IMS Act Monitoring Report 2019-20-21

SPONSORSHIPS

List of reported sponsored Webinars:
a. Abbott sponsored a webinar titled “QIV 0.5 ml as Universal Dose” on 8th August 2020
b. Abbott sponsored a webinar titled “Case Based approach to diagnosis and treatment of cough in children” on 24th July 2020.
c. Abbott sponsored a webinar titled “Differential Diagnosis & Management of Cough in Pediatrics” on 24th June 2020
d. Abbott sponsored a webinar on 30th June, 2020 titled, “Lactose intolerance in Pediatric practice – Myths and realities”
e. Abbott sponsored a webinar on 18th June, 2020 titled “Digital initiatives to enhance the way you deliver neonatal care”
f. Abbott sponsored a webinar on 14th June, 2020 titled “Pediatrics knowledge enhancement by experts”
g. Abbott sponsored a webinar titled on 23rd May, 2020 titled “Constipation: Spectrum of presentation and update on a new formulation”
Result 2
Promotion to Health Professionals

BPNI | IMS Act Monitoring Report 2019-20-21

SPONSORSHIPS

Danone sponsored a webinar organised by FOGSI on 18th June 2020 titled, “Nutrition First for First 1000 Days”
Result 2
Promotion to Health Professionals

BPNI | IMS Act Monitoring Report 2019-20-21

SPONSORSHIPS

Here is a curious case of sponsorship of IAP conference was reported in early 2021. Abbott India is listed as a sponsor among various others. BPNI took up the matter with IAP officials and after discussions, it was put on hold, for an inquiry because one of the arguments given is that this is from a 'different' division of Abbott India. Records clearly shows that Abbot India is a manufacturer of the products under the scope of iMS Act. While we wait for the report of inquiry committee, such sponsorship violates section 9(2) as per BPNI’s analysis and Ministry of Health’s understanding.
Result 2
Promotion to Health Professionals

BPNI | IMS Act Monitoring Report 2019-20-21

SPONSORSHIPS

This is the case of sponsorship of NNF conference Andhra Pradesh, by Neolacta. This is prohibited under section 9(2)

South Regional organised by National Neonatology Forum Andhra Pradesh
and National Neonatology Forum of India, Vijayawada on 28-30 June 2019
Result 2
Promotion to Health Professionals

BPNI | IMS Act Monitoring Report 2019-20-21

SPONSORSHIPS OF RESEARCH

In July 2019, while exploring the Clinical Trials Registry-India (CTRI), BPNI detected that Nestle India sponsored a research study “Multi-centric Observational Study to Observe Growth in Pre-term Hospitalised Infants” (CTRI/2018/12/016715), in Delhi, Bangalore and Kolkata. In August and September 2019, BPNI detected some more studies on the CTRI portal, being sponsored by Nestle and Abbott or their affiliates/subsidiaries. This is prohibited under section 9(2) of the IMS Act. Below are pictures from the registry clearly showing
Result 2
Promotion to Health Professionals

USE OF HEALTH FACILITIES

Baby food companies use health care facilities to display informational material of their products. This is prohibited under Section 8 (1) of the IMS Act. In January 2020, BPNI received information about distribution of promotional leaflets of a baby food product Dexolac by Danone Nutricia in a Delhi health facility. This is a violation of the section 8 (1) of the Act.

Section 8. (1) No person shall use any health care system for the display of placards or posters relating to, or for the distribution of, materials for the purpose of promoting the use or sale of infant milk substitutes or feeding bottles or infant foods:
Provided that the provisions of this sub-section shall not apply to
(a) the donation or distribution of informational or educational equipment or material made in accordance with the proviso to clause (b) of section 5; and
(b) the dissemination of information to a health worker about the scientific and factual matters relating to the use of infant milk substitutes or feeding bottles or infant foods along with the information specified in sub-section (1) of section 7.
Result 2
Promotion to Health Professionals

USE OF HEALTH FACILITIES

Baby food companies use health care facilities to display their products. This is prohibited under Section 8 (1) of the IMS Act. In April 2021, BPNI took note of this promotion of baby milks Lactogen 1 and 2, and Nan-Pro by Nestle through a special display in a chemist shop in east Delhi.
Result 3
Result 3
Incorrect Labels

BPNI | IMS Act Monitoring Report 2019-20-21

Result: 3

In this section we show you some of the examples where in companies violate the rules of labelling on the cans of baby foods.

Section 6 of the IMS Act States: Information on containers and labels of infant milk substitutes or infant foods

(1) Without prejudice to the provisions of the Prevention of Food Adulteration Act, 1954 (37 of 1954) and the rules made thereunder, no person shall produce, supply or distribute any infant milk substitute or infant food unless every container thereof or any label affixed thereto indicates in a clear, conspicuous and in an easily readable and understandable manner, the words “important notice” in capital letters in such language as may be prescribed and indicating thereunder the following particulars in the same language, namely:

(a) a statement “mother’s milk is best for your baby” in capital letters;
(b) a statement that infant milk substitute or infant food should be used only on the advice of a health worker as to the need for its use and the proper method of its use;
(c) a warning that infant milk substitute or infant food is not the sole source of nourishment of an infant;
(d) the instructions for its appropriate preparation and a warning against the health hazards of its inappropriate preparation;
(e) the ingredients used;
(f) the composition or analysis;
(g) the storage conditions required;
(h) the batch number, date of its manufacture and the date before which it is to be consumed, taking into account the climatic and storage conditions of the country;
(i) such other particulars as may be prescribed.

(2) No container or label referred to in sub-section (1) relating to infant milk substitute or infant food shall—

(a) have pictures of an infant or a woman or both; or
(b) have pictures or other graphic material or phrases designed to increase the saleability of infant milk substitute or infant food; or
(c) use on it the word “humanised” or “maternalised” or any other similar word; or
(d) bear on it such other particulars as may be prescribed.
Result 3
Incorrect Labels

BPNI | IMS Act Monitoring Report 2019-20-21

BPNI team examined the labels in 2020 and found that Amul, Abbot, Danone, and Nestle were violating on the labelling requirements of their products

1. Amul Spray (Infant Milk Substitute) manufactured by Amul India
   a. Label does not mention storage conditions required as per law.
   b. Label has a picture of a teddy bear (violates Section 6 (2) (b) of the IMS Act)
   c. Label does not contain warning that infant milk substitute or infant food is not the sole source of nourishment of an infant (Violates Section 6 (1) (c) of the IMS Act).

2. Dexolac - 1 (Infant Milk Substitute) manufactured by Nutricia Danone
   Label of the product have text which says, “Change to Dexolac 2 after the baby turns 6 months” thus promoting another brand to increase its saleability. (Violates the IMS Act Section 6 (2) (b), 3 (a) and 3 (c)).

3. NAN Excella pro (Infant Milk Substitute) manufactured by Nestle India Limited
   Label contains promotional text like to increase the saleability of the product "150 years of scientific expertise in infant nutrition. Nestle develops infant nutrition products backed by evolving science and research. Innovation has been at the heart of Nestle since it’s beginning." (Violates Section 6 (2) (b) of the IMS Act)

4. Nan Pro - 1 (Infant Milk Substitute) manufactured by Nestle India Limited
   The label does not include prescribed text for warning against health hazards of inappropriate preparation of the product. (Violates the Rule 7 (d) (ii) of the IMS Act)

5. Similac Advance 1 (Infant Milk Substitute) manufactured by Abbott
   On the top of the container label of the product, Similac Advance -2, and Similac Advance -3 are promoted and advertised. (Violates the IMS Act Section 3 (a) and 3 (c)).

Next page for the Pics......
Result 3

Incorrect Labels

BPNI | IMS Act Monitoring Report 2019-20-21
Action Taken
BPNI has been reporting the violations of the IMS Act to the Ministry of Health and Family Welfare, Government of India, media, health professional organisations especially those directly involved e.g. NNF, FOGSI, IAP. As a result of this Government did write their opinion through letters and asked not to violate. Professional organisations did promise not to accept any such grants for research or webinars etc if it violates IMS Act. Media also highlighted.

Most of the action taken is available at https://www.bpni.org/national-policy-programme-4/
Several forward looking actions taken by the Government of India.
Here are some examples:

1. The State Governments appointed "authorised officers" at district level to monitor the Act.
2. The MOHFW Government of India wrote to ICMR to initiate enquiry into sponsorship of research, and the enquiry report led to stopping the research funded by Nestle and caution while registering research.
3. The Food Safety and Standard Authority of India (FSSAI) issued a notice to appoint ‘authorised officers’ all over India monitor and initiate action on the violations of the IMS Act.
4. Professional organisations took note of the importance of abiding by the provisions of the IMS Act and suitably sent guidance to their members.
5. Media recognised the importance of protection of breastfeeding from commercial influence and extensively covered the issue based on our information.

Next few pages show the impact, which is self explanatory. Post the government action, however, there is a mixed reaction, as we continue to find similar violations.
Impact

BPNI | IMS Act Monitoring Report 2019-20-21

Dear Sir,

This is in reference to the letter received from Breastfeeding Promotion Network of India (BPNI) regarding the trial No - CTRI/2018/12/016715 registered under the Clinical Trial Registry (CTR), of Indian Council of Medical Research (ICMR). As per this letter (copy enclosed) the Principal Investigator of this trial is Dr. Monjori Mitra, Trial Coordinator of MedClin Research Pvt. Ltd and five hospitals mentioned in the letter are participating in the trial. The primary sponsor of the trial is Nestle India Limited.

Breastfeeding Promotion Network of India (BPNI) has been notified by the Government of India to monitor compliance of the IMS Act. BPNI has informed MoHFW regarding the violation of IMS Act by Nestle India Limited and the five participating hospitals as per the provision of Section 9(2) of IMS Act, which states that no producer, supplier or distributor referred to in subsection (1), shall offer or give any contribution or pecuniary benefits to a health worker or association of health workers, including funding of research work, sponsorship etc.

In this regard, you are requested to please get this examined and take necessary action at your end to comply with the provisions of the IMS Act and also ensure that all the trials in future are screened for any infringement of the IMS Act. You are also requested to share a report with the Department of Health and Family Welfare regarding this.

Yours Sincerely

(Preeti Sudan)

Prof. Balram Bhargava,
Director General,
Indian Council of Medical Research (ICMR),
Ansari Nagar, New Delhi - 110029

Copy to:
1. Shri Ajay Tirkey, Additional Secretary, Ministry of Women and Child Development, Shastri Bhawan, New Delhi – 110 001.
2. Dr. Arun Gupta, Country Coordinator, BPNI
Impact

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F. No. 5/7/1667/2019/CH-RBMCH

To,
Dr. Arun Gupta
Central Coordinator,
Breastfeeding Promotion Network of India (BPNI),
BP-33, Pitampura, Delhi-110034.

Subject:- Request for action against the violators of Infant Milk Substitutes----

Dear Dr. Gupta,

This has reference to your letter no. BPNI/2019/IMS ACT/06 dated
14/09/2019 on the above mentioned subject. The complaint is in relation to the
following studies:

   Title of the study: Study of milk composition from adequately nourished and undernourished
   mothers
   Source of monetary or material support: Nestec Ltd. CH-1800 Vevey, Switzerland Nestec is a
   subsidiary company of Nestle.

   Title of the study: Infant feeding practice and gut comfort: A multi – country, cross-sectional
   observational study.
   Source of Monetary or Material Support: Nestec Ltd. CH-1800 Vevey, Switzerland

3. CTRI/2015/10/006330 [Registered on: 29.10.2015]-Trial Registered Prospectively. Last
   Modified on 13.04.2017
   Title of the study: Randomized, parallel Group, Multiple Arm Trial: Public Title of Study Oral
   Nutrition Supplementation study in children’s.
   Source of Monetary or Material Support: Abbott Nutrition Abbott Healthcare Pvt Ltd 8th Floor,
   Hallmark Plaza, Sant Dnyaneshwar Marg, Bandra (E) Mumbai – 400051 India

4. CTRI/2016/12/007621 [Registered on: 29.12.2016] Trial Registered Prospectively Last
   Modified on 05.07.2019
   Title of the study: A study of Human Milk Composition in Indian Mothers
   Scientific Title of Study: Human milk composition in Indian mothers.
Impact

BPNI | IMS Act Monitoring Report 2019-20-21

The members of the committee perused the relevant material and discussed at length on all the issues and arrived at the following unanimous considered opinion:

1. That the complaint is well founded, and the study in question is violative of Section 9(2) of IMS Act 1993 as amended in 2003, given the fact that the study falls under the definition of research work within the meaning of Section 9(2), and the study is funded and sponsored by Nestle India Ltd., which is a producer/supplier/distributor of IMS defined under the Act.

2. In the light of above observations, the committee recommends the following immediate actions:

   a. The study should be terminated immediately by the appropriate authority. The investigators should be asked to change the CTRI registration status to "terminated" citing the reasons for the same.

   b. DCGI should examine whether the respective institutional ethics committees, which permitted this study, were constituted in accordance with existing regulations. Further, the respective ethical committees may be directed to explain how they permitted such study in violation of Section 9(2) of IMS Act.

3. The committee feels that following step is necessary to act as a deterrent for similar acts of commission and omission in future, given the fact that the complainant (BPNI) in this case has been notified by Government of India to monitor compliance of IMS Act:

   a. Invoke the provisions of prosecution of the violators of Section 9(2) of IMS Act under Sections 33, 31 and 32 of the Act.

4. The CTRI should be sensitized regarding the provisions of IMS Act in relation to research work. If CTRI has any reason to believe that there is an infringement of this Act in an Indian study submitted to it for registration, it should defer its registration and should bring it to the notice of appropriate authorities.

5. It is recommended that the IMS Act should be displayed on the websites of Ministry of Health and Family Welfare, Medical Colleges and Hospitals (Government and Private), ICMR and CDSCO for better implementation.
Impact

BPNI | IMS Act Monitoring Report 2019-20-21

Dear Chief Secretary,


2. Strict implementation of IMS Act is the most effective strategy to protect, promote and support breastfeeding and enhance optimal infant and young child feeding practices in the country. The IMS Act, 1992/IMS Rules, 1993 provides for appointment of ‘Authorised officers’ for close monitoring and supervision of IMS Act implementation in the districts.

3. Section 21 (1)(b) of the IMS Act and the IMS Rules, 1993 provide for appointment of ‘authorised officer’ not below the rank of Class I (Group A) officer duly authorised by the State Government under Section 12 of the IMS Act. Rules further provides that ‘No Officer of the Government shall be authorised by the State Government unless he is –

(a) a medical officer in charge of health administration of a local area; or

(b) a graduate in medicine and has received at least one month’s training in food inspection and sampling work approved for the purpose of food inspection under the Prevention of Food Adulteration Act 1954 by the Central Government or a State Government. (The PFA Act has now been substituted by the Food Safety and Standards Act, 2006).

4. I shall be grateful if you could consider appointing the Chief Medical Officer/District Civil Surgeon/Pediatrician In-charge of the District Hospitals, as the ‘Authorised Officer’ in each of the districts and where necessary by giving them the prescribed training as per the IMS Act/Rules. Such ‘Authorised Officers’ may be asked to take suo moto cognizance of any violations of the IMS Act, take action as per the provisions contained in the IMS Act and also provide annual monitoring reports. A copy of such reports may also be provided to this Ministry along with the Ministry for Women and Child Development.

Yours sincerely,

(Preeti Sudan)

Chief Secretaries of All States/UTs.

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F. No. 7 (2)/2016/Ministry/Enf./RCD/FSSAI (PF) Food Safety and Standards Authority of India
(A Statutory body under Ministry of Health and Family Welfare)
(Regulatory Compliance Division)

FDA Bhavan, Kotla Road,
New Delhi-110 002
Dated, the 08th September, 2020

To

1. All Central Licensing Authorities (CLAs)/Designated Officers, FSSAI
2. The Commissioner of Food Safety of All States/UTs


Sir/Madam,

Section-100 of FSS Act, 2006 read with Section-21 (1) (a) Infant Milk Substitutes, Feeding Bottles and Infant Food (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992) (The IMS Act) empowers the Designated Officer or the Food Safety Officer directed under sub-section (5) of section 42 of the Food Safety and Standards Act, 2006 to make a written complaint before the court to take cognizance of any offence punishable under the IMS Act.

In this regard, it is brought to your notice that under Sections-3 & 4 of the IMS Act, advertising, promotions and incentivizing the use or sale of infant milk substitutes or feeding bottles or infant foods are prohibited. Further, under Section-9 of the IMS Act, the inducement to health worker for promoting use of infant milk substitutes, etc. including funding of seminar, meeting, conference, educational course, contest, fellowship, research work or sponsorship are also prohibited.

It is further informed that under Section-23 of the IMS Act, the offences are cognizable and the penalties are defined under Section -20 which may lead to imprisonment for a term which may extend to three years for the contravention of the provisions of the IMS Act.

All the concerned Food Business Operators (FBOs), including the Ecommerce Platforms, need to strictly adhere to the provisions of the Infant Milk Substitutes, Feeding Bottles and Infant Food (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992) in letter and spirit and desist from adopting surrogate promotions.
Impact

Accordingly, all the CLAs/Designated Officers of FSSAI and the Commissioners of Food Safety of All States/UTs are advised to closely monitor the products and promotional activities of the concerned Food Business Operators (FBOs) including any sister non-profit or otherwise association, institute established by these FBOs and in case any violation is noticed then the strict legal action may be initiated against them by filling a written complaint before the court under the Section-21 (1) (a) Infant Milk Substitutes, Feeding Bottles and Infant Food (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992).

The action taken report on the above advisory may be shared with FSSAI from time to time.

(S. Jain)
Executive Director (Compliance Strategy)

Copy to:-

1. The Secretary, Ministry of Women and Child Development, Government of India, Shastri Bhawan, New Delhi.
2. CITO for uploading on FSSAI’s website
Impact

BPNI | IMS Act Monitoring Report 2019-20-21

This is in reference to the letter no. BPNI/IMS Act/2020/020 dated the 14th August 2020 (copy attached) received from Breastfeeding Promotion Network of India (BPNI) regarding the violation of the IMS Act provisions in which it is informed that a webinar on “Nutrition First for First 1000 Days” on 18th June 2020 sponsored by Danone, has been organized by your organization.


3. It is clearly stated under section 9 (2) of the IMS Act that “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.”

4. In this regard, you are requested to clarify the reason behind organizing such webinars which appear to be directly violating the IMS Act provisions. You are also requested to take necessary action to comply with the provisions of the IMS Act and to ensure that such incidences do not reoccur.

Yours Sincerely

(Rajesh Bhushan)

Dr. Alpesh Gandhi,
President, FOFSI
Lower Parel,
Mumbai, Maharashtra 400013

Copy to:
1. Shri Ram Mohan Mishra, Secretary, Ministry of Women and Child Development, ShastriBhawan, New Delhi – 110001
2. Dr. Arun Gupta, Country Coordinator, BPNI

(Rajesh Bhushan)
Impact

BPNI | IMS Act Monitoring Report 2019-20-21

RAJESH BHUSHAN, IAS
SECRETARY

This is in reference to the letter no. BPNI/IMS Act/2020/020 dated the 14th August 2020 (copy attached) received from Breastfeeding Promotion Network of India (BPNI) regarding the violation of the IMS Act provisions in which it is informed that webinars have been organized by different organizations with sponsorship from the infant milk substitute and infant food manufacturing companies - Abbott and Danone (List of conducted webinars attached).

Breastfeeding Promotion Network of India (BPNI) has been notified by the Ministry of Women and Child Development, Government of India to monitor the compliance of the IMS Act; wide No G.S.R. 540 (E) dated the 27th June 1994 (copy attached).

It is clearly stated under section 9(2) of the IMS Act that “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.”

As implementation of the IMS Act is under the purview of the MoWCD hence, you are requested to kindly get this matter examined and issue instructions to the concerned to take immediate necessary action.

Yours sincerely

(Rajesh Bhushan)

Shri Ram Mohan Mishra
Secretary
Ministry of Women and Child Development
Shastri Bhawan, New Delhi-110001

Copy to:
1. Dr. Arun Gupta, Country Coordinator, BPNI
2. Dr. Bakul Jayant Parekh, President, IAP
3. Dr. Alpesh Gandhi, President, FOGSI
4. Dr. A. K. Decorari, President, NNF

(Rajesh Bhushan)
Impact

This is in reference to the letter no. BPNI/IMS Act/2020/020 dated the 14th August 2020 (copy attached) received from Breastfeeding Promotion Network of India (BPNI) regarding the violation of the IMS Act provisions in which it is informed that four webinars have been organized by your organizations (List of conducted webinars attached).


It is clearly stated under section 9(2) of the IMS Act that “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.”

In this regard, you are requested to clarify the reason behind organizing such webinars which appear to be directly violating the IMS Act provisions. You are also requested to take prompt and necessary action to comply with the provisions of the IMS Act and to ensure that such incidences never take place in future.

Yours sincerely

(Rajesh Bhushan)

Dr. Bakul Jayant Parekh
President
IAP, Nerul
Navi, Mumbai

Copy to:
1. Shri Ram Mohan Mishra, Secretary, Ministry of Women and Child Development, ShastriBhawan, New Delhi -110001.
2. Dr. Arun Gupta, Country Coordinator, BPNI.

(Rajesh Bhushan)
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BPNI | IMS Act Monitoring Report 2019-20-21

File No.Z-28020/96/2020-CH

No.Z-28020/96/2020-CH
Government of India
Ministry of Health & Family Welfare
(Child Health Division)

Nirman Bhawan, New Delhi,

To,
The Principal Secretaries (Health & FW),
(Chandigarh, West Bengal & Jharkhand).

Subject:Representation from BPNI requesting for action to stop exploitation of COVID-19 by the Baby Food and Feeding Bottle companies-reg.

Sir,

Please find enclosed a copy of e-mail dated 19-06-2020 along with enclosure addressed to Hon'ble HFM received from Dr. Arun Gupta, Central Coordinator, BPNI on the above subject. In this regard, it is requested to take necessary action in the matter with reference to IMS Act, 2003 notified by M/o Women and Child Development and this Ministry’s D.O. Letter No. 587/DC-I(CH&AH)/2019 dated 11-01-2019 regarding sensitization of health system on implementation of IMS Act, 2003. (copy enclosed)

2. This issues with the approval of competent authority.

Yours sincerely,

(Dilip K. Sahu)
Under Secretary to the Govt. of India
Tel: 011-23082666.

Copy for necessary action to: Secretary, M/o Women and Child Development, Shastri Bhawan, New Delhi-110001

Copy for information to:
Dr. Arun Gupta, Central Coordinator, BPNI. Email-id arun.ijb@gmail.com
Impact

BPNI | IMS Act Monitoring Report 2019-20-21

Emails from President NNF

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On 19 April 2021, at 7:44 AM, Narayana Murthy <narayana@gmail.com> wrote:

Dear Dr. Anil Gupta,

Thanks for your emails. Our former President (Dr. John Dorey) had also requested a few months ago for a call with the members of this group and you included us in his list. I am not sure who is receiving these emails or whether they are being acted upon.

As per the President's directions and as discussed at the last meeting, any further discussion on the topic of Section 3 of the Act should be brought to the notice of the EB. It is important that this is done in a timely manner.

I look forward to hearing from you.

Best regards,

Dr. John Dorey

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On 08 September 2020, at 2:44 PM, Secretary NNF (Announcer) wrote:

Subject: Re: BPNI India

Dear Dr. Anil Gupta,

This is in reference to your letter dated 3rd September 2020 regarding violation of Section 3(a) and (2) of IMS Act.

As per NNF EB decision on 6th September 2020, NNF India has advised all members & editors of the NNF Journal to abstain from taking sponsorship from any commercial organization as per IMS Act. Mass email to all the NNF members along with latest IMS act is being emailed.

Kind Regards,

Yours Sincerely,

Dr. AK Deyari

President, NNF

Dr. Lalan K Bhattacharya

Secretary General, NNF

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https://mail.google.com/mail/u/0/?view= bold&_ga=2.213140531.991948381.1601603287-1438798877.1608588123
Conclusions & Recommendations
Conclusions and Recommendations

The report is the result of the work of BPNI's mandate to check the compliance of the baby feeding industry with the IMS Act. BPNI hopes that Government of India and the health professional organisations would effectively implement the IMS Act in letter and spirit, thus protecting moms and babies from the onslaught of aggressive marketing of all companies. While the Union Health Ministry seeks to enforce the Indian law that protects and promotes breastfeeding, diverse corporate entities including Abbott, Amazon, Apollo Pharmacy, Danone-Nutricia, Nestle, Medela, Mead Johnson-Reckitt, Philips -Avent, and YouTube are finding new ways to infringe the law. The IMS Act will be 30 years young in 2022. It is the tool protect women and children from aggressive promotion of baby food companies. Consumption of these products has been shown to be harmful to their health. BPNI hopes effective enforcement action is initiated by the Government to prevent such violations in future, and recommends the following as a beginning.

Recommendation 1
- Appoint CMOs in every district as "authorised officers in addition to Food Safety Officers.

Recommendation 2
- Launch an investigation into alleged violations through appropriate mechanisms and prosecution if required.

Recommendation 3
- Make reporting violations mandatory for health staff. The App "Stanpan Suraksha" can be used

Contd...
Conclusions and Recommendations...contd

Recommendation 4
- Fund an annual report on IMS Act for each State and annually review action taken.

Recommendation 5
- Professional organisations of all health workers caring for mothers and children stop receiving ANY aid from baby food companies or thier allies.
Contact
Breastfeeding Promotion Network of India (BPNI), BP-33 Pitampura
Delhi 110034 INDIA

https://www.facebook.com/bpni.org/
011-42683059
bpni.india@gmail.com
@bpniindia