

Breaking the Law

and undermining Breastfeeding



Series 6 (2015)

Baby food manufacturers become more tricky!! Continue breaking the law

The protection, promotion and support of exclusive breastfeeding in the first six months of life is acknowledged as the single most significant strategy for reduction of child mortality. 22% new born babies could be saved if mother starts breastfeeding within one hour of birth which can be estimated as about 1 million infants per year globally¹. Breastfeeding can prevent more than 50% of diarrheal and pneumonia deaths during the first six months of life of baby universally² and has shown reduction in diabetes, hypertension, heart diseases and cancers³. Also new evidence has emerged that it has a direct impact on adult intelligence, educational attainment and income⁴. In spite of so many benefits, the available data shows that only 46% women in our country could exclusively breastfed their infants for first six months of life⁵.

The aggressive marketing tactics of the baby food industry undermines breastfeeding and mislead mothers into believing that formula is equivalent to breastmilk. They are using variety of strategies to increase the sale of their products by misusing health care system and health professionals with attractive advertisements. Health care system is a primary site for them to market or promote their products because advertisement of infant formula in hospitals or recommendation by doctors adds legitimacy to these products. Baby food industries have vested interest in low breastfeeding rate as it's the primary way they can sell more.

“The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply & Distribution) Act 1992, Amendment Act 2003 (IMS Act) clearly prohibits all forms of promotion and advertisement of Infant Milk Substitutes, Feeding Bottles, and Infant foods. The Act strictly prohibits sponsorships, gifts, fellowships and financial benefits to health care providers and their associations.

Government of India has taken note of activities of these formula companies and their front organisations violating the IMS Act. Initiatives have been taken jointly by Ministry of Women and Child Development and Ministry of Health in this regard. Strict directives have been released by Government of India to the states to check, ban and take strict action against baby food manufacturers / organisations who are indulging in sponsorship of meetings of doctors, hosting such events or providing other inducements to health care facilities / workers.

Despite strict directives by Government of India, the baby food or feeding bottle manufacturing companies are still violating the IMS Act. Companies are continuously bypassing the law by adopting various promotional tricks. They are concerned about their profits only by increasing the sale of their products.

Dr. J.P. Dadhich

National Coordinator, BPNI

1. Edmond KM, Zandoh C, Quigley MA, Amenga-Etego S, Owusu-Agyei S, Kirkwood BR. Delayed breastfeeding initiation increases risk of neonatal mortality. *Pediatrics* 2006;117:380-386.

2. Lauer JA, Betrán AP, Barros AJD and Onis MD. Deaths and years of life lost due to suboptimal breast feeding among children in the developing world: a global ecological risk assessment. *Public Health Nutrition* vol 12, September 2009, pp 1-10.

3. Horta BL, Bahl R, Martines JC, Victora CG, eds. Evidence on the Long Term Effects of Breastfeeding. Systematic Reviews and Meta Analysis. Geneva, Switzerland: World Health Organization, 2015.

4. Cesar G Victora, Bernardo Lessa Horta, Christian Loret de Mola, Luciana Quevedo, Ricardo Tavares Pinheiro, Denise P Gigante, Helen Gonçalves, Fernando C Barros. Association between breastfeeding and intelligence, educational attainment, and income at 30 years of age: a prospective birth cohort study from Brazil. *The Lancet Global Health*, vol 3(4), 2015, 199205.

5. National Family Health Survey 2005-06, Government of India. <http://www.rchips.org/nfhs/pdf/India.pdf>

Nestle violates IMS Act:-

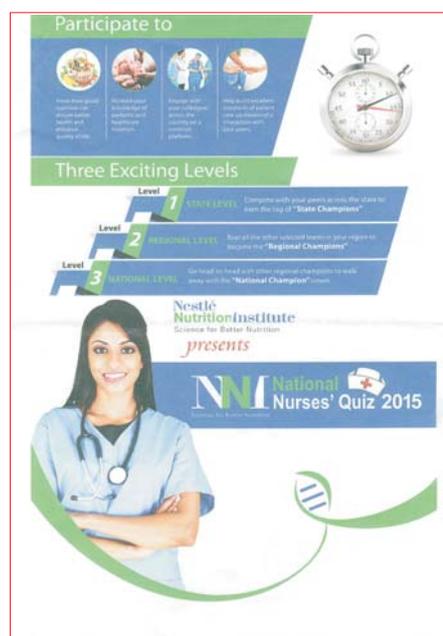
By organising Nurse's Quiz Competition through Nestle Nutrition Institute

Baby food manufacturer Nestle, through its front organisation Nestle Nutrition Institute is sponsoring and organising National Nurse's Quiz Competition 2015 in India. One such event was scheduled at Agra for which participation of Pediatrics Department of Aligarh Muslim University was invited.

The aim of the quiz competition was to bring all the nurses from various medical colleges and institutes on a common platform for brand promotion of Nestle. It is another marketing trick by Nestle to target nursing staffs for promotion of their products.

BPNI informed Ministry of Women and Child Development and Ministry of Health and Family Welfare, Government of India to stop such activities. Secretary General, Trained Nurse's Association of India (TNAI) strongly expressed her concern against such image building and branding efforts by infant formula manufacturers for indirectly promoting their products through nursing personnel and also urged

Government of India to initiate strict action against these companies for violating the IMS Act. BPNI has also written to Indian Nursing Council with a request to take necessary action. We are not aware of any action taken so far.



Another conference by Nestle Nutrition Institute

A scientific conference "Nutrition in Paediatric Intensive Care & Transport of Sick Child" was organised by Nestle Nutrition Institute (NNI) for medical and health professionals on 17th April 2015 at Hotel Grand Dhillon, Nehru Nagar, Bhilai, Chhattisgarh.



Symposium by Nestle

Nestle organised a symposium titled ““emerging trends in infant nutrition: expert input meet for sharing best practices at institutional level” on 17th May 2015 at Pune for medical and health professionals. Many doctors from different faculties participated as resource persons in this symposium.

Section 9 (2) of IMS Act says- “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.”

Baby food manufacturers, like Nestle are playing with the life of innocent infants by manipulating health care professionals. This should be considered as a serious offence and strict action must be taken against these manufacturers.



Nestle India Nutrition officer distributed the invitation of the event along with his business card.

Two legal expertise opinion regarding Section 9 of IMS Act

In 1994, a query was sent to Mr. PM Bakshi, Member - Law Commission of India and Mr. Chander Uday Singh, Advocate - High Court to have their opinion about section 9 of IMS Act & its sub-sections to understand whether acceptance of financial assistance in any form from a company of infant milk food would be guilty of any illegality or unethical practices by medical association or similar body.

According to **Mr. PM Bakshi** acceptance of hospitality or inducements by medical professionals should be considered as indirect silent product promotion as a matter of ordinary common sense and should be punishable because it indicates that his conduct may be influenced by financial attractions. He also pointed that under section 22(1) every person responsible for the committed offence by the company shall be liable to be proceeded against and punished accordingly, whereas the

provision gives an escape, if the person proves that the offence was committed without his knowledge.

According to **Mr. Chander Uday Singh**, no manufacturer or distributor of infant foods will spend money on paediatrics association out of motive of pure altruism of philanthropy. If manufacturing companies want to do charity, they should have contributed to higher learning or to the cure of some life threatening disease instead of spending money on professional bodies of doctors who can certainly afford to pay for their conferences. Hence the motive of product promotion is clear and it is illegal for any industry to fund any association. He also mentioned that even if any escape is found in one of these sections there cannot be escape from cumulative effect of all the sections.

Violations of IMS Act are rampant in Port Blair

Free sample of Infant Formula given to Doctors

Dr. Sangeeta Rani, CHS doctor working with Government of Delhi was in GB Pant hospital, Andaman & Nicobar Island on rotational posting for three months. She shared comprehensive information on violation of IMS Act by the infant food manufacturers in many clinics and hospitals that is impeding breastfeeding practices in the hospital.

The representatives of companies regularly visit the hospital and meet pediatricians. They enjoy good rapport with the doctors especially with the in-charge of pediatrics department because they are distributing free samples and other incentives, gift items and giveaways. She observed that on the very first day of delivery the mothers are asked to buy milk formula. Also the bottles are being prescribed to the pre-term and sick babies admitted in the SNCU for the stimulation of suckling. Feeding bottles can be frequently spotted on the baby beds in SNCU.

Company representative from the Nutricia international Pvt. Ltd. also approached Dr. Sangeeta in the OPD and tried to convince her about the processed complimentary food manufactured by his company saying their products are superior to home available foods. He also advocated the use of lactose free formula NUSOBEE (from his own company) in case of lactose intolerance. When he was told that lactose free formula is not recommended anymore, he argued that many doctors are still prescribing it. He gave a pack of formula NUSOBEE as a free sample to Dr Sangeeta despite refusal by her as distributing free samples is a serious violation of section 4 (a) of IMS Act which says that - *No person shall "supply or distribute samples of infant milk substitutes or feeding bottles or infant foods or gifts of utensils or other articles"*.



Health care system being misused by baby food manufacturers

Poster displayed in Pediatrics OPD ward with company logo

In the same hospital in Port Blair a poster “Nestlé Start Healthy and Stay Healthy” was displayed in the patients waiting area at the pediatrics OPD. Infant food manufacturers had very skilfully put the poster adjacent to immunisation schedule chart such that mothers can see these posters while going through the immunisation schedule for their children. It is clearly a violation of **section 8 (1) of IMS Act** which says that- 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, feeding bottles or infant foods”.

The poster states that “The nutrition children get in the early years of life, affects their health forever”. To gain authenticity for their products, Nestle is advertising themselves as an educational institute in partnership with doctors with an aim to provide good nutrition a way of life and create a healthier generation. This way Nestle is trying to manifest/ exhibit that they are very much concerned for children's future. The poster also illustrates feeding technique by showing attractive pictures of mother and infant to get mother's attention towards the advertisement which will in-turn lead to acceptability with confidence.

It is a cleverly planted marketing strategy by Nestle to influence the pregnant and lactating mothers for their products.



Distribution of Printed Materials in the Health Facilities

आहार सारणी

**बढ़ते नन्हे-मुन्नों के लिए
पौष्टिक आहार खिलाने के निर्देश!**

Educational material for mothers for distribution by healthcare professionals only

6-8 महीने

- ✓ स्तनपान करना जारी रखें
- ✓ दलिया, चूली दलिया आदि से शुरुआत करें
- ✓ अच्छी तरह से मसला हुआ आहार जैसे पीसा हुआ आलू और काल जैसे धींकू और केला दें
- ✓ 2-3 घन्टा से शुरू करें, फिर बढ़ाकर 2-3 कप करें
- ✓ प्रतिदिन 2-3 बार आहार दें

आहार तालिका

समय	पहला दिन*	दूसरा दिन*	तीसरा दिन*
सुबह 9:00-9:30 बजे	GERELAC, 1 सर्वे	GERELAC, 1 सर्वे	GERELAC, 1 सर्वे
दोपहर 1:00 बजे	धींकू (मसला हुआ): 1/2 कटोरी	पोहा खीर (मसली हुई): 1/2 कटोरी	सेब की खीर: 1/2 कटोरी
शाम 5:30 बजे	GERELAC, 1 सर्वे	GERELAC, 1 सर्वे	GERELAC, 1 सर्वे
शाम 7:30-8:00 बजे	पालक का सूप: 1/2 कटोरी	गाजर का सूप: 1/2 कटोरी	खिचडी (मसली हुई): 1/2 कटोरी

*स्तनपान करना जारी रखें

रेसिपी

धींकू (मसला हुआ)	30 ग्राम धींकू
पालक का सूप	20 ग्राम पालक, 2.5 ग्राम मक्खन
पोहा खीर (मसली हुई)	15 ग्राम पोहा, 45 मि.ली. दूध, 5 ग्राम चीनी
गाजर का सूप	30 ग्राम गाजर
सेब की खीर	20 ग्राम सेब, 45 मि.ली. दूध, 2.5 ग्राम चीनी
खिचडी (मसली हुई)	2.5 ग्राम चावल, 2.5 ग्राम मूँग की दाल (हरी), 2.5 ग्राम धी

Educational material for mothers for distribution by healthcare professionals only

Printed materials and leaflets are distributed to mothers purposely in maternity wards to make mothers believe that commercial infant foods are safe and easy to feed to infants. These materials often give incomplete and biased information, but they serve as a direct method of advertisement for infant formula / infant food products. Despite the fact that promotion of infant food products by misusing health care systems is a clear violation of IMS Act, the companies are still distributing printed materials in hospitals and clinics.

For instance, in a government hospital in Delhi, a sales representative from Nestle approached the Nurse-in-charge

and gave a bundle of printed materials for distribution among mothers in maternity ward and to mothers visiting for regular health check-ups in the hospital. The material suggests the mothers to feed Cerelac to her child at specified time. (see above picture)

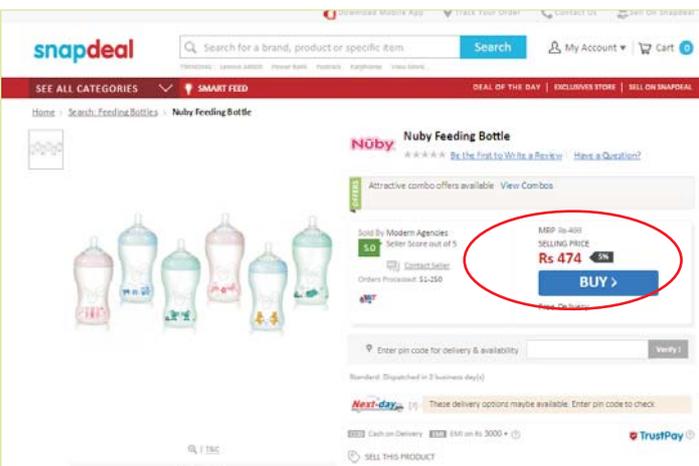
It is a violation of section 3(a) of IMS Act which says that- No person shall- “advertise, or take part in the publication of any advertisement, for the distribution, sale or supply of infant milk substitutes, feeding bottles or infant foods.” and Section 3 (c) of IMS Act which says that- No person shall- “take part in the promotion of infant milk substitutes, feeding bottles or infant foods.”

Internet violations

Discounts on Feeding Bottles available online via E- marketing websites

In the year 2013, BPNI explored how E-marketing websites were violating IMS Act by offering discounts on infant food and feeding bottles. BPNI informed the matter to Ministry of Women and Child Development, Government of India via a letter mentioning about the violation of IMS Act by infant food companies through E-marketing websites and requested for necessary action against the manufacturer and marketing agency. A letter was also addressed to CEO of flipkart.com to withdraw all kinds of advertisements about infant food & feeding bottles as it was violation of the IMS Act. BPNI organised a press conference on 31st of July 2013, wherein it was revealed that baby food companies are using Indian e-marketing portals to advertise and promote their products, which is illegal and against the IMS Act.

Further to above initiatives, although some of the websites took corrective actions but the ill practice still continues by other online e-marketing websites selling feeding bottles on discounts. See examples of such violation:-



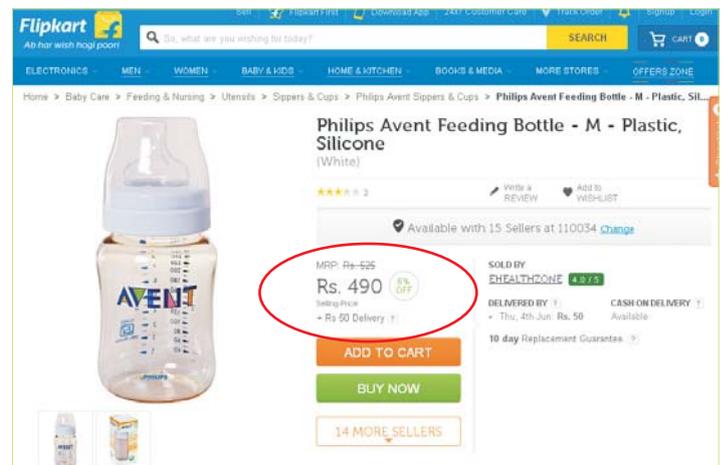
Picture 1: Snapdeal.com offer 5% discount on feeding bottles

<http://www.snapdeal.com/product/nuby-feeding-bottle/48897816#breadcrumbSearch:feeding%20bottles>



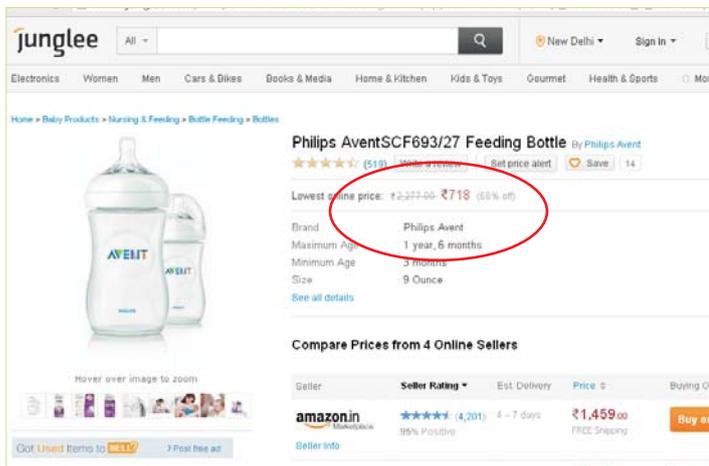
Picture 2: shopping.rediff.com offer 15% discount on feeding bottle

[Http://shopping.rediff.com/product/philips-avent-natural-scf693-37-260-ml-feeding-bottle-1-month---pack-of-3-/14642420?sc_cid=topnav_babycare|browse|search_feeding%20bottle](http://shopping.rediff.com/product/philips-avent-natural-scf693-37-260-ml-feeding-bottle-1-month---pack-of-3-/14642420?sc_cid=topnav_babycare|browse|search_feeding%20bottle)



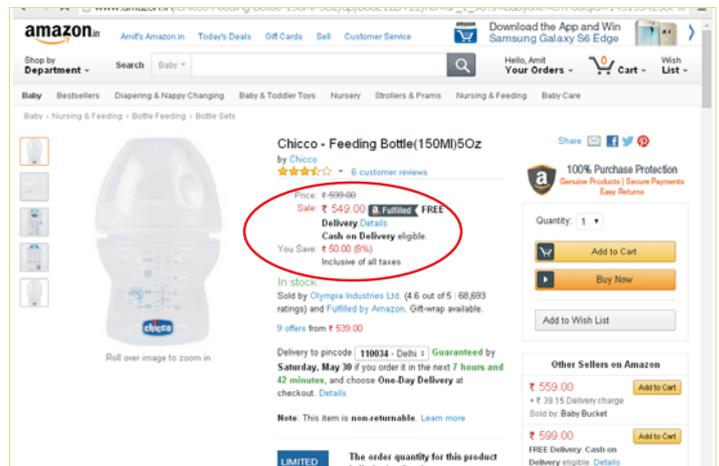
Picture 3: flipkart.com offer 6% discount on feeding bottle

[Http://www.flipkart.com/philips-avent-feeding-bottle-m-plastic-silicone/p/itm3cuzwrumsgm?pid=FDUE3CUZGBAQQUHE&ref=L%3A-7365735137920135725&srno=b_20](http://www.flipkart.com/philips-avent-feeding-bottle-m-plastic-silicone/p/itm3cuzwrumsgm?pid=FDUE3CUZGBAQQUHE&ref=L%3A-7365735137920135725&srno=b_20)



Picture 4 junglee.com offer 68% discount on sets of feeding bottles

[Http://www.junglee.com/Philips-AventSCF693-27-Feeding-Bottle/dp/B007VBXJ7M/ref=lp_793630031_1_6?s=baby-products&ie=UTF8&qid=1431332875&sr=1-6](http://www.junglee.com/Philips-AventSCF693-27-Feeding-Bottle/dp/B007VBXJ7M/ref=lp_793630031_1_6?s=baby-products&ie=UTF8&qid=1431332875&sr=1-6)



Picture 5: amazon.in offer 8% discount on feeding bottle

[Http://www.amazon.in/Chicco-Feeding-Bottle-150ml-5Oz/dp/B00L12DY22/ref=sr_1_96?s=baby&ie=UTF8&qid=1431334258&sr=1-96](http://www.amazon.in/Chicco-Feeding-Bottle-150ml-5Oz/dp/B00L12DY22/ref=sr_1_96?s=baby&ie=UTF8&qid=1431334258&sr=1-96)

Section 3 (c) of IMS Act says- No person shall- *“take part in the promotion of infant milk substitutes, feeding bottles or infant foods.”*

Section 4 (c) of IMS Act says- No person shall- *“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.”*

Since the violation of the IMS Act still continues, BPNI once again requested Ministry of Women and Child Development for stringent action against the violators. Also letters were sent to CEOs of above mentioned companies to remove advertisements on feeding bottles with immediate effect.

Issued in public interest by:



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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 is the Regional Focal Point for South Asia for the World Alliance for Breastfeeding Action (WABA) and Regional Coordinating Office for International Baby Food Action Network (IBFAN) Asia. BPNI follows clear ethical and funding policies that do not lead to any conflicts of interest. BPNI does not accept funds or sponsorship of any kind from the companies producing infant milk substitutes, feeding bottles, related equipment, or infant foods (cereal foods) or from those who have been ever found to violate the IMS Act or the International Code of Marketing of Breastmilk Substitutes.

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