

Protecting IMS Act: Balancing Trade Interest and Child Health

More than 2.4 million child deaths occur in India each year and two-thirds of these deaths are related to inappropriate infant feeding practices(1). To protect infant health, India became one of the few countries in Asia to fully implement the International Code of Marketing of Breastmilk Substitutes with the enactment of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992) (hereinafter referred to as “the IMS Act”). The objective of the IMS Act is to protect breastfeeding from commercial promotion, and thereby prevent malnutrition and deaths in infants and young children. The IMS Act controls marketing practices of baby food manufacturers.

The statement of objectives presented in Parliament during the enactment of the IMS Act clearly stated: *“Inappropriate feeding practices lead to infant malnutrition, morbidity and mortality in our children. 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. In the absence of strong interventions designed to protect, promote and support breastfeeding, this decline can assume dangerous proportions subjecting millions of infants to greater risks of*

infections, malnutrition and death.....”

Thus, the IMS Act had a clear intent; the saving of millions of children’s lives and improving their nutritional status by preventing the baby food industry from enticing mothers and the health system to give infants breastmilk substitutes. Enactment of the Act has been seen as an example of an innovative and progressive legislation and India was heralded as a global leader in the area of legislation on infant and young child health. Realizing the importance of breastfeeding for promotion of child health and the need to curb industry’s influence towards erosion of breastfeeding practices in India, the Indian Academy of Pediatrics voluntarily discontinued sponsorship from all manufacturers and marketers covered under the IMS Act(2). In 2003, following increasing information on the benefits of exclusive breastfeeding and the subtle promotional techniques adopted by some manufacturers to circumvent the IMS Act, the Act was amended to include complementary foods and banned all forms of promotion of baby foods. The Act also banned sponsorship of the medical profession by baby food companies(3). India was again appreciated globally to raise the bar of protection of children from commercial exploitation of baby food industry(4). India also took pride in reporting the enactment at the Convention of the Rights of the Child Committee (CRC) as a means to reduce child malnutrition.

The strong commitment from various quarters including legislation, government, non-governmental organizations, academia, and professional started yielding dividends. The IMS Act proved effective in curbing the promotional activities of baby food companies. The National Family Health Survey re-

ports of 1992 and 1999 documented a positive, albeit small, improvement in the practice of breastfeeding(5).

It therefore, is a shock to learn that the IMS Act along with several other pieces of legislation is being considered for repealing under the modern integrated food laws. This is intended to avoid multiplicity of food laws by having one regulator. The integrated law is to take care of the long pending demand of the food industry to avoid multiple levels of licensing. The proposed bill in this direction "The Food Safety and Standards Bill, 2005", was put up by The Union Ministry of Food Processing Industries (MOFPI) in its website (www.mofpi.nic.in) on 15th January 2005 for comments from the public. This information was advertised in the leading newspapers that the law seeks to "meet the dynamic requirements of international trade and Indian Food Trade and Industry." The proposed bill, therefore, facilitates enhancement of trade in foods that meet safety standards. Undoubtedly, this is a well intended effort of the MOFPI to facilitate trade; however, there is no justification for repealing the successful IMS Act. The clubbing of IMS Act with other food adulteration laws is incomprehensible. The IMS Act is not a routine food law nor does it have anything common with the other Acts in the repeal list. It is a special act primarily to protect, promote and support breastfeeding, which encompasses social and health concerns of the community, particularly the poorer sections. Only one of the nine operative sections of IMS Act deals with food standards, and this section makes it clear that these standards shall continue to be governed by the Prevention of Food Adulteration Act (PFA). All that is required is an amendment stating that the Act will now be governed by the new food law, without repealing the IMS Act.

It is not clear if inclusion of the IMS Act in the repeal list is a gross error of judgment or

due to some other considerations. Alarmed by the proposed modern Food Safety and Standards Bill, 2005 and its consequences on child health, a conglomerate of twenty six organizations representing public interest groups, public health groups, women's' groups, economists, health professionals (notably from medical profession like Indian Academy of Pediatrics, Indian Medical Association, National Neonatology Forum, Federation of Obstetrics and Gynecology Society of India), and several prominent individuals in the field of economics and health, came together at the initiative of Breastfeeding Promotion Network of India (BPNI), Jan Swasthya Abhiyan (JSA) and India Alliance for Child Rights (IACR), and Voluntary Health Association of India (VHAI) on 8th February 2005 at New Delhi. The group met under the banner of "Coming together to save the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (IMS Act) as amended in 2003." The meeting recommended submission of a People's petition 'Save Babies by Saving the 'IMS Act'. The salient points in the petition are: (i) that the IMS Act is not a 'Food Bill' and its aims and objectives are totally different; the IMS Act specifically aims at reducing Infant Mortality and preventing Child Malnutrition whereas the proposed food bill Promotes Trade; (ii) that the mandate of the new 2005 'Food Bill' is to simplify trade of processed food whereas the IMS Act seeks to restrict the promotion of baby foods in the interests of the child; (iii) that the subject matter of the two instruments is totally different and they don't preclude each other; (iv) that the repeal of the IMS Act will allow promotion of bottle feeding and undermine breastfeeding, which will be directly responsible for increased disease and deaths in children especially among the poor; (v) that repeal of IMS Act will conflict with the strategic principles and strategic

position of the Government of India on children under CMP, RCH II and ICDS; (vi) that India is perceived as a leader in the protection of breastfeeding by being one of the first nations to harmonize its legislative framework to be in line with the Global Strategy for Infant and Young Child Feeding, adopted at the World Health Assembly (WHA) in 2002; (vii) that trade should not be given priority over public health and the best interest of the child.

The petition has been submitted to Hon'ble President of India, Hon'ble Prime Minister of India, Group of Eight Ministers overseeing the Food Safety Bill, and Minister of Human Resource Development to intervene and take immediate steps to save the IMS Act as amended in 2003 from being repealed through the modern "Food Safety and Standards Bill 2005".

In this era of commercialism, all members of the medical profession need to come together and remain vigilant to insulate human health interest from pressures of trade.

Panna Choudhury,
*Consultant Pediatrician ,
Lok Nayak Hospital,
New Delhi-110 002, India.
E-mail: pannachoudhury@gmail.com*

Arun Gupta,
*National Coordinator,
Breastfeeding Promotion Network of India
(BPNI),
BP-33 Pitampura,
Delhi-110 088, India.
E-mail: arun@ibfan-asiapacific.org*

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