

Unethical Marketing and Advertising of Infant Formulae

Comments and Suggestions

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1. Introduction

- Unethical Marketing and Advertising of Infant Formulae is gradually rising. Formula industry is innovating unscrupulous strategies to promote their products in a tactical manner progressively changing attitudes of innocent mothers.
- Lapses on the part of the regulatory officials have paved paths to the formula industry to capitalize on the situation for their benefits ignoring the immense value of breast feeding.
- Sri Lankan officials including the Ministry of Health, the Consumer Affairs Authority, and the mass media should unite in an effective, cooperative and committed manner to control unethical marketing and advertising practices adopted by the infant formulae industry for the betterment of future generations.
- The Ministry of Health should act as the key agency combating the situation utilizing the services of all the Authorized Officers appointed under the Food Act to strictly scrutinize violations and initiate appropriate action in an effective, productive and efficient manner.

2. Purpose of the report:

- The intention of this brief report is to discuss about the emerging situations and fraudulent practices adopted by the infant formulae trade in an organized manner to focus the attention toward formulated product ranges undermining exclusive breastfeeding.
- Secondly to highlight the regulatory provisions which are currently in place and to discuss the approaches that should be adopted by regulatory agencies and enforcement officers appointed under the Food Act to control the current situation.

3. Initiatives made by Sri Lanka for the Promotion and Protection of Brest Feeding:

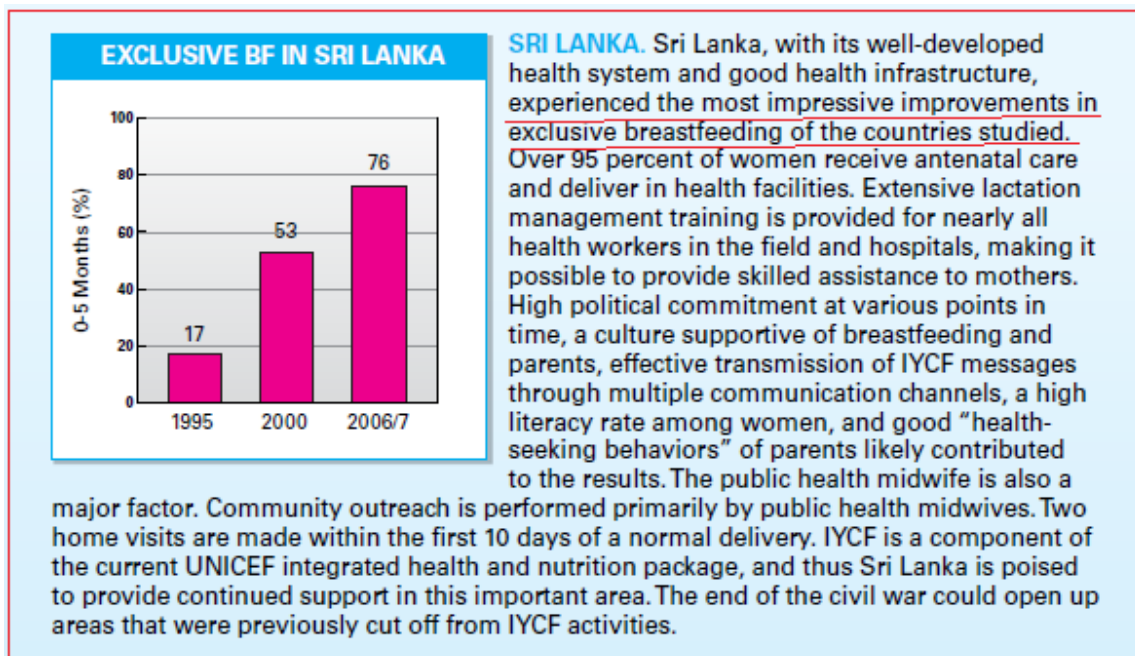
- Positive child health initiative was implemented by Sri Lanka three decades ago by promulgating the "Sri Lanka Code for the Promotion and Protection of Brest Feeding and Monitoring of Infant Formulae and Related Products".
- The "Sri Lanka Code" was formulated following the International Code and the approval was granted by the Cabinet of Ministers in 1981.
- The prohibition of advertisements of Infant Milk Foods in any manner whatsoever and advertisements over the radio was enforced under the Direction No. 24 published as far back as November, 1980.
- Controlling mechanism was further strengthened by the Food Act No. 26 of 1980 and Food (Labelling and Advertising) Regulations 2005.
- Marketing and Advertising of Infant Formulae and related products are controlled by two State Agencies in Sri Lanka, namely, the Department of Health Services, and the Consumer Affairs Authority.

4. Progress made by Sri Lanka

- Since the commencement of activities tremendous improvements have been achieved by Sri Lanka and it is evident from the “Infant and Young Children Programme Review conducted by UNICEF and published in the “Consolidated Report of Six-Country Review of Breastfeeding Programmes”



- The review included detailed individual case studies from six countries, including Sri Lanka and the review commended the impressive improvements made by Sri Lanka, which read as:



- The **Save the Children Fund 2013 publication** “Super Food for Babies - How overcoming barriers to breastfeeding will save lives” commends the achievements made by Sri Lanka toward promotion of breastfeeding.
- The following two illustrations can be cited as evidence

TABLE 1: RATES OF EXCLUSIVE BREASTFEEDING AND EARLY INITIATION

EXCLUSIVE BREASTFEEDING (%) ²²				EARLY INITIATION (%)			
Top ten		Bottom ten		Top ten		Bottom ten	
Rwanda	85	Djibouti	1	Samoa	88	Mexico	18
Sri Lanka	76	Suriname	2	Tunisia	87	Democratic People's Republic of Korea	18
Solomon Islands	74	Chad	3	Timor-Leste	82	Burkina Faso	20
Cambodia	74	Côte d'Ivoire	4	Mauritania	81	Cameroon	20
Malawi	72	Tunisia	6	Mongolia	81	Botswana	20
Burundi	69	Algeria	7	Sri Lanka	80	Belarus	21
Peru	68	South Africa	8	Honduras	79	Senegal	23
Nauru	67	Belarus	9	Eritrea	78	Côte d'Ivoire	25
Democratic People's Republic of Korea	65	Somalia	9	Nauru	76	Somalia	26
Bangladesh ²³	64	Dominican Republic	9	Myanmar	76	Pakistan	29

Note: The rates are given for the top ten and bottom ten countries for which data were available for analysis.

Source: UNICEF, *State of the World's Children 2012*

Sri Lanka sets the global standard for having the right policies in place to protect and promote breastfeeding and is near the top of the list for both early initiation and exclusive breastfeeding.

The country has a strong health infrastructure and a breastfeeding training programme for health workers. Almost every birth takes place in a hospital or health centre, and 90% of births take place in the 71 hospitals in the country that offer specialist care for newborns and have been designated Baby-Friendly Hospitals.

In addition, the Sri Lankan Ministry of Health demonstrates its commitment by hosting a monthly meeting of the Committee on Promotion, Protection and Support of Breastfeeding and the Marketing of Designated Products, where government, academics and representatives of the relevant UN agencies review violations of the International Code.²⁴

5. Overview of the current situation:

- Emerging situations and direct and indirect implications have been gradually creating an inclination to turn the development trend to a retrogressive trend.

- Infant formula companies market their products making false and exaggerated claims that glamorize their products while research shows that formula feeding increases risks of infectious diseases, obesity, diabetes etc.
- Even though the Breastfeeding Code was implemented three decade ago, initiatives made by Sri Lankan Authorities are gradually decelerating. The baby formula industry is flourishing with unchecked marketing, which needs to be regulated on priority.
- Article 2.2 of the "Sri Lanka Code for the Promotion and Protection of Breast Feeding and Monitoring of Infant Formulae and Related Products" clearly defines prohibitions related to unethical promotion of designated products, as:

"No designated product shall be marketed or publicly referred to by any manufacturer or distributor in a way that would imply or create a belief, that such designated product when given to an infant is equivalent to or comparable with or superior to breastfeeding"

- Accordingly, when marketing Infant Formulae and related products in Sri Lanka the products importers, distributors, sellers and manufacturers are compelled to adhere to the provisions stipulated by the relevant Codes.
- Irrespective of the above there are a number of infant formulae highlighting minute components, minerals, vitamins with **crafted wordings, specifying superiorities of their products.**
- Most of the attractive words, descriptions, and graphics used by the traders have prompted the general customers (mainly mothers) to blindly believe the superiorities of formulated products undermining the immense advantages of breast milk.
- As a result feeding practices and attraction of present day mothers are gradually turning toward products promoted by unscrupulous traders. If left unattended this may lead to the situation Sri Lanka experienced in 1950s when feeding the infants with expensive formulated products was the fashionable practice and may again make mothers select the most

expensive product with most attractive words, descriptions, and graphics available in the market to feed their infants.

- Challenging and deceitful factors and practices need to be identified and remedial precautions should be implemented disallowing the worsening of the situations.
- If the current situation prevails and continues the efforts made by Sri Lankan Authorities experiencing the most impressive developments in exclusive breastfeeding would come to an end ultimately creating unwarranted consequences.
- It is apparent that a few prosecutions has been filed under the law till date because of the absence of an efficient enforcement mechanism.
- It is timely to remind the Regulatory Agencies of the need to show serious commitment towards enforcement of the law to regulate the unethical promotion of formulated milk products.

6. Exaggerated, unethical, violatory descriptions observed in product labels:

6.1 Inclusion of crafted/fabricated words on product labels

6.2 Use of superlative terms

6.3 Inclusion of controversial and unproven descriptions

6.4 Declaration of special characteristics without obtaining approval of the Chief Food Authority.

6.5 Over emphasize of minute nutrient component and nutrient functions.

6.6 Labels containing brand endorsements.

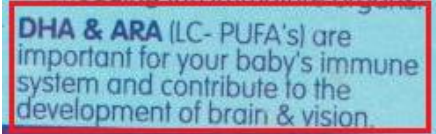
6.7 Letter size used to indicate mandatory labeling information.

6.1 Inclusion of crafted/fabricated descriptions on product labels


- Products intended for infants and young children are labelled as containing “Bifidus, Lutein, DHA, ARA, Optipro, LCPUFA, Immunofortis, Omega 3 and Lactoferrin, and so forth.
- These added substances are reflected on the labels through complex scientific names and logos to idealize products. On the other hand companies exploit to the extent of implying the labels that their products can result in superior, intelligent babies. **This marketing ploy is effective in undermining breastfeeding.**
- Some of the descriptions made on products intended for infants and young children are as follows:

	<p>Nestle NAN 1 provides: nutrients which are essential for optimal physical and mental development of the baby.</p> <p>Protect Start™, a unique combination of protective ingredients, helps activate baby's natural immune defense in the crucial first months of life.</p>
	
<p>Researcher's view</p> <ul style="list-style-type: none"> ▶ Bifidus B₁ naturally active probiotic cultures that helps to reinforce baby's immune defense system. ▶ Opti Pro¹ provides the right amount of protein for optimum growth without overloading the immature organs. ▶ DHA & ARA (LC- PUFA's) are important for your baby's immune system and contribute to the development of brain & vision.  <p>NAN 1 from b</p>	<p>New LACTOGEN 1 with Gentle Start™ contains L.Comfortis[®] (<i>Lactobacillus reuteri</i>), a friendly probiotic culture which acts as a real "Feel Good Factor". L.Comfortis[®] supports your baby's immature digestive system and helps to reduce discomfort in tummy.</p> <p>DHA and ARA help brain and visual development.</p> <p>ජෛවීය සම්පූර්ණ සහනකර සහිත නව ලැක්ටේටස් 1 හි අඩංගු L.Comfortis[™] (<i>Lactobacillus reuteri</i>) කවරයේ විෂය කර ප්‍රෝබියෝටික් බැක්ටීරියා උපකාර වී දුරුවීමට සුව පහසු වන ලදී. DHA සහ ARA මොළක සහ දෘෂණ පද්ධතියේ වර්ධනයට උපකාරී වේ.</p>

6.1.1 Crafted descriptions and their position against the Breastfeeding Code:

- Most of the above descriptions clearly violate Article 2.2 of the Breastfeeding Code. In the sense such claims imply or create a belief that such products are much superior to breast milk, i.e. descriptions such as **DHA & ARA** (Lc-PUFAs) are important for your baby's immune system and contribute to the development of brain & vision create strong impact among mothers.
- 
- This certainly would lead them to seek products so promoted irrespective of enormous prices of products. Common assumption is that if the price of a product is more so the value of the product is also more. General belief of the public is that if the descriptions are wrong or doubtful the manufacturers will not display such statements and regulatory bodies too will not allow them to make such claims. Motivations of this nature will to a certain extent lead to shift from breast milk to formula products.
 - Though the Article 2.2 specifies prohibitions in relation to marketing or publicly referring any product in a way that would imply or create a belief that when given to an infant is superior to breastfeeding, when descriptions of above nature are displayed the impression that is created in the mind of average mother is considerably effective.

6.2 Use of superlative terms:

- Superlative terms such as "Gold" and "Premium" are commonly used on infant formula products. Regulators should be concerned that consumers might interpret these terms as signifying that the particular brand of infant formula has a higher quality than the average infant formulae and even breast milk. Such terms when used on infant formulae are regarded by consumers as statements that ought to be taken seriously.
- 
- In the above sense descriptions of above nature are not permitted to be declared on infant formula product labels as per the Article 2.2 of the

Code. Unfortunately there are many products in the market with such non-compliances.

- In the above context it is imperative to pay more attention to descriptions, graphics, logos, and illustrations displayed on infant formula product labels and take appropriate action to put a ceiling on the use of superlative terms such "Gold" "Premium" and "Best" and other superlatives and also initiate legal action against violators.

6.3 Inclusion of controversial and unproven descriptions:

- According to the recent promotion campaign "DHA and brain development" appears to be the most prominent description and there are considerable demands for products with DHA claims. Generally 90% of mothers do not know that DHA is a component contained in breast milk and desires to introduce formulas consists of DHA and ARA to their children.
- The promoters have cunningly created a belief among mothers on that aspect by making claims such as *"DHA & ARA are important for your baby's immune system and contribute to the development of brain & vision"*, graphical presentation resembling a shield and describing *"Early Shield - Lutein & DHA: Immune support, Brain & eye, strong bones.* are described on product labels. Accuracy of above claims are questionable.



6.3.1 Is adding DHA and ARA to infant formula beneficial to infants?

- Benefits of adding substances such as **DHA and ARA** to formula products are still unproven.
- Scientists have conducted numerous studies that question long-term benefits to an infant's development from adding DHA and ARA to infant formula. Overall, research results are inconsistent and inconclusive. The scientific community does not agree that DHA and ARA added to formula confer proven benefits to an infant's development and well-being.

- This is evident when considering the scientific literature and many research papers published worldwide related to non-availability of **probable level of evidence related to claimed effects of DHA.** In the absence of conclusive data acceptability related to declared claims appears to be questionable.

6.3.2 View of the WHO related to DHA:

- The view of the WHO related to DHA is clearly mentioned in the letter written by Francesco Branea, MD PhD, Director Department of Nutrition for Health Development, World Health Organization dated 6th April 2011 which was sent in support of discussion of Resolution B7-0000/2011 of the European Parliament and read as follows:

“WHO does not have a recommendation about the addition of docosahexaenoic acid (DHA) to formula milk.”

The 2008 consultation on Fats and fatty acid convened by FAO and WHO highlighted the importance of DHA as a component of human milk and its role in development of the brain and retina during foetal development and the first two years of life (“Fats and Fatty Acids in Human Nutrition-Report of an expert consultation- FAO 2010”).

*The consultation did not provide any recommendations about supplementing synthesized DHA in infant formula, **as to date no solid evidence exists to be able to say that adding DHA to infant formula will have important clinical benefits”.***

- Above evidence can be considered as strong evidence to discourage the use of exaggerated descriptions related to DHA in any infant formulae and product intended for young children.
- In addition to the above the following views expressed by reputed agencies have to be respected as relevant:

- **The Cochrane Library conclusion:** There is no consistent peer-reviewed independent evidence of a causal relationship between DHA-fortified formulas and better visual acuity in term babies. *“This review found that feeding term infants with milk formula*

enriched with LCPUFA had no proven benefit regarding vision, cognition or physical growth.

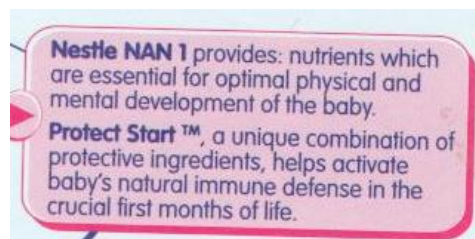
- The Resolution WHA 63.23 of the World Health Assembly defines clearly their views which requested the member states

➤ *“to end inappropriate promotion of food for infants and young children and to ensure that nutrition and health claims shall not be permitted for infants and young children, except where specifically provided for, in relevant Codex Alimentarius Standards or National Legislations’.*

- As a member country of the WHO Sri Lanka should abide by the WHA 63.23 Resolution.
- **In the above context under no circumstance controversial descriptions, claims which do not have probable level of evidence or conclusive data should not be permitted to be displayed on infant formula labels.**

6.4 Declaration of special characteristics without obtaining approval of the Chief Food Authority.

- Most of the infant formula preparations are presented to the market with statements highlighting the special characteristics of their products. There are instances of indication of special features added to the product, i.e. **“Protect Start™, a unique combination of protective ingredients, helps activate baby’s natural immune defense in the crucial first month of life”.**



- Most of the exaggerated claims displayed on infant formula product labels violate the Breast Feeding Code and also the Food Act and the Food (Labelling and Advertising) regulations - 2005.
- According to the provision 12 of the Food Labelling Regulations approval of the Chief food Authority is mandatory to declare Special characteristics of any product.

Provision 12:

“No label or advertisement relating to any food shall contain a statement or claim there on that such food has special characteristics unless approval is granted by the Chief Food Authority”.

- Accordingly the labeller is mandated to obtain approval by providing the contentment of the components which helps to provide beneficial effects related to the claims made, by submitting necessary analytical reports and also provide acceptable scientific information to substantiate the descriptions so made.
- Irrespective of the above a considerable amount of infant formula product labels is seen with exaggerated descriptions. The question that arises here is that
 - a) Whether all the special characteristics displayed on infant formula product labels are approved by the CFA?
 - b) Had the labellers taken genuine attempt to obtain approval?
 - c) If both the answers are definite “NO”, the reasons for neglecting the statutory provisions by the enforcement staff and also by the trade.

6.4.1 Suggestions:

- Prompt attention should be focused to special characteristics displayed on infant formula product labels and effort should be made to bring them into compliance with the Provision 12 of the Food (Labelling and advertising) Regulations.
- Services of all the Authorized Officers appointed under the Food Act (Public Health Inspectors, Food & Drugs Inspectors, Medical Officers of Health, Food Inspectors attached to the Municipalities) should be deployed to initiate legal action against violators.



6.5 Over-emphasize of minute nutrient component and nutrient functions.

- **Product labels with the declaration of** Nutrition Function Claims are available with the inclusion of attractive graphics and fabricated names.
- Following declarations can be cited as examples:

Mental & Visual Development Biofactors:

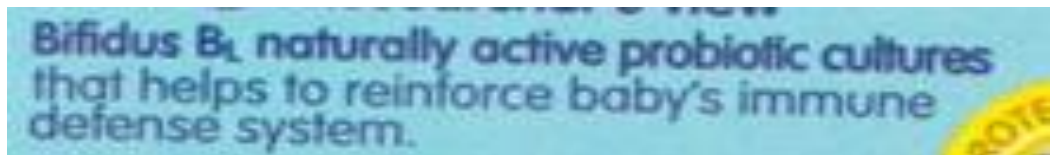
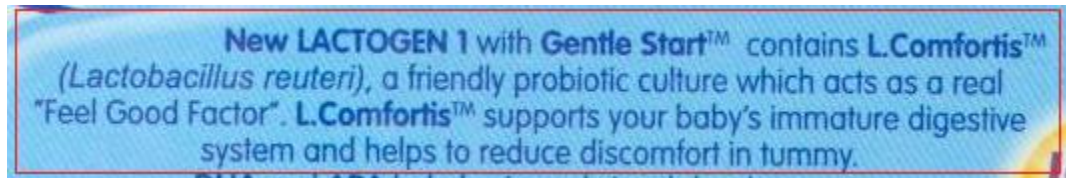
Support healthy eye and brain development with the right balance of important nutrients like **Vitamin A, choline, iodine, iron, taurine, AA and DHA.**

Physical Growth Biofactors:

Encourage normal growth with nutrients like Vitamin A, zinc and protein as well as balanced amounts of **calcium, Vitamin D and Vitamin K to help strengthen bones.**

Immunity Biofactors:

Help your infant develop a healthy immune system with important nutrients such as carotenes.



- All of the above statements/claims can be classified mainly as declarations of **nutrient function claims.**
- According to the legal provisions such declarations should be based on scientific consensus which is supported by the Chief Food Authority. **As** such consent of the Chief Food Authority must be obtained to use any such Nutrient Function Claim declarations or claims on the product labels.

- Legislative provisions in relation to the declaration of **Nutrient Function Claims** are stipulated under Schedule V Explanatory Notes of the Food (Labelling and Advertising) Regulations - 2005 and are as follows:

Schedule V

Explanatory Notes:

- i. Nutrient function claim is a nutrition claim that describes the physiological role of the nutrient in growth, development and normal functions of the body.***

(Examples: “Calcium aids in the development of strong bones and teeth”, “Protein helps build and repair body tissues”, “Iron is a factor red blood cell formation”, “Vitamin E protects the fat in body tissues from oxidation”, “Contains folic acid: folic acid attributes to the normal growth of the fetus”

- a) Nutrient Function Claims are claims relating to the function of a nutrient in the body are permitted provided the following conditions are fulfilled:***

- i) Only those essential nutrients for which a Nutrient Reference Value (NRV) has been established under Schedule IV of these Regulations ;*
- ii) The food for which the claim is made should be a significant source of the nutrient in the diet;*
- iii) The nutrient function claim should be based on the scientific consensus which is supported the Chief Food Authority;***

- According to the above provisions it is required to submit scientific data that would be supported by the Chief Food Authority for necessary approval to declare any nutrient function claim on any product label.

6.5.1 Discussion:

- When studying the above provisions the intention of the legislature is very clear. If the statements are correct and are based on scientific consensus such statements will receive the concurrence of the CFA.

- It appears that the Authorities have so far not made an effective mechanism to monitor these aspects. As a result companies tend to highlight nutrients and minerals and describe the physiological role of the nutrient in growth, development and normal functions of the body in a manner for their own advantage.
- By allowing the infant formula trade to include nutrient function claims on their own had lead to overflow of phrases, logos, graphics, to promote products thus undermining the value of breastfeeding.

6.5.2 Suggestions:

- Prompt attention should be focused to nutrition function claims stated on infant formula product labels and effort should be made to bring them into compliance with the Provisions mentioned under the Schedule V of the Food (Labelling and advertising) Regulations.
- The Food Control Administration Unit should monitor the product available in the market by utilizing the services of Authorized Officers.
- Special attention should be focused to imported food products and the officers attached to the Imported Food Inspection Unit of the Ministry should be strict and vigilant on this aspect. The officers should be made responsible/accountable for releasing violatory products to the market.

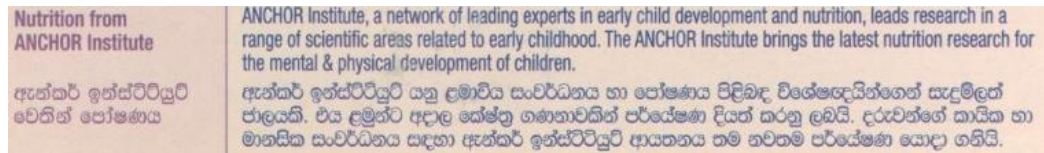
6.6 Labels containing brand endorsements:

- The Provision 11 of the Food (Labelling and Advertising) Regulations specifies conditions related to the declarations of brand endorsements. Accordingly in order to declare any recommendation made by a Medical Practitioner or Association or any professional **approval of the Chief Food Authority is mandatory.**

Section 11 is as follows:

“No label or advertisement relating to any food shall contain words indicating that it is recommended by a Medical Practitioner or Association or any professional or any other words or device, pictorial or otherwise, which may imply or suggest that such food is recommended, prescribed or approved by any Medical Practitioner, Association or any professional except on approval granted by the Chief Food Authority”.

- Irrespective of the above there are many products intended for young children with descriptions violating the above provision.



6.6.1 Discussion:

- Consumers are frequently exposed to endorsements by organizations or individuals that are perceived to be authoritative. Infant formula manufacturers display graphics or the logos of organizations and include references to its researches and achievements. Consumers would be misled if they are made to infer that the particular organization endorses this brand of formula as a means of achieving all types of mental and physical developments of their children.
- Furthermore, some manufacturers create and/or support “independent” sounding organizations that have formulated or invented the product or component and then endorse the manufacturer’s products or positions. For example, a food manufacturer may create organizations called “Institute for Responsible Food Choices”, “Nutrition Academy”, or “Nutrition Foundation” and then include a statement on its label that such an organization endorses the manufacturer’s products. Consumers will be likely to infer that these organizations provide an unbiased expert opinion.
- An infant formula manufacturer might make the statement “recommended by more paediatricians than any other formula”, “No.1 Dairy Product”. In

reality, statements may be misleading and the accuracy of the declaration "No.1 Dairy Product" is questionable.



- The legal implication is that just because an endorsement is true manufactures are not allowed to make descriptions on product labels and authentication of the CFA is mandatory to make any claim or description.
- According to current regulations any direct or indirect label claim or advertisement indicating or which may imply or suggest that the food was formulated by an Association or any professional body can be interpreted as violations.
- This is evident when considering the definition of the word "advertisement" specified in the Food Act, which reads as follows:

"advertisement" includes any representation by any means whatsoever for the purpose of promoting directly or indirectly the sale or disposal of any food";

- The intention of the legislator is clear when studying the words such as "any means whatsoever", "directly or indirectly", used to regulate promotional materials.
- In the above context there are options for the to challenge declarations of above nature in the court of law under the Section 11 of the Food (Labelling and Advertising) Regulations.

6.6.2 Points to consider:

- Are all the endorsements (direct or indirect) made on the product labels are declared after obtaining approval from the Chief Food Authority as mandated by the Provision 11?
- If not reasons for non-initiation of legal action against violators.
- Does the Food Authority has any mechanism to monitor endorsements made on infant formula product labels?

6.6.3 Recommendations:

- Action needs to be taken to mandate the manufacturers and promoters of products to obtain prior approval from the Chief Food Authority when declaring information on all types of endorsements.
- The Food Control Administration Unit should monitor the products available in the market by utilizing the services of Authorized Officers.
- Special attention should be focused to imported food products and the officers attached to the Imported Food Inspection Unit of the Ministry should be strict and vigilant on this aspect. The officers should be made accountable for releasing violatory products to the market. Proper training should be given to officers on evaluation of product labels.

6.7 Letter size used to indicate mandatory labelling information

- It is evident that on many formula labels the letter size used to indicate the Ingredients and the Nutrient content is not readable by the bare eye.



- This can be cited as a major violation of the Section 5 (1) (f) of the Food (Labelling and Advertising) Regulations 2005 which mandates that the letter size should be not less than 1.5 mm in height.

The Section 5 (1) (f) reads as follows:

“The declarations, other than the declarations in paragraph (e) shall be conspicuously printed in bold type letters of **not less than 1.5 millimeters in height**”.*

(common names, net contents and date of expiry)*



Conclusions by an independent panel of experts regarding the effects of soy infant formula on human development. Using a five-level scale of concern:

- SERIOUS Concern for adverse effects
- CONCERN for adverse effects
- SOME Concern for adverse effects
- MINIMAL Concern for adverse effects
- NEGLIGIBLE Concern for adverse effects

The Expert Panel expressed **minimal concern** for adverse developmental effects in infants fed soy infant formula

- Irrespective of the above Provisions almost all Infant Formula product labels are seen with small letter sizes which are not readable by the bare eye.
- Mainly the list of ingredients and the nutrient content are not readable by the bare eye.
- Prominence has been given to the promotional declarations by giving importance to the commercial aspects.
- Approximately, more than sixty per cent (60%) of the label extent has been devoted for displaying the, emblems related to declarations such as Biofactors "Prebiotics, Probiotics, Bifidus, Lutein, DHA, ARA, Optipro, LCPUFA, Immunofortis, Omega 3 and Lactoferrin and graphics, Logs and so forth.
- Though the letters should not be less than 1.5 millimeters in height mandatory information are given by using smaller letter sizes clearly violating and disrespecting legal provisions.

6.7.1 Recommendations

- Letter size used to indicate the mandatory labelling information should be strictly monitored by the respective Authorized Officers appointed under the Food Act at the time of importation to the country and while marketing the products.
- Content of the legal provisions related to the declaration of labelling information stipulated under the Sections 4 and 5 of the Food (Labelling and Advertising) Regulations should be brought to the notice of the manufacturer and all the declarations should be corrected accordingly.

7. Points to consider

- When perusing the points made above it is evident that any declaration of special characteristics, nutrition function

claims, Brand endorsements, Limits of fortification should be done only after obtaining approval from the Chief Food Authority.

- To perform the above responsibility there are provisions under the Food act to appoint Technical Sub Committees comprising expert on relevant fields and at present there are sub-committees functioning this task.
- Furthermore the Authorized Officers namely Public Health Inspectors (more than 1700) Medical Officers of Health (approximately 400), Food and Drugs Inspectors (around 70) and Food Inspectors serving under Municipalities (around 40) are there to assist the Chief Food Authority in monitoring and **exsiquiting** the provisions of the Food Act vested with immense powers.
- To strengthen the peripheral activities all the Regional Directors of Health Services are also assigned with powers to supervise and co-ordinate the work of Food Authorities.

Section 3 (3) of the Food Act reads as:

(3) “Every Regional Directors of Health Services shall, within the area for which he is appointed, supervise and co-ordinate the work of the Food Authorities under subsection (1) in that area”.

- In addition to above, in circumstances where false, misleading, and erroneous descriptions are made the Chief Food Authority have powers under the Section 3 (3) of the Food Act to summon the labller or the advertiser and after giving and opportunity of being heard to prohibit the labeling or advertising of such violatory descriptions.
- When perusing the above statutory provisions one could question whether the respective authorities have so far taken any meaningful and effective attempts to curb violatory descriptions made on infant formula product labels.

- It is the responsibility of all concerned and especially the Implementation and Monitoring Committee functioning under the Article VIII of the Code to review the prevailing system and to strengthen the controlling mechanisms by obtaining maximum support, co-operation and commitment towards the all the officers vested with powers and responsibilities.

8. Why are companies still violating the Code?

- When evaluating the type of **labelling** claims available in the market it appears that, Sri Lanka as a signatory to the Code has not gone through the process of turning it into a law. Even in cases where there are laws in place, enforcement authorities often do not have sufficient commitments to monitor compliance and penalize non-compliance. So companies continue to do what they want and continue to aggressively promote their products in order to increase their profits.
- Infant formula companies market their products making false claims that glamorize their products with claims. When one company promotes in an unethical manner and capitalizes the market without any legal implications from the Authorities the rest of the marketing firms is compelled to follow the same tactics to survive in the market, resulting flooding the market with products with exaggerated and misleading claims.

9. How to curb all unethical promotion of infant formula

- As a country pioneered in the introduction of Breast Feeding Code in 1981 and banning of visual advertisements of Infant Milk Food in any manner whatsoever or advertisement over the radio in 1980, Sri Lankan Authorities should take appropriate action to strengthen the steps furthermore to fulfil the commendable result-oriented attempts made for the betterment of infant and young children in the country far back in 1980s.

The Ministry of Health with the cooperation of the Implementation and Monitoring Committee functioning under the Article VIII of the Code needs to take initiative on this aspect and the following suggestions are made to curb unethical promotion of formula products for infants and young children.

1. Implementation and Monitoring Committee should appoint a working group to study the infant formula products available in the market to identify violatory descriptions made on product labels and should review infant formula labelling as per the Code and Food (Labelling and Advertising) Regulations 2005.
2. While reviewing the products attention should be focused to identify:
 - i.** Nutrition function claims - brand endorsements - declaration of special characteristics of the products - limits of fortifications described on product labels without obtaining prior approval of the Chief food Authority as mandated under the food (Labelling and advertising) Regulations.
 - ii.** False claims, misleading and deceptive descriptions, or claims which are likely to create an erroneous impression regarding the character, value, quality, composition, merit or safety of the products.
 - iii.** Descriptions that would imply or create a belief that a formula product when given to an infant is equivalent to or comparable with or superior to breastfeeding violating Article II of the Breast Feeding code.
 - iv.** Products which do not have "Important Notices" mandated under Para 2.3 (a) and (b) of the Code.
 - v.** Product labels with declaration of mandatory information in letters less than 1.5 mm in height violating the

Section 5 (1) (f) of the Food (Labelling and Advertising) Regulations.

vi. Product labels with superlative terms.

3. **Sufficient samples of all available products should be collected from the market and also at the time of importation to the country by Food & Drugs Inspectors** attached to the Ministry and made available for evaluation.
4. The working group should give highest priority to the task and submit a comprehensive report detailing observed violations and recommending corrective measures to curb the **malpractices** according to a fixed timeframe.
5. In relation to grave violations action should be taken to initiate legal action through the Authorized Officers appointed under the Food Act and the Consumer Protection Act.
6. To prevent panic situation among infant formulae trading firms on sudden legal implications prior to the commencement of the survey all infant formulae trading firms should be made known about the intention of the survey and directed to strictly follow the Code and the Food act and Regulations, and to take appropriate action to rectify all non-compliances evading legal implications.
7. As far as possible all efforts should be made to get the voluntary commitment of the trade to abide by regulatory provisions.
8. Implementation of regulatory provisions should not be dealt with a manner of declaration of war against infant formula trade and should be planned in a **modest** manner. This is because the **implementators** too have a responsibility and guilty part for neglecting enforcement activities.

9. The Food Authority should be teethed to handle any tough situation in handling of non-cooperative unscrupulous violators.
10. The Working Group appointed by the Implementation Committee should meet regularly and should review monitoring activities carried out at the central level and peripheral level and submit assessment report to the Implementation Committee highlighting the progresses and drawbacks encountered.
11. The Implementation Committee appointed under the Code, the Chief Food Authority and the Food Control Administration Unit of the Ministry of Health, the Consumer Affairs Authority, Peripheral Health Officials and the Infant Formula marketing firms in Sri Lanka should contribute their fullest co-operation, devotion, commitment and utmost support to fulfill the task expected by the Code for the betterment of the future younger generation.
12. The Food Authority should be strengthened to handle any tough situation in handling of non-cooperative unscrupulous violators.
13. The Working Group should meet regularly and should review monitoring activities carried out at the central level and peripheral level and submit assessment report to the Implementation Monitoring Committee highlighting the progress and drawbacks encountered.

10. Discussion:

- The importance of appropriate infant and young child feeding for child survival, growth and development is well known.
- No one disputes the fact that formula and bottles should exit. However, the entire world agrees that formulae should not be marketed in an unethical manner deceitfully motivating incent consumers (expectant mothers, lactating mothers). People should

be able to access these products when they are needed, but should not be compelled with deceptive messages and imagery that suggests that the formulated products are the standard way to feed a baby or that formulae are as good as breast milk.

- Although the Health Ministry recommends that mothers exclusively breastfeed their infants for the first six months of life and continue to breastfeed for two years or more, because of commercial interference from formula promotions, feeding recommendations are gradually neglected and declining.
- It is worth to mention the accusation made by scholars that the formula industries profit not only from formula sales but also from the pharmaceuticals and other products that result from consequences of increased health problems when children are not breastfed.
- Attitudes of this nature should be identified and totally uprooted and all the stake holders should contribute in a dignified manner when dealing with products intended for infants and young children and also mothers in pre-natal and post-natal care.
- Collective effort with a comprehensive action plan is needed. Support of the political leadership, State officials, international organizations, non-governmental organizations, media personnel, celebrities, and other public support groups is crucial and needed.
- The accomplishment of all the above depends on the efforts made by the Implementation Monitoring Committee (IMC) appointed under the Code, and also with the Working Group appointed by the IMC.

11. Tasks ahead:

- To have policies and plans which could be implemented easily without using extra funds from the government,


- Act without consuming time till new regulatory provisions are implemented,
- Take appropriate action with the available resources and legislative provisions,
- Enforce effective National Codes and legislations with sustained advocacy, ongoing monitoring, publicity for violations, and enforcement to keep unscrupulous marketing practices in check, and
- Continue the excellent effort Sri Lanka has contributed by introducing the positive child health initiative three decades ago by promulgating the "Sri Lanka Code for the Promotion and Protection of Breast Feeding and Monitoring of Infant Formulae and Related Products towards the betterment of its younger generation.

12. Plenary Comments:

- The Implementation Monitoring Committee appointed under the Code, the Chief Food Authority, and the Food Control Administration Unit of the Ministry of Health, the Consumer Affairs Authority, Peripheral Health Officials and the Infant Formula marketing firms in Sri Lanka should contribute their fullest co-operation, devotion, commitment and utmost support to fulfil the task expected by the Code and the general public for the betterment of the future younger generation.

Memorandum prepared and presented to the Secretary Health

by



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