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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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No. 1285/9 - WEDNESDAY, APRIL 23, 2003

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

Direction No. 107

CONSUMER PROTECTION ACT No. 01 OF 1979

General Direction Under Section 6 (1) (c)

I, Pankara Hewa Janaka Bandula Sugathadas, Acting Commissioner of Internal Trade, acting under Section 18 of the Interpretation Ordinance, do hereby revoke with immediate effect the Direction No. 44 published in the *Gazette Extraordinary of the Democratic Socialist Republic of Sri Lanka*, No. 231/6 of 08.02.1983 and acting under Section 6 (1) (c) of the Consumer Protection Act, No. 1 of 1979, as amended by Consumer Protection (Amendment) Act, No. 37 of 1980, Act No. 34 of 1992 and Act No. 17 of 1995, do hereby direct that all manufacturers of and traders in Infant Milk Foods, shall comply with below mentioned "Sri Lanka Code for the promotion, protection and support of breast feeding and marketing of designated products".

P. H. J. B. SUGATHADASA,
Acting Commissioner of Internal Trade

Department of Internal Trade,
Flat No. 27, Galle Face Court 02,
Colombo 03,
10th March, 2003.

**SRI LANKA CODE FOR THE PROMOTION, PROTECTION AND SUPPORT OF BREAST FEEDING AND
MARKETING OF DESIGNATED PRODUCTS**

The Government of Sri Lanka.

Affirming the right of every child and every pregnant and lactating woman to be adequately nourished as a means of attaining and maintaining health ;

Recognizing that infant malnutrition is part of the wider problem of poverty, lack of knowledge in nutrition and social deprivation ;

Recognizing that the health of infants and young children cannot be isolated from the health and nutrition of women, their socio-economic status and their roles as mothers ;

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PART I : Sec. (I) - GAZETTE EXTRAORDINARY OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA - 23.04.2003

Conscious that breast feeding is an unequaled way of providing the ideal food for the healthy development of infants and young children ; that it is beneficial to health and general well being of both mother and child that the anti-infective properties of breast milk help to protect infants against diseases and that there is an important relationship between breast feeding and child spacing and that breast feeding costs less than artificial feeding ;

Recognizing that the encouragement of breast feeding is an important part of the health, nutrition and other social measures required to promote infant and young child growth and development ;

Considering that when mothers do not breast feed, or only do so partially there is a legitimate market for infant formulae ; that although these should be made accessible to them but they should not be marketed or distributed in ways that may interfere with the protection and promotion of breast feeding.

Recognizing further that inappropriate feeding practices can lead to infant under nutrition, and mortality and that improper practices in the marketing of designated products can contribute to these major public health problems ;

Convinced that it is important for infants to receive appropriate complementary foods, usually when the infant reaches four to six months of age, and that every effort should be made to use locally available foods ;

Affirming that health services, health professionals and other health care workers have a crucial role in encouraging and facilitating breast feeding and giving objective and consistent advice to mothers and families about the superior value of breast-feeding and in providing advice on the appropriate use of complementary foods, whether manufactured industrially or home-made, when these are needed.

Accepting that there is a need to facilitate and encourage breast feeding by providing appropriate family and social support ;

Recognizing that families, communities, women's organizations, and other non-governmental organizations have a special role to play in the promotion of breast feeding and in ensuring the support needed by mothers who are breast feeding ;

Affirming the need for the Government of Sri Lanka, experts in various related disciplines, consumer groups and industry to collaborate in activities aimed at the improvement of maternal, infant and young child health and nutrition.

Therefore

The aim of this Code is to contribute to the provision of safe and adequate nutrition for infants and young children by the protection, promotion and support of breast feeding and by ensuring the proper use of infant formula ; when these are necessary on the basis of adequate information and through appropriate marketing and distribution.

The provisions of the Code applies to protect and promote breast feeding and the marketing of designated products. The Code also sets out provisions as regards quality, availability and information relating to the consumption and use of designated products.

The following articles are the basis for action :

Article 1 - Promotion of Breast Feeding

1.1 All health care workers, and media personnel shall create an awareness as regards the advantages of breast feeding among the general public.

1.2 The health care system shall provide for the following :—

During the pregnancy of a woman every attempt shall be made to ensure the sound nutritional status of such woman ; she shall be provided with information regarding the advantages of breast feeding that is in keeping with her respective situations, and such information shall be presented in a practical way to enhance her understanding and acceptance of same.

Care should be taken of mothers who are likely to be at high risk of not breast feeding because of their special social, economic or health conditions and those who have failed to breast feed in any earlier pregnancy.

During delivery, obstetrical procedures shall be consistent with the policy of promoting breast feeding. Unnecessary sedation and use of lactation suppressants shall be avoided.

Breast feeding shall be initiated within thirty minutes of birth of the infant. To facilitate breast feeding, mothers shall be encouraged to keep their infants with them and practice "on-demand" feeding up to six months.

The role of the husband, mother, mother-in-law and other members of the extended family in providing support for the mother of the infant shall be emphasized in all health care systems and on the media.

Immediately after delivery, every infant shall receive colostrum. For optimal breast feeding, the use of supplementary bottle feeding, with water, coriander water, glucose water, formulate, "ratha kalke" or any other fluids shall be avoided.

The mothers' nutritional status has to be ensured by access to adequate food intake. The contraceptive effect of exclusive breast feeding shall be well recognized, while promoting additional measures to ensure birth spacing. Preference shall be given to methods which do not interfere with lactation.

1.3 All mothers shall be granted paid maternity leave of not less than twelve weeks for the first two living children, and provided with job security and economic support.

1.4 Creches, breast feeding breaks without loss of remuneration and other facilities shall be provided by the employers to promote breast feeding.

1.5 Community and Government support:

All modes of communication, religious organizations and other an registered voluntary social service organizations shall be actively involved in encouraging breast feeding.

Article II — Marketing and Promotion to the Public

2.1 No person shall advertise or promote any designated product as being a product appropriate for infant feeding.

2.2 No designated product shall be marketed or publicly referred to by any manufacture or distributor in a way that would imply or create a belief, that such designated product when given to infant is equivalent to or comparable with or superior to breast feeding.

2.3 A manufacture or distributor of a designated product shall not offer for sale or sell such a product unless the container or label affixed thereto conforms to the following:-

(a) contains the words 'important Notice'

(b) contains the statement of the superiority of breast feeding: "breast feeding in addition to its nutritional qualities provides protection against many diseases. Therefore, industrially prepared powdered milk should not be replaced for maternal milk except on sound medical advice."

(c) does not use the terms 'breast milk substitute' 'humanized', 'maternalized', or terms similar thereto.

(d) does not use text that may tend to discourage breast feeding.

(e) include a feeding chart stating the preparation instructions and instructions that left over of the designated product after preparation should be discarded.

(f) The matters referred to in paragraphs (a), (b), (c) and (d) shall be in Sinhala, Tamil and English languages. Photographs drawings or other graphic representations or misleading phrases designed to create an incorrect impression that the product would be a substitute for breast milk and increase salability, should not appear on the container or on the label affixed thereto.

(g) The letter characters in (a) and (b) should not be less than 5 mm in height

- 2.4 Information as to the method of use of infant formulae should not be disseminated to the public by any manufacturer, or distributor or any other person acting on their behalf, except subject to the requirements of paragraph 2.3
- 2.5 Any manufactured infant food, milk or milk product used as a breast milk substitute or as complementary food that does not meet the nutritional standards set for infant food shall contain the words "This product should not be used to feed infants."
- 2.6 No person shall advertise or promote any complementary food as being food appropriate for any infant under the age of six months.

Provided however complementary food for infants between the ages of six to twelve months may be advertised with the approval of the Monitoring Committee.

Article III — Marketing and promotion to Families.

- 3.1 Marketing personnel in their business capacity, shall have no contact with pregnant women, mothers of members of their families.
- 3.2 Free sample or supplies of designated products or complementary food shall not be made available directly or indirectly to the mothers or their family members or to the general public.
- 3.3 A manufacturer, or distributor of designated products or complementary food or any other person acting on their behalf, shall not distribute to pregnant women, members of their families and the general public any gifts or articles or utensils that promote the use of such designated product that are identified as coming from them.
- 3.4 Where feeding with infant formulae is medically recommended to an infant, preparation of such formulae may be demonstrated by a health worker to the mother of such infant.
- 3.5 No person shall have group demonstrations as to the manner in which infant formulae is to be prepared.

Article IV—Health Care System.

- 4.1 Health care systems shall encourage, protect and support breast feeding and co-operate with government authorities, in giving effect to the provisions to the Code.
- 4.2 Facilities at a health care systems, shall not be used for the display of any product, placards or for the distribution of materials given by any manufacturer or distributor of a designated product. No such facility should be used for the purpose of promoting designated products or complementary food.
- 4.3 The use of a "mother-craft" nurse provided or paid for by any manufacturer or distributor shall not be permitted.
- 4.4 Sample of designated products or complementary food whether free or at reduced prices, shall not be used by a pregnant woman or mother in any circumstance.
- 4.5 No donations, free supplies or supply at a price lower than the whole-sale price of designated products or complementary food shall be permitted in health care systems and to their health staff.
- 4.6 Small quantity of breast milk substitutes, needed for infants who require them in maternity wards and hospitals shall be made available through the normal procurement channels and not through free or subsidized supplies.
- 4.7 In emergency relief operations, protection, promotion and support of breast feeding for infants shall be maintained and designated products shall be donated to such infants under the following conditions only :

- (a) infant who have lost the monther due to death or due to separation from the mother because of a specific situation ;
- (b) the supply is contained for as long as the infant requires it ;
- (c) the supply is not used as a sales inducement ;
- (d) the request for supplementation is made on the recommendation of medical advice.

Article V - Health Care Workers

- 5.1 No information, including scientific an factual irformation regarding infant or young child feeding, shall be given by any manufacturer or distributor to a health care worker:

Provided however where the manufacturer or distributor discloses all the material in respect of such information to the Monitoring Committee and the Committee approves such information, such approved information may be made available by such manufacturer or distributor to any health care system or to any Professional Health Organization.

- 5.2 No financial or material inducements to promote any designated product or complimentary food shall be offered or given to a health care worker or to a member of his family directly or indirectly by any manufacturer or distributor.
- 5.3 Samples of any designated product or complimentary food or of equipment or utensils for their preparation or use shall not be provided to any health care worker. Health care workers shall not give samples of any designated product or complimentary food to a pregnant woman, to a mother of an infant or young child or members of their families.
- 5.4 No manufacturer or distributor of designated products or complimentary food or any person on his behalf, shall offer or give any gift or benefit to a health care worker including but not limited to fellowships, study grants and funding for attendance at meetings, seminars, continuing education courses or conferences within or outside Sri Lanka. Any manufacturer or distributor may make contributions to a nationally recognized medical associations in accordance with the objectives of code and such contribution shall be intimated to the committee appointed under item 8:3 A manufacturer or distributor of any designated product or complimentary food shall not promote his product at such meeting, seminar conferences or education course.
- 5.5 A Health care worker shall not accept transportation, payment for expenditure incurred to attend a professional meeting, conference, or fellowship etc. from a manufacturer or distributor of any designated products or complimentary food.
- 5.6 No manufacturer or distributor shall fund research by a health care worker or any other researcher on designated product or complimentary food unless such research has been approved by the Committee appointed under Article 8.3. Every publication, resulting from such research from funds granted by such manufacturer or distributor, shall include a statement disclosing the source of funding.
- 5.7 No information regarding designated products or complimentary food or brand names or its logo shall appear on any diagnosis card, immunization card, calendar, prescription form or growth chart (sponsored by manufacturers or distributors) used at Health care systems.

Article VI - Employees of Manufacturers or Distributors

- 6:1 The quantum of sales, of any designated product or complimentary food by an employee shall not be the criteria for the determination of his remuneration. Quota, bonuses or promotions in employment shall not be granted on the basis of the quantum of sales.
- 6:2 Personnel employed in marketing designated products or complimentary food shall not act as health care workers or perform or demonstrate educational functions in relation to pregnant women, mothers or the general public.

Article VII - Manufacturers or Distributors

- 7:1 The use of short-term or cut-price offers of any designated products or complimentary food by any manufacturer to a distributor or by any distributor shall not be encouraged or facilitated.
- 7:2 Any Manufacturer or distributor of any designated product or complimentary food shall not finance, facilitate or otherwise encourage point-of sale advertising or display or the giving of samples at the retail level.
- 7:3 All Manufacturers of any designated products or complimentary food shall apprise the distributors of the provisions of the Code.
- 7:4 Manufacturers in Sri Lanka of any designated products or complimentary food or any person acting on his behalf shall conform to the Quality Control Standards and procedures and the Codes of hygienic practices for foods and other related products for infants and young children laid down by the Sri Lanka Standards Institution or in the absence the Codex alimentarius Commission.
- 7:5 Public or private institutions, which are engaged in packing any designated products or complimentary food other than teats, feeding bottles and pacifiers, shall conform to the same quality control standards and procedures as referred to in 7:4.
- 7:6 The importation of all designated products shall be approved by The Committee appointed under Article 8:3.
- 7:7 A manufacturer or distributor of any designated product or complimentary food shall not produce and distribute any educational or information material other than in the manner set out in Article 2:3 relating to infant feeding.
- 7:8 A manufacturer, distributor or any person acting on his behalf, of any designated product or complementary food shall take such steps as are necessary to ensure that the provisions of the Code are complied with so as to bring about the desired results.

Article VIII - Implementation and Monitoring

- 8.1 The Ministries of Health, Trade, Food and Marketing, Justice, Labour, Industries, Education, Science and Technology, non-governmental organizations, and manufacturers and distributors of any designated product or complementary food shall take appropriate action, individually and collectively, to ensure the implementation of the provisions of the Code. The Ministry in charge of the subject shall be principally responsible to monitor the implementation of the Code.
- 8.2 Non-governmental organizations, professionals and professional groups concerned shall have the obligation to draw the attention of manufacturers, distributors or suppliers of designated products or complementary food or their agents to activities which are inconsistent with the provisions of the Code, so that appropriate action can be taken.
- 8.3 The Minister in charge of the subject shall appoint a committee to carry out the function of monitoring the implementation of the Code and such committee shall advise the Minister on national policy for the promotion and protection of breast feeding and review reports of violations of the provisions of the Code. The committee shall take appropriate steps in respect of any violations of the code which have been brought to the notice of the committee.
- 8.4 The committee appointed under 8.3 shall meet at least once in two months.

DEFINITIONS

For the purpose of this Code : —

'advertising' means to make any representations by any means whatsoever for the purpose of directly or indirectly promoting the sale or use or distribution of a designated product by television, radio, film, video or print materials.

'Complementary Food' means any processed or semi-processed food whether imported or locally manufactured, suitable or represented as suitable as a complement to breast milk or to infant formulae when either becomes insufficient to satisfy the nutritional requirements of the infant.

'container' means a form of packaging of products for sale as a normal retail unit, including wrappers.

Designated Product — infant formulae,

— soya milk,

— malted milk,

— condensed milk,

— full cream milk used for infant feeding

— Other infant milk substitutes used as breastmilk substitute, any other product marketed or otherwise represented as suitable or used for feeding infants (not being complementary food), feeding bottles, teats, pacifiers, nipple shields.

'distributor' means a person, corporation or any other entity engaged in the business (whether directly or indirectly) of marketing at a wholesale or retail level, a designated product, 'Primary distributor' is a manufacturer's sales agent, representative, national distributor or broker.

'feeding bottle' means any bottle or receptacle marketed for the purpose of feeding an infant or a young child.

'health care system' means governmental, non governmental or private practitioners, private institutions or organizations engaged directly or indirectly in the provisions of health care for mothers, infants, pregnant women or lactating mothers, child care institutions and other established sales outlets ;

'health care worker' means a person providing or in training to provide health care in a health care system whether professional or non professional including voluntary workers and dispensing chemists.

'infant' means a child up to age of twelve months ;

'Infant formulae' means an animal or vegetable based milk product used as a breast-milk substitute formulated industrially in accordance standards prescribed by the Sri Lanka Standards Institution or in the absence the Codex Alimentarius Commission to satisfy the formal nutritional requirements of infants upto the age of one year and adapted to their physiological characteristics. Infant formulae may also be prepared at home, in which case it is described as 'home prepared'.

'label' means any tag, mark, pictorial or other descriptive matter, written printed stenciled, marked, embossed or impressed on, or attached or otherwise appearing in a container of a designated product.

'manufacturer' means a corporation or other entity engaged in the business or function whether directly or through an agent, or through an entity controlled by, or under contract with it of manufacturing a designated product.

'marketing' means product promotion, distribution, selling, advertising, product public relations, and information services.

- 'marketing personnel' means any person whose functions involve marketing of any product within the scope of this code.
- 'Mothercraft nurse' means an employee of the infant food company who is a qualified or a non-qualified nurse but is a uniformed company representative promoting bottle-feeding, infant formulae or any other product within the scope of this code.
- 'nipple shield' means an appliance with a teat for baby to suck from the breast.
- 'pacifier' means a teat for babies to suck, also referred to as a 'dummy'.
- 'promote' means to employ any method of directly or indirectly encouraging a person to purchase or use a designated product.
- 'sample' means single or small quantity of a designated product provided without cost.
- 'supply' means quantity of a designated product or complimentary food provided for use over an extended period, free or at a low price, for social purpose, including those provided to families in need.
- 'young child' means a child from the age of twelve months up to the age of two years.

THE HISTORY OF THE DEVELOPMENT OF THE CODE

The manifold advantages of breast feeding and the harmful effects of bottle-feeding surfaced in the decade of the seventies. Some of the important events that took place during this period in the course of canvassing the issue of breast feeding which culminated in the development of an International Code for the marketing of breastmilk substitutes and infants foods are enumerated below :

- (i) The United Nations Protection Advisory Group (PAG) in 1972 issued a statement highlighting the importance of breast-feeding in developing countries where socio-economic conditions were far from satisfactory.
- (ii) The report titled "The Baby Killer" published by the British Development Agency War on Want (1974) drew world-wide attention to the links between infant malnutrition and the promotion of breast milk substitutes in the third world.
- (iii) The Twenty-Seventh World Health Assembly Sessions in 1974 spelt out various recommendatory measures in support of breastfeeding.
- (iv) A special seminar in 1975 on "Feeding the pre-school child with particular reference to breast-feeding and the weaning period" organised by the International Paediatric Association recommended measures to promote breast feeding.
- (v) In 1979, the WHO/UNICEF Joint Meeting was convened in Geneva with the main objective of promoting breast feeding and the improvement of infant and young child nutrition. The most important Recommendation arising from this meeting was the formulation of an International Code to regulate the marketing practices of infant milk foods, complementary foods, feeding bottles and teats. Since then, attention focused on Infant Nutrition gathered momentum.
- (vi) The work in connection with the formulation of an International Code commenced in 1979 and continued through 1980. Several consultations took place between WHO, UNICEF, other UN Agencies, national governments, pediatricians, nutritionists, consumer groups and the infant food industry in drafting the final document.

- (vii) In May 1981, at the Thirty-Fourth World Health Assembly Sessions, the International Code of Marketing of Breasts Milk Substitutes was adopted (118 countries voting in favour to 1 against with 3 abstentions.) The International Code received widespread support and was considered to be a unique landmark achievement in providing better health care for the child. It focused the attention of many governments throughout the world to the urgent need for concerted efforts to promote breast feeding. To-date 75 countries have taken action to implement some or all of the recommendations in the International Code but only 16 countries have made laws giving effect to all provisions of the Code.
- (viii) Prior to the WHO/UNICEF Joint Meeting the Sri Lanka Government initiated action to promote breast feeding by publishing a direction under Consumer Protection Act, No. 01 in the *Gazette Extraordinary* No. 22/7 of 7th February, 1979, of the Democratic Socialist of Sri Lanka. Further it directed that all advertisements on infant milk foods should also carry a similar message.
- (ix) The banning of " Visual advertisements of Infant Milk Foods in any manner whatsoever or advertisements over the radio " was another significant step taken by the Government to curb the trend towards increased bottle-feeding. This was enforced by the Democratic Socialist Republic of Sri Lanka under the Direction No. 24 issued by an *Extraordinary Gazette Notification* on November 10th, 1980 under the Consumer Protection Act, No. 1 of 1979.
- (x) On the 17th September, 1981, the Sri Lanka Code for the Promotion of Breastfeeding and Marketing of Breast Milk Substitutes and Related Products formulated by a Technical Committee of Experts was submitted to the Cabinet by the then President and the Minister of Plan Implementation, The Sri Lanka Code was accepted in principle and approval was granted to draft legislation by members of the Cabinet in September 1981.
- (xi) The Ministry of Shipping and Trade formulated legislation to give effect to certain relevant articles of the Sri Lanka Code under the Consumer Protection Act. The draft legislation was considered and recommended by the Technical Committee of the Ministry of Plan Implementation which is responsible for the overall implementation and monitoring of the Code. The relevant provisions of the Code pertaining to marketing and advertising of infant foods have been gazetted under the Consumer Protection Act, by *Gazette Notification* No. 231/6 of 08th February, 1983 (Vide Annexure ' C ').
- (xii) In 1984 the international milk food company Nestle agreed to implement the Code.
- (xiii) In 1986 the World Health Assembly recommended the banning of free and subsidized supplies of infant formulae to maternity homes.
- (xiv) In 1989 WHO and UNICEF issued a joint statement recommending that maternity services should protect, promote, support and encourage breast-feeding and ten steps for a Baby Friendly Hospital Initiative (BFHI) was formulated. In 1991 WHO and UNICEF launched the "Baby Friendly Hospital Initiative" designed to rid hospitals both public and private of their dependence on breast milk substitutes and to encourage maternity services to be supportive of breast feeding.
- (xv) The Convention on the Rights of Child, that became an international law in 1990, cast a legal obligation on countries to provide families with knowledge and support required for breast feeding. Sri Lanka accepted and ratified the Convention on the Rights of the Child on 12th July, 1991.
- (xvi) The Innocenti Declaration of 1990 calls for the creation of an environment that will enable all women to breast feed exclusively for 4-6 months and for all countries to adopt measures to implement the International Code by 1995.
- (xvii) In 1991 the World Health Assembly adopted a resolution endorsing the innocent goal calling on manufacturers or distributors of breast milk substitutes to restrain from supplying free breast milk substitutes to hospitals and maternity wards by December 1993.
- (xviii) In March 1992 the paid maternity leave of six weeks for working mothers was extended to 12 weeks to promote breast feeding in Sri Lanka.

- (xix) A task force was set up in July 1992 to support promotion of breast feeding in Sri Lanka. This culminated in the signing of an agreement on 27th January, 1993 between the Ministry of Health and manufacturers or distributors of infant formulae, breast milk substitutes and other relevant parties, ending the distribution of free and low-cost supplies of infant formulae and other breast milk substitutes, feeding bottles or teats to maternity hospitals, hospitals, other health care facilities and their health staff. (see annex D). A Committee to monitor this agreement was set up under the chairmanship of the Director General of Health Services which monitored the implementation of the agreement. The provision of the agreement is now included in the revision.
- (xx) Baby Friendly Hospital Initiative was started in 1993 in Sri Lanka by declaring the premier maternity hospital in the Island, the De Soysa Hospital for women as a "Baby Friendly Hospital" by the late Mr. James Grant, Executive Director of UNICEF. To date 75 institutions have been declared "Baby Friendly". The process of declaring maternity units as "Baby Friendly" is being extended at present.