

Press Release - April 18, 2000

Door Darshan (DD) ignores Law Ministry's opinion and falls prey to Nestlé's propaganda

After three years of refusing to accept commercial advertisements of infant foods such as "Cerelac" and "Farex", recently Doordarshan has started airing advertisements of "Cerelac" which are clearly contrary to the letter and spirit of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (the IMS Act). This is surprising behaviour by the broadcasting agency of the very Government, which is supposed to be implementing the Act.

DD's action is all the more surprising in view of the fact that DD's 1997 circular to its Kendras banning them from accepting such ads had been supported by the Ministry of Law as well as the Department of Women and Child Development of the Human Resource Ministry.

In 1997 DD had, vide Circular No. DCS/ Story Board /Circular/29/97 dated 19.6.97, taken off air the commercial advertisements of "Cerelac" as such ads were not being issued in compliance with the requirements under the Act and Rules. DD's Controller of Sales, Commercial Services had obtained the opinion of Department of Women and Child Development and Department of Legal Affairs, Ministry of Law. The advice of the department of legal affairs is reproduced below:

"The question for consideration whether the ban for advertisement imposed by the Doordarshan on Cerelac and Farex is in conformity with the Act. Since the advertisement in Doordarshan is for use and sale of infant milk substitutes or infant foods otherwise than in accordance with the provisions of this Act, we are of the view that the ban appears to be in conformity with the Act."

Concerned about this sudden and unwarranted reversal of policy, the Breastfeeding Promotion Network of India (BPNI) one of the four statutory monitoring agencies notified under the section 21(1)(C) of the IMS Act, enquired from the Secretary I&B about the reasons for the change. In reply, a copy of DD's letter to Ministry of I&B (No.DCS/SB/2000/6602 dated March 06,2000) was received by BPNI. Doordarshan states in its letter that "after receiving clarifications from Nestle India that Cerelac falls under the category of infant food and not the infant milk substitute, it has been decided to allow them to air the commercial with the declaration that 'MOTHER'S MILK IS BEST FOR YOUR BABY'... "To further clarify the producer carries the Bureau of Indian standards Certificates". DD also states that Nestle has obtained the legal opinion from a noted advocate Mr. Fali S. Nariman that states "Cerelac being an infant food is not confirmatory to para (7) of the IMS Act, 1992 and should not be prohibited but expressly permitted to be used, sold and advertised".

While it is true that Cerelac is an infant food, which can be advertised under the IMS Act, it is patently impermissible and illegal to allow such advertisements except in accordance with the Act and the Rules. What DD and the I&B Ministry have ignored in spite of their attention being pointedly drawn to the provisions by BPNI, is that the advertisements of "Cerelac" are in total violation of these requirements, and it is for this reason that they need to be curbed. Some of the facts missed by DD are:

That infant food can only be promoted in accordance with the Infant Milk Substitute (IMS) Act. (Section 3(c), stating that "No person shall take part in the promotion of use or sale of infant milk substitutes or feeding bottles or infant foods otherwise than in accordance with the provisions of this Act" (emphasis added).

That section 7 of the IMS Act clearly states that any information relating to feeding of infants shall contain particulars specified in clauses (a) to (g), wherein (g) refers to "such other matters as may be prescribed".

That Rule 7 clearly states that “... the label or the container of every infant milk substitute or infant food or their advertisements shall conform to the following namely...” (Emphasis added).

That Rule 9 clearly states the details of information intended to reach pregnant women or mothers of infants through education or other material,..... besides the information specified in clauses (a) to (f) of sub section (1) of section 7 shall include: (a) (1).....(X).

That DD has decided to accept and air Nestlé’s commercial because they are carrying BIS certificates, which is wholly irrelevant to the IMS Act and Rules.

That DD has accepted an opinion from a Counsel retained by Nestle (who incidentally is appearing for Nestle in a petition challenging the IMS Act and Rules before the Delhi High Court), and DD values this self-serving opinion supplied by Nestle over the Law Ministry’s opinion sought on the issue in 1997 by the Dept. of Women and Child Development, Government of India.

It is obvious that DD has not studied the IMS Act and Rules before airing these ads in breach of its own earlier circular and DD has clearly not taken into account the provisions that apply to such advertisements.

In the circumstances BPNI has decided to lodge criminal complaints before the appropriate Court of Law under the IMS Act unless the offending advertisements are withdrawn forthwith. BPNI’s Dr. Arun Gupta states that it is unfortunate that our national channel is ignoring the law ministry’s opinion at the behest of a company which is already facing criminal prosecution for breaches of the IMS Act, cognizance of which was taken as early as on 16th January, 1995.

Dr. Arun Gupta
National Coordinator, BPNI

The Breastfeeding Promotion Network of India (BPNI) is a national network of individuals and organisations working for protection, promotion and support of breastfeeding in India. BPNI believes that breastfeeding is the right of all mothers and children. BPNI works through advocacy, social mobilization, information sharing, education and training of health workers and monitoring the compliance of International Code/The Indian Law to protect breastfeeding. BPNI works as the Regional Focal Point for South Asia for the World Alliance for Breastfeeding Action (WABA) & International Baby Food Action Network (IBFAN). BPNI does not accept funds or sponsorship of any kind from the companies producing breastmilk substitutes, related equipment and complementary foods or those have been ever found to violate the IMS Act or International Code.