**MARKETING (BREAST-MILK SUBSTITUTES) ACT**

ARRANGEMENT OF SECTIONS

SECTION

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MARKETING (BREAST-MILK SUBSTITUTES) ACT

**An Act to provide for the control of the importation, sale, advertisement, distribu-**
**tion, or offer as sample or gift of breast-milk substitutes or infant formula to**
**members of the public.**

[1990 No. 41.]

*[30th December, 1990]*

[Commencement.]

1. **Prohibition of importation, sale, etc., of breast-milk substitutes**

As from the commencement of this Act, no person shall import, sell, display for sale,
promote the sale of, distribute or offer as sample or gift to any person or the general pub-
lic, any breast-milk substitute or infant formula, unless the breast-milk substitute or infant
formula has first been registered with the appropriate authority.

**2**. **Promoting sale of breast-milk substitute or infant formula**

No person shall, for the purpose of promoting or inducing the sale of any breast-milk
substitute or infant formula, advertise or give to any person, institution or health facility
any bonus sample of a breast-milk substitute or infant formula or any promotion device
thereof.

**3. Particulars to be inscribed on container**

(1) No person shall sell, display for sale, consign or deliver any breast-milk substitute
or infant formula in a container, unless the container bears a label on which there ap-
pears-

      *(a)*in English language and three main Nigerian languages a true statement of the
product as to the following matters, that is-

               (i) composition;

                (ii) required storage condition;
                (ii) batch number; and

                 (iv) expiry date;

      *(b)*on a label marked on or securely attached to the container the following state-
ment-

"Breast-milk is the best food for the child as it prevents diarrhoea, chest pain and
other diseases".

(2) Any label affixed to any container of a breast-milk substitute or infant formula as
required under subsection (1) of this section shall bear directions for use in English lan-
guage and three main Nigerian languages and such adequate warnings against the health
hazards of inappropriate preparation or use.

(3) The statement referred to in subsection (1) of this section shall-

      *(a)*be clearly legible and shall appear conspicuously and in a permanent position
on the label;

      *(b)*specify the name of either the manufacturer, distributor, packer or labeller of
the breast-milk substitute or infant formula; and

      *(c)*bear an address at which such person carries on business which shall be clearly
shown in all notices, advertisements and other publications used by such per-
son in connection with his business as dealer in breast-milk substitute or infant
formula.

1. **Prohibition against giving of labels, etc.**

No person shall give with any breast-milk substitute or infant formula sold by him or
displayed by him for sale, any label or document, whether attached to or printed on the
wrapper or container or not, which bears any word or pictorial device whatsoever sugges-
tive of the superiority of breast-milk substitute or infant formula over breast-milk.

1. **Publication of advertisement for breast-milk substitute and infant formula**

(1) No person shall publish or be a party to the publication of any advertisement for
breast-milk substitute or infant formula which makes any claim or suggestion that bottle-
feeding is equivalent to breast-feeding.

(2) Any person who contravenes the provisions of this section shall be guilty of an of-
fence and liable on conviction to a fine not exceeding ~~N~~1,000 or to imprisonment for a
term not exceeding two years or to both such fine and imprisonment.

(3) No proceedings for an offence under this section shall be taken against any person
whose business it is to publish or arrange the publication of advertisement received in the
ordinary course of business.

1. **Duty to promote and protect breast-feeding**

It shall be the duty of every governmental, non-governmental or private institution or
organisation engaged directly or indirectly in health care delivery to take such measures
as may encourage, promote and protect breast-feeding.

1. **Prohibition against use of facility of health care delivery system**

No facility of a health care delivery system shall be used for the purpose of promoting,
displaying placards, posters or materials concerning breast-milk substitute or infant for-
mula or other products of like nature.

**8.   Prescribed quality**

No person shall manufacture for sale any breast-milk substitute or infant formula, un-
less the manufacture of such breast-milk substitute or infant formula complies with the
standard and quality under the relevant provisions of the Food and Drugs Act relating to
that particular product and the applicable standards recommended by the Codex Alimen-
tarius Commission and the Codex Code of Hygienic Practice for Foods for Infants and
Children.

[Cap. F32.]

1. **Laboratory analysis**

(1) Every breast-milk substitute or infant formula intended for sale shall be subjected
to a satisfactory laboratory and clinical analysis by the manufacturer or distributor.

(2) Every manufacturer or distributor of a breast-milk substitute or infant formula
shall keep a proper record at his place of business of the analysis carried out under sub-
section (1) of this section.

**10**. **Power to search**

For the purposes of this Act, a person authorised in writing by the Minister, may at all
reasonable times and on production of that authority-

       *(a)*enter any building or place in which that person has reason to believe there
are-

                          (i) any breast-milk substitute or infant formula manufactured or kept for

                              commercial purposes; or

                          (ii) any books, documents or papers relating to the manufacturing of

                             milk substitute or infant formula;

      *(b)*search for any breast-milk substitute or infant formula or any such books, docu-
ments or papers in any such building or place;

      *(c)*examine, count any such breast-milk substitute or infant formula and take ex-
tracts from, or make copies of any such books, documents or papers relating
thereto.

**11. Penalties**

(1) Any person who contravenes any of the provisions of this Act shall be guilty of an
offence and liable on conviction to a fine not exceeding ~~N~~1,000 or to imprisonment for a
term not exceeding two years or to both such fine and imprisonment.

(2) Where an offence under this Act has been committed by a body corporate, every
person who at the time of the commission of the offence was a proprietor, director, gen-
eral manager, secretary or other similar officer, servant or agent of the body corporate (or
person purporting to act in any such capacity) shall, as well as the body corporate, be
guilty of the offence and may be proceeded against and punished accordingly.

**12. Forfeiture**

(1) Where any person is convicted of an offence under this Act in relation to any
breast-milk substitute or infant formula or container or label, the court shall, in addition to
any other penalty it may impose under this Act, order that the breast-milk substitute, in-
fant formula, label or container owned by that person and in respect of which the offence
was committed be forfeited to the Federal Government.

(2) Every breast-milk substitute, infant formula, container or label forfeited under
subsection (1) of this section shall become the property of the Federal Government and
shall be disposed of in such manner as the Minister may direct.

**13. Regulations**

The Minister may make regulations generally for the purpose of giving effect to the
provisions of this Act.

**14. Interpretation**

In this Act, unless the context otherwise requires-

**"advertisement"** includes any notice, circular, label, wrapper, invoice or other docu-
ment, and any public announcement made orally or by any means of producing or trans-
mitting light or sound; and "advertise" shall be construed accordingly;

**"appropriate authority"** means the National Agency for Food and Drugs Admini-
stration and Control;

[1999 No. 22.]

**"breast-milk substitute"** means any food being marketed or otherwise represented as
a partial or total replacement for breast-milk;

**"container"**includes any basket, pail, tray, package or receptacle of any kind,
whether open or closed;

**"infant"**means a person under twelve months old;

**"infant formula"**means a breast-milk substitute formulated and adapted to satisfy the
normal nutritional requirements of an infant not exceeding twelve months old in accor-
dance with applicable regulations under the Food and Drugs Act;

[1999 No. 22.)

**"label"**means any tag, brand, mark, pictorial or other descriptive matter, written,
printed, stencilled, marked, embossed or impressed on, attached to a container containing
breast-milk substitute or infant formula;

**"Minister"**means the Minister charged with responsibility for matters relating to
health.

**15. Short title**

This Act may be cited as the Marketing (Breast-Milk Substitutes) Act.

MARKETING (BREAST-MILK SUBSTITUTES) ACT

**SUBSIDIARY LEGISLATION**

*No Subsidiary Legislation*