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Benin |

Benin. Decree No. 97-643 of 31 December 1997 regulating the marketing of breast-milk substitutes and infant foods. (*Journal officiel de la République du Bénin, 15 June 1998, No. 12*)

Ben.99.004

This Decree, which has been made having regard to, inter alia, the accession of the Republic of Benin to the Innocenti Declaration on the Protection, Promotion and Support of Breast-Feeding (see IDHL, 1991, 42, 778), the Declaration of the National Policy for the Protection, Encouragement, and Promotion of Breast-feeding in Benin dated 21 December 1992, and Decree No. 74-103 of 12 April 1994 on the functions, organization, and operation of the National Committee on Food and Nutrition, repeals all earlier contrary provisions. The following are among the principal provisions.

Sec. 1 of Chapter I (Purpose and scope) lays down that the purpose of this Decree is to regulate the marketing and distribution of breast-milk substitutes and similar products in the Republic of Benin, with a view to providing infants with safe and appropriate nutrition through the protection, encouragement, promotion, and support of breast-feeding.

Sec. 3 of Chapter II (Definitions) defines various terms, including "complementary food" (any food intended to supplement the mother's milk in infants as from the fourth or sixth month); "infant formula" (any milk product of animal or vegetable origin, manufactured industrially (even in accordance with the standards of the Codex Alimentarius) or in the home in order to satisfy the nutritional needs of the infant); "breast-milk substitute" (any marketed food, whatever its presentation, supposed to partially or totally replace breast-milk); and "follow-on milk or second-age milk" (any milk-based preparation intended for infants and children aged more than four months).

Chapters III, IV, V, and VII read as follows:

Objective and coherent information on the feeding of infants and young children shall be provided to families and all those who play a role in the field of the nutrition of infants and young children.

5. All informational and educational material, whether in the form of written documentation or audiovisual material provided by manufacturers or their distributors, prepared for dissemination to pregnant women and the mothers of infants and young children and dealing with the feeding of infants shall include clear and conspicuously displayed details concerning the following:

- (a) the advantages and superiority of breast-feeding;
- (b) maternal nutrition and the way in which to prepare oneself for and continue breast-feeding;
- (c) the negative effect of partial bottle-feeding on breast-feeding; and
- (d) the difficulty of going back on one's decision not to breast-feed.

6. The materials referred to in Section 5 concerning the use of infant formula shall give an account of the social and financial implications of their use and of the health hazards of inappropriate use.

7. The information provided to health professionals by manufacturers and distributors concerning the products covered by this Decree shall be restricted to scientific data and facts; such information shall not imply or give the impression that bottle-feeding is equivalent or superior to breast-feeding.

This information shall also include the information referred to in Section 6 of this Decree.

CHAPTER IV

DISTRIBUTION

8. Manufacturers and distributors shall not be authorized to donate equipment or materials bearing the name, emblem, or any graphic representation or any other label of any of the products covered by this Decree to a health unit or any other service or NGO.

9. Manufacturers and distributors shall not supply, either directly or indirectly, to pregnant women, mothers, members of their family, or anybody else samples of the products covered by this Decree or documents such as booklets for mothers or posters, other than those that conform to the provisions of Chapter III. However, it shall be permitted to provide health professionals or research personnel with a single sample of a new product.

10. Health personnel shall not give, even to members of their own family, samples of formula for infants and young children.

11. The supply free of charge of infant formula or other products covered by this Decree may be authorized for social or humanitarian reasons. Donors shall, under no circumstances, impede or hinder the national policy with regard to breast-feeding.

12. The following may be considered as social or humanitarian reasons:

- abandoned children;
- the orphans of mothers;

- natural disasters;
- wars; and
- mass population movements.

13. Manufacturers and distributors shall not be authorized to supply health personnel with materials or utensils for the use of infant formula.

14. It shall be prohibited:

- to sell
- to distribute with a view to sale, or
- to store or exhibit for sale a product that has reached its expiry date or that is not in its original packaging.

15. Personnel employed in the marketing of the products covered by this Decree shall not, within the context of their work, fulfil educational functions with respect to pregnant women or the mothers of infants and young children.

CHAPTER V

PROMOTION

16. Any advertising or any other form of promotion directed at the general public concerning the products covered by this Decree shall remain prohibited.

The following shall be considered to be forms of promotion:

- (a) advertising;
- (b) presentations of the products covered by this Decree;
- (c) cut-price vouchers;
- (d) the cut-price sale of the products concerned, unless the price reduction is a permanent one; and
- (e) the offering of gifts.

17. No installation of a health unit shall be used for the promotion of infant formula or any other products covered by this Decree. This does not, however, exclude the dissemination of information to health professionals, as provided for in Section 7 of this Decree.

18. The installations of health units shall not be used for the exhibition of the products covered by this Decree, for the display of notices or posters concerning these products, or for the distribution of materials supplied by a manufacturer or distributor.

19. Health units shall not be permitted to employ representatives of professional services, paediatric nurses, or similar personnel provided or remunerated by manufacturers or distributors.

20. Health professionals shall encourage and protect breast-feeding, and those who are concerned in particular with the nutrition of mothers and infants shall take seriously the responsibilities incumbent upon them by virtue of this Decree, including the concerns referred to in Section 6 thereof.

21. Manufacturers or distributors shall not offer benefits in kind or in cash to health personnel in particular, any other employees of a public or private institution in general, or to members of their families.

22. Manufacturers and distributors of products covered by this Decree shall inform the institution to which a health employee belongs of any contribution made to him or on his behalf concerning: study grants; study travel; research grants; or participation in professional conferences or similar activities.

The beneficiary shall also inform his institution."

"CHAPTER VII

LABELLING

25. The manufacturers and distributors of infant formula shall ensure that a clear, conspicuous, easily legible, and easily understandable text, in an appropriate language, is printed on each package, comprising the following:

- (a) 'important notice';
- (b) a reference to the superiority of breast-feeding over artificial feeding;
- (c) the composition of the product;
- (d) instructions concerning the correct preparation of the product with a warning against the health hazards of incorrect preparation; and
- (e) the name and address of the manufacturer or distributor of the products concerned.

26. Neither the packaging nor the labelling of the products covered by this Decree shall include graphic representations likely to idealize the use of infant formula. They may, however, present in graphic form information facilitating the identification of the product as a breast-milk substitute and illustrating its methods of preparation. Terms such as 'humanized' or the like shall not appear.

27. Food products covered by this Decree marketed as infant food, and which do not satisfy all the conditions with which infant formula must comply but which may be modified in order to meet the requirements, shall display on the label a warning to the effect that the unmodified product must not constitute the sole food of infants.

The labels of condensed milks, whether sweetened or not, evaporated milks, skimmed milks, semi-skimmed milks, and whole milks in powder or liquid form shall display the following warning: 'This product must not be given to infants'. No dosage rates for bottle preparations shall appear on the labels of these products.

28. The labels of bottles or teats shall display the following warning:

'The use of a dummy may have an adverse effect on breast-feeding'."

(Secs. 23-24); VIII. Quality (Secs. 29-30); IX. Penal provisions (Secs. 31-33); and X. Miscellaneous provisions (Secs. 34-36).

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