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Baby formula battle goes to Manila court

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February 3, 2007

THE T'boli tribal women in the remote hills of Mindanao, in the southern Philippines are confused by the message that they should shun baby formula for breast milk.

It's not what the advertising says. Often, it's not what their doctors and midwives say. When they hear more, that baby formula, far from improving their baby's health or intellectual development, may in fact, increase the likelihood of disease, they are angry.

The World Health Organisation estimates 16,000 babies a year die in the Philippines as a result of a decline in breastfeeding. Today, only 16 per cent of children at four to five months are exclusively breastfed, down from 25 per cent in 1998.

The international benchmark is for exclusive breastfeeding until six months and continuous breastfeeding until two years of age.

"The aspiration (of the T'boli) was if they had money, they would buy the milk, because every night they see milk advertisements on television," said Ines Fernandez, a breastfeeding campaigner. "I was so shocked to see some (of the T'boli) were mixed feeding. I thought they were a good example of indigenous culture. I was expecting to see no infant formula but I was wrong," she said after a recent trip to Mindanao's Cotabato province.

UNICEF, which estimates that 20 to 30 per cent of children in the Philippines are malnourished, sees breastfeeding as an essential tool in the fight against disease. "Breastfeeding is a hallmark of child health. It's a magic bullet in child survival. There is an ocean of evidence now that you can prevent disease, surround the child in a hygienic cocoon," said Dale Rutstein, UNICEF's spokesman in Manila. "For the first six months, it's a powerful boost for infants born in poverty."

The problem, in the Philippines, is that the poor don't believe that. So, Ms Fernandez's civil society group, Arugaan, with the Philippines Department of Health, is locked in a no-holds-barred legal battle with the powdered milk industry, to tighten regulations on false advertising and distribution of infant formula.



A mother from Los Banos, in the province of Laguna, was prescribed infant formula by her pediatrician.

To this end, tough new implementing regulations for the 1986 Milk Code were introduced in July 2006 by the Department of Health after several years of consultation with industry and community groups, UNICEF and the World Health Organisation.

The new rules include a ban on advertising and promotion of milk substitutes for children up to two years old with an absolute ban on health and nutritional claims that suggest an increased emotional or intellectual ability in a child using the products.

"The new rules would restrict entry of infant formula and sample products into hospitals," said Undersecretary Alex Padilla, of the Ministry of Health. "It will not prohibit ads but prohibit false ads that claim things like drinking this formula will produce geniuses, who are loveable and affectionate."

Until now, new mothers have often been given infant formula by doctors and midwives in the hospitals, on commission from the milk formula companies, he said.

The new rules ban formula salespeople from even entering hospital grounds.

Not surprisingly, the baby formula companies, including Mead Johnson, Wyeth and Abbott Laboratories, are unwilling to give up a lucrative market.

Represented by the Pharmaceutical and Healthcare Association of the Philippines, they appealed in the Philippines Supreme Court, arguing the Health Ministry overstepped its bounds and the new rules constituted a restraint of trade. When that failed, the International Formula Council lobbied the Philippines embassy in Washington, and in Manila the US Chamber of Commerce petitioned President Gloria Macapagal Arroyo. The letter, seen by *The Age*, from Thomas Donohue, the chamber's president, said the new regulations "treat infant formula as a potential health hazard by requiring warning labels without any scientific justification, a step which would needlessly alarm potential consumers". It then waved the big investment stick, warning that "if regulations are susceptible to amendment without due process, a country's reputation as a stable and viable destination for investment is at risk".

Days later, the Pharmaceutical and Healthcare Association of the Philippines filed a motion to reconsider and this time, the Supreme Court granted a temporary restraining order.

Milk formula is the biggest selling consumer product in the Philippines, a 21-billion-peso (\$A557.5 million) a year industry, ahead of beer and mobile phone cards. In the first six months of 2006, AC Nielsen Research estimated 2.3 billion pesos was spent advertising baby formula, mostly targeted at children under two.

Each year, about 2.5 million babies are born in the Philippines. As 80 per cent of the 82 million population, scattered across 7000 islands, has access to television, the advertising impact is significant. "They package it small," said Mr Rutstein, of the affordable sachets of baby formula available in corner stores. "When you take a First World marketing and ad industry and superimpose it over Third World poverty, you have a toxic mix."

The case is ongoing. In early December, the head prosecutor Nestor Ballacillo was assassinated, along with his 12-year-old son. He was also lead attorney on a controversial Philippines airport case. The

Pharmaceutical and Healthcare Association of the Philippines would not comment on the case for this story. "Our lawyers have advised us not to issue statements that could jeopardise the case," the association's Mr Eufe Tantia said.

Even without a resolution, the case is already having an impact. "In Marakina City, the 'Wyeth Mother and Baby Centre' has dropped the Wyeth from its name. In the hospitals and health care centres now the (baby formula) representatives are very cautious, they come in and out very quickly," Ms Fernandez said.

Mr Padilla is confident the ministry will eventually win the case. "There is no better advocacy to do. It's a wonderful solution to many of our problems. It is a matter of life and death as far as we are concerned."

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