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Government Causes Formula Shortage, Now Offers Solution

When President Joe Biden cited the Defense Production Act in May as his authority to order an increase in baby-formula manufacturing due to the recent national shortage, it was just the latest step in using the Cold War law to give the president carte blanche to control the U.S. economy any way he sees fit.



AP Images

No one disputes that the baby-formula shortage is real, and for those directly affected by it — parents with infant children — a serious problem. But, just as the federal government has misused the “Commerce Clause” found in the U.S. Constitution to expand its power and reach over the U.S. economy, using the Defense Production Act to order increased production of baby formula sets the precedent for the president to step in and control American businesses (economic fascism).

The national shortage of baby formula was directly caused by the federal government. In February, a baby-formula manufacturing plant in Sturgis, Michigan, was closed — by the federal government — after four infants who consumed products made there got sick, and two died, of bacterial infection.

The manufacturer, Abbott Nutrition, disputes the charge that it was its baby formula that caused the bacterial infection, arguing there is “no conclusive evidence” to support that claim.

So, why did the manufacturer get shut down in February, and why did the Biden administration wait until May to do something about the resulting shortage?

The Food and Drug Administration (FDA) investigated a severe bacterial infection in *four* infants. One would logically conclude that if this plant’s baby-formula product was the cause of this misfortune, then many more infants than four would have been affected. However, logic has little to do with the actions of government bureaucrats, as genetic sequencing on two available samples from the sick babies *did not match strains of Cronobacter* found in the plant. Additionally, samples from the two infants who died did not even match each other, indicating there was no logical connection between the two cases.

The Abbott formula in all four cases was tested by the state of Michigan, the CDC, and the FDA, and in *all four cases*, all unopened containers tested negative. Officials with Abbott noted that *open* containers from the homes of the sick babies were also tested, and one tested positive for the type of bacteria that caused the infection, while another matched a strain found on a bottle of distilled water that was used to mix the formula.

Neither strain matched strains found in the Abbott plant.

Abbott added, “The infants consumed four different types of our formula made over the course of nearly a year and the illnesses took place over several months in three different states.”

Yet, the plant responsible for 42 percent of the U.S. baby-formula market was shut down. Abbott is, along with Nestle, Perrigo, and Mead Johnson, one of only four major baby-formula manufacturers in the United States, and nearly all of America’s baby formula is produced domestically. While the United



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States has turned to imports for many consumer goods, baby formula has not been among those goods in the past, with almost 100 percent of baby formula consumed in the United States being manufactured in the country. Stiff tariff barriers protect these four infant-formula manufacturers from foreign competition.

But tariff barriers are not the only reason that there exists such a strong oligopoly in the baby-formula industry. Another government act, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), operated for low-income mothers by the Department of Agriculture, accounts for about two-thirds of all infant formula sold in the United States.

Under WIC, each state gives an exclusive formula contract to a manufacturer, which then gives the state a large rebate on the formula. In other words, women in a particular state are limited to purchasing formula from whatever manufacturer is given the exclusive contract. Manufacturers, of course, are willing to give these enormous rebates because they are in turn granted a monopoly.



Fascist in chief? President Joe Biden has invoked the Defense Production Act in a stated effort to alleviate the shortage of baby formula. Rather than letting the free market work out a solution, Biden is using what can be rightly termed economic fascism. *(Photo credit: twitter/WhiteHouse)*

This is hardly “the free market” at work. This is government creating a problem by its attempt to “manage” this part of the economy. Then, when one large plant, such as the one in Michigan, is shut down by government edict, a severe shortage is the predictable outcome.

Additionally, the Biden administration has exacerbated the problem by diverting scarce supplies of baby formula to the southern border to take care of the flood of illegal immigrants attempting to enter the country — another problem caused directly by the government, specifically policies of the Biden administration that practically invite more immigrants into the country.

In his use of the Defense Production Act, Biden is ordering suppliers to send any ingredients used in baby formula to baby-formula producers rather than other companies that have need of those ingredients. Additionally, Biden has ordered the federal Departments of Health and Human Services and Agriculture to obtain infant formula from other countries — if they meet U.S. health and safety standards.

The Defense Production Act was enacted in 1950 during the Korean War. It allows the president to



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order businesses to accept and prioritize contracts for materials considered necessary for national defense — even if the business has to do so at a financial loss. A person who performs an act prohibited under the law — or who willfully disobeys the dictates of the law — can be charged with a felony, resulting in a fine of up to \$10,000 or one year in jail.

The law also gives the president the authority to allocate materials, services, and facilities to promote national defense, and to control the national economy if needed for national defense. He can take property, and he can force businesses to expand production, set wages and prices, and even dictate where plants can be located.

Of course, this statute was enacted by Congress under the guise of a potentially dire national emergency, such as warding off invasion by a foreign power.

But since its enactment, presidents of both political parties have used the Defense Production Act to order economic actions that have nothing to do with national defense. For example, President Barack Obama used the law to force companies in the telecommunications field to provide detailed information to the Commerce Department on the use of foreign-made hardware and software. The reason given was to fight Chinese cyberespionage.

President Donald Trump, in response to the Covid-19 pandemic, issued an executive order that defined ventilators and protective equipment as “essential to the national defense.” He added that he hoped use of the Defense Production Act would not be necessary, and would only invoke it in a “worst-case scenario.”

Interestingly, House Speaker Nancy Pelosi disagreed with Trump’s hesitance to use the national-defense law to order the production of ventilators, and said that he should “immediately use the powers of the DPA.”

A few days later, Trump issued an executive order that said all “health and medical resources necessary to respond to the spread of COVID-19” were subject to the authority of the law to prohibit hoarding and price gouging. Of course, “price gouging” is a rather subjective standard, and the use of the term indicates one has little faith in the ability of the free market to respond to a crisis. Ordinarily, when there is a shortage of a product, businesses will respond much quicker in response to rising prices. Instead of allowing the law of supply and demand to allocate products through a price system, Trump’s thinking relied on the government to allocate resources.

Since taking office, Biden has made use of the Defense Production Act to order the production of more protective equipment related to the Covid-19 pandemic, and even to supply fire hoses to combat wildfires.

Now, the supply of baby formula apparently falls under “national defense.”

Again, this is not to say that the shortage of baby formula is not a serious problem, but this illustrates how any time government is given a power, political leaders will predictably use it to expand their powers in general.



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War on shortages: Baby formula is arriving from Europe, flown in by the U.S. military in what is called Operation Fly Formula. Biden should allow more formula to be manufactured here at home, rather than depending on uncertain foreign sources. (*Photo credit: USDA*)

Such “shortages” are what one can expect when government manages the economy, rather than allowing the free market to function. As Adam Smith famously wrote in his classic economic treatise *The Wealth of Nations*, the butcher does not provide us our supper for our benefit, but rather for his own self-interest (not to be confused with selfish interest). But, it is in the “self-interest” of the butcher to provide us our supper — so therefore, we get our supper.

This is highly relevant to the baby-formula shortage problem. It is in the self-interest of manufacturers of baby formula to provide consumers with safe baby formula.

While the baby-formula shortage is more acute in some states (because of government policy), and it is of grave concern to families who have infants who need the formula, the majority of Americans have sympathy for these families but are not otherwise affected by the shortage.

But this shortage should provide a warning to *all* Americans. A food shortage in the capital city of Paris was a principal, immediate cause of the bloody French Revolution. Robert Unanue, president and CEO of Goya Foods, recently told *The Epoch Times*, “We are on the precipice of food shortage.”

The war on fossil fuels by the Biden administration is creating a massive increase in the cost of diesel fuel for the trucks that deliver our food to the grocery stores. Unanue added, “The biggest component of food cost is transportation, and the current war on fossil fuels has made the United States no longer oil independent.... Nitrogen-based fertilizers are made from natural gas, so the war on fossil fuels and energy independence also affects the cost of fertilizers.”

When it comes to solving the baby-formula shortage, as well as any other supply shortage, less government, not more, is the solution.

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