



30 November 2020

Mr. David Hatfield  
Director  
Competition Exemptions Branch  
Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra ACT 2601

Via email: [exemptions@acc.gov.au](mailto:exemptions@acc.gov.au); [hannah.ransom@acc.gov.au](mailto:hannah.ransom@acc.gov.au)

Dear Mr. Hatfield,

**Re. Infant Nutrition Council application for revocation of authorisations A91506 and A91507 and substitution of new authorisation AA1000534—interested party consultation**

Thank you for the opportunity to provide feedback on the Australian Competition and Consumer Commission (the ACCC) consultation process on the Infant Nutrition Council application for re-authorisation (application for revocation and substitution) of the Marketing in Australia of Infant Formula (MAIF) Agreement.

The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 295,000 nurses, midwives and carers across the country.

Our members work in the public and private health, aged care and disability sectors across a wide variety of urban, rural and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.

Our strong and growing membership and integrated role as both a professional and industrial organisation provide us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.

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**ANMF Journals**

Australian Nursing and  
Midwifery Journal (ANMJ)  
E [anmj@anmf.org.au](mailto:anmj@anmf.org.au)

Australian Journal of  
Advanced Nursing (AJAN)  
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ABN 41 816 898 298



Through our work with members, we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.

Nationally, the ANMF represents the largest number of midwives in the country of any organisation, with more than 20,000 midwife members. This accounts for more than 75% of the 26,380 midwives employed in midwifery in Australia.<sup>1</sup> We also represent the interests of maternal, child and family health nurses and nurses working in general practice, both areas of nursing where our members are providing information to consumers on infant and young child feeding.

Nurses and midwives work with families to promote optimal nutrition in the early years for lifelong health and wellbeing as a long-term public health strategy. Rigorous oversight of the marketing and promotion of breastmilk substitutes is needed to support all health professionals, including nurses and midwives, to undertake this role and enable consumers to make informed decisions unbiased by strong industry messages in a breastfeeding positive culture.

Promoting breastfeeding is an important public health strategy. Support and encouragement at all levels of the community are essential to maintain and improve initiation rates and the duration of breastfeeding by women in Australia.

The World Health Organisation International Code of Marketing of Breastmilk Substitutes and subsequent World Health Assembly (WHA) resolutions (The Code) were formulated and adopted to address the significant public health issues associated with low breastfeeding rates globally. In Australia, the MAIF Agreement falls short of adequately implementing The Code to an extent where it protects breastfeeding. The MAIF Agreement is outdated, and only partially adopts The Code recommendations thus enabling manufacturers and importers of breastmilk substitutes in Australia to continue to undermine a positive breastfeeding culture by inappropriately promoting the use of breastmilk substitutes as an optimal infant feeding choice.

Therefore, the ANMF is recommending a substantive review of the MAIF Agreement prior to the INC application for re-authorisation being considered. Calls for review of the MAIF Agreement are supported by the recently updated Australian National Breastfeeding Strategy (ANBS). The ANBS was commissioned to create an "enabling environment for breastfeeding" in Australia<sup>2</sup> and identifies the prevention of "Inappropriate Marketing of Breastmilk

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<sup>1</sup> Australian Government Department of Health. (2020). Midwifery Workforce Factsheet 2019, Available at: <https://hwd.health.gov.au/assets/Midwife%202019.pdf>

<sup>2</sup> Australian Government Department of Health. (2020). Breastfeeding. Available at: <https://www1.health.gov.au/internet/main/publishing.nsf/Content/health-publth-strateg-brfeed-index.htm>



Substitutes” as a key action area including “review of regulatory arrangements for restricting the marketing of breastmilk substitutes” (p34). If the current MAIF Agreement were to be reinstated for a further 10 years, these action areas would be redundant and result in no substantive change in breastfeeding public policy. It is therefore premature to approve the proposed INC application. In light of this, the ANMF suggests the current authorisation be extended for a maximum of 12 months to allow this review to occur.

Not only does the MAIF Agreement need to be reviewed, it needs to be expanded to prevent manufacturers and importers of breastmilk substitutes being able to continue activities which undermine the normalcy of breastfeeding.

Despite the WHA resolution in 2016 which classifies a “breast-milk substitute as...any milks..., in either liquid or powdered form, that are specifically marketed for feeding infants and young children up to the age of 3 years (including follow-up formula and growing-up milks<sup>3</sup>)”, in Australia the MAIF Agreement permits the continued promotion of toddler milks. This does not recognise, and therefore protect, the importance of breastfeeding to public health beyond the first year of life. It also enables industry to market and promote infant formula without breaching the MAIF Agreement, with research demonstrating consumers do not differentiate between advertising for infant formula and toddler milk.<sup>4</sup> To advertise one, is to advertise all, particularly when the products are in near identical packaging and designed to be used sequentially, for example step 1 (0-6 months), step 2 (6-12 months) and step 3 (toddler milks).

The MAIF Agreement has also not been updated in accordance with changes to the way consumer’s access health information. Industry is now able to have direct contact with consumers via social media platforms thereby promoting their brand and product without being in breach of the Agreement. Again, undermining breastfeeding as the normal way to feed an infant and young child.

The MAIF Agreement allows breastmilk substitutes to be advertised in a manner which is in conflict with NHMRC Infant Feeding Guidelines. Permitted advertising suggests breastmilk substitutes, such as toddler formula have a key role in optimal nutrition, undermining Australian healthy eating guidelines. Health professionals, including nurses and midwives, support families with infant and young child feeding. Families often report confusion to

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3 World Health Organisation, Maternal infant and young child nutrition; guidance on ending the inappropriate promotion of food for infants and young children (2016). Available at: <https://www.who.int/nutrition/topics/guidance-inappropriate-food-promotion-iyf/en/>

4 Berry N, Jones S & Iverson D (2011). Toddler milk advertising in Australia: Infant formula advertising in disguise? Australasian Marketing Journal. 20(1):24–27.



nurses and midwives about infant and young child feeding choices as result of these conflicting messages.

According to the ANBS, health professionals, including nurses and midwives need to “*protect the community from false and misleading marketing and advertising of breastmilk substitutes that fall within the WHO Code and subsequent WHA resolutions.*” (p 29). As a result of the MAIF Agreement, health professionals are often left in limbo with either inadequate information or research on breast milk substitutes or submit to receiving industry biased messages to perform this role. The education of health professionals in this area should not be the domain of industry. By amending the MAIF Agreement to further restrict the dissemination of industry biased research to health professionals in line with The Code, there will be greater recognition of the need for independent, transparent education in this area to support National Health Targets.

To this end, the ANMF objects to the approval of the Infant Nutrition Council (INC) application for re-authorisation of the MAIF Agreement for a further ten years. If Australia aspires to uphold the essence of The Code and the ANBS, the MAIF Agreement needs to be reviewed and more stringent restrictions applied prior to re-authorisation. The ANMF supports a review of the MAIF Agreement with particular focus on broadening its scope to the full WHO Code, and more specifically complete adoption of articles pertaining to the scope of marketing breastmilk substitutes for infants and young children including retailers, and education for health professionals.

We appreciate the opportunity to participate in this consultation process and provide our feedback on behalf of our membership. Should you require further information on this matter, please contact Julianne Bryce, ANMF Senior Federal Professional Officer at [jbryce@anmf.org.au](mailto:jbryce@anmf.org.au) or on 0409 221 699.

Yours sincerely

**Annie Butler**  
Federal Secretary  
Australian Nursing and Midwifery Federation

cc. Madeleine Munzer, Director, Breastfeeding Advocacy Australia