



17 October 2024

Ms Lynette Lymbers

Senior Analyst

Competition Exemptions and Digital

Australian Competition and Consumer Commission

Level 27, 135 King Street

Sydney NSW 2000

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

Dear Ms Lymbers,

**Infant Nutrition Council application for revocation of authorisations  
AA1000534 And substation of AA1000665 – draft determination**

Thank you for the opportunity to provide feedback on the Australian Competition and Consumer Commission's (ACCC) draft determination in respect of the application for revocation and substitution lodged by the Infant Nutrition Council earlier this year.

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 326,000 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 everyone one of these settings, fulfil their professional goals and achieve a healthy work/life balance.

ANMF Federal Office

Level 1, 365 Queen Street

Melbourne VIC 3000

Australia

E [anmffederal@anmf.org.au](mailto:anmffederal@anmf.org.au)

W [www.anmf.org.au](http://www.anmf.org.au)

ANMF Journals

Australian Nursing and

Midwifery Journal (ANMJ)

E [anmjadmin@anmf.org.au](mailto:anmjadmin@anmf.org.au)

W [www.anmj.org.au](http://www.anmj.org.au)

Australian Journal of

Advanced Nursing (AJAN)

E [ajan@anmf.org.au](mailto:ajan@anmf.org.au)

W [www.ajan.com.au](http://www.ajan.com.au)

ABN 41 816 898 298



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.

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.

The ANMF represents the interests of midwives, child and family health nurses and nurses working in general practice, who are providing information on infant and young child feeding as a significant proportion of their work.

Midwives and nurses work with families to promote optimal nutrition in the early years for lifelong health and wellbeing as a long-term public health strategy. Promoting and protecting breastfeeding is a fundamental public health strategy that underpins this work impacting the short- and long-term physical and mental health outcomes for infants, children, women and people breastfeeding.

In Australia, whilst approximately 96% of infants are breastfed from birth, only 39% are exclusively breastfed at three months of age and just 15.4% at six months<sup>1</sup>. Breastfeeding initiation and continuation rates are significantly lower among Aboriginal and Torres Strait Islander peoples, than their non-indigenous counterparts.<sup>2</sup> These rates are far below the World Health Organisation global nutrition target of 50% of infants exclusively breastfeeding at 6 months of age by 2025.<sup>3</sup>

Rigorous oversight of the marketing and promotion of breastmilk substitutes is crucial to support, protect and increase breastfeeding rates in Australia.

---

<sup>1</sup> Reynolds, R et al. (2023). Breastfeeding practices and associations with pregnancy, maternal and infant characteristics in Australia: A cross-sectional study. *International Breastfeeding Journal*, 18(8). <https://doi.org/10.1186/s13006-023-00545-5>

<sup>2</sup> Zheng, C et al. (2023). Factors influencing Aboriginal and Torres Strait Islander women's breastfeeding practice: A scoping narrative review. *Women's Birth*, 36(1). Doi: 10.1016/j.wombi.2022.03.011.

<sup>3</sup> World Health Organisation. (2024). Global nutrition targets 2025: breastfeeding policy brief. Accessed 7 October 2024 at <https://www.who.int/publications/i/item/WHO-NMH-NHD-14.7>



As the ANMF have argued in previous submissions to the ACCC regarding this matter, the Marketing in Australia of Infant Formulas: Manufacturers and Importers (MAIF) Agreement inadequately curtails harmful marketing practices of breastmilk substitutes that continue to undermine breastfeeding in Australia. Through the Department of Health and Aged Care *Review of Marketing in Australia of Infant Formulas: Manufacturers and importers agreement*<sup>4</sup> (the DoHAC Review) and the ACCC's analysis of the Infant Nutrition Council's (INC) application for revocation and reauthorisation, the MAIF Agreement has been shown to be an ineffective mechanism in preventing inappropriate marketing of breastmilk substitutes in Australia.

The ANMF endorses the ACCC's Draft Determination that the MAIF Agreement offers no public benefit and supports the findings of the DoHAC Review that a "stronger regulatory framework to restrict the marketing of infant formula in Australia" is required (p8). We concur that the MAIF Agreement is no longer fit for purpose.

Following on from this, the ANMF supports and welcomes the ACCC's proposal to deny the INC's application for revocation and reauthorisation in its Draft Determination.

The ANMF recognises the risk of unregulated and unchecked advertising of infant formula following the expiration of the MAIF Agreement, until a more robust framework is developed and implemented.

However, in the Draft Determination (section 4.120), the ACCC outlines several factors that are likely to restrain marketing of infant formula relating to company self-interest in maintaining their public reputation. The ANMF support the ACCC's analysis that marketing activity is unlikely to increase in the absence of the MAIF Agreement for these reasons.

---

<sup>4</sup> Department of Health and Aged Care (2023). Review of the Marketing in Australia of Infant Formulas: Manufacturers and importers agreement. Final Report. Accessed 7 October 2024 from [https://www.health.gov.au/sites/default/files/2024-04/review-of-the-marketing-in-australia-of-infant-formulas-manufacturers-and-importers-maif-agreement-final-report\\_1.pdf](https://www.health.gov.au/sites/default/files/2024-04/review-of-the-marketing-in-australia-of-infant-formulas-manufacturers-and-importers-maif-agreement-final-report_1.pdf)



Furthermore, whilst the MAIF Agreement is in place it provides false reassurance that the public's ability to make informed decisions about infant feeding is being protected despite evidence to the contrary. Infant formula manufacturers utilise the MAIF Agreement to purport breastfeeding friendly marketing practices. Yet significant breaches to the WHO International Code of Marketing Breast milk Substitutes (WHO 1981) and subsequent World Health Assembly resolutions (the WHO Code) are permitted under the MAIF Agreement, including, but not limited to, prolific and unchecked marketing of toddler milks providing opportunity for cross promotion of infant formula, utilisation of digital marketing techniques, advertising through retailers, and marketing in health facilities and to health practitioners. Re-authorisation of the MAIF Agreement only extends a framework that is failing to meet its aims and plays into the marketing practices of companies promoting a product that undermines breastfeeding in Australia.

In summary, it has been a long-held position of the ANMF that the MAIF Agreement does not adequately protect a breastfeeding positive culture in Australia. Whilst not the purview of the ACCC, it is imperative that the Department of Health and Aged Care prioritise actioning the DoHAC Review and introduce a stronger regulatory framework that adopts the WHO Code in full. In the interim, the ACCC's Draft Determination to deny the INC's application for revocation and reauthorisation is an important first step to reforming breast milk substitute marketing practices in Australia and this decision should be maintained in the Final Determination.

The ANMF appreciates the opportunity to participate in this consultation process and provide 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