

# Review of the Marketing in Australia of Infant Formulas: Manufacturing and Importers Agreement

**Response to consultation  
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## About Dietitians Australia

Dietitians Australia is the national association of the dietetic profession with over 8500 members, and branches in each state and territory. Dietitians Australia is the leading voice in nutrition and dietetics and advocates for the profession and for the people and communities we serve.

The Accredited Practising Dietitian (APD) program provides an assurance of safety and quality and is the foundation of self-regulation of the dietetic profession in Australia. Accredited Practising Dietitians are the qualified and credentialed food and nutrition experts and have an important role to play during the early years to support all children to receive optimal nutrition to achieve the best start to life.

This submission was prepared by Dietitians Australian staff in collaboration with members following the [Conflict of Interest Management Policy](#). Contributors include Dietitians Australia members with wide ranging expertise in areas including paediatric and maternal health, lactation, public health, and academia.

## Summary

The Marketing in Australia of Infant Formulas: Manufactures and Importers Agreement (MAIF Agreement) is failing to protect Australian infants and young children from the aggressive promotion of formula milk. Formula milk marketing is powered by enormous budgets, as a US \$55 billion-a-year industry. This marketing often makes false claims to position formula as close to, equivalent or superior to breastmilk; exploits parents' aspirations for their children; and plays on parents' anxieties and self-doubts.<sup>1</sup> These marketing practices drive over consumption of formula milk - the consequences of which are significant for the health and development of infants.<sup>2,3</sup>

Dietitians Australia clearly notes evidence from the World Health Organization (WHO) that formula milk marketing, not the product itself (which has its place for women and parents who are not able or do not want to breastfeed), disrupts informed decision-making and undermines breastfeeding and infant health.<sup>1</sup>

Breastfeeding is a human right of mothers and children.<sup>4,5</sup> The United Nations Convention on the Rights of the Child state that a child is entitled to safe nutrition, so that they will stay healthy, which means governments should protect them from marketing of formula milk.<sup>6</sup> Australia's poor performance in implementing measures to protect breastfeeding was noted in the report by the Australian Human Rights Commission to the United Nations Committee on the Convention on the Rights of the Child.<sup>7</sup>

In 1981, the Thirty-fourth World Health Assembly (WHA) adopted the International Code of Marketing of Breast-milk Substitutes (the Code)<sup>8</sup> to regulate the marketing of breast-milk substitutes. Despite the Code and subsequent World Health Assembly resolutions (WHA resolutions),<sup>9</sup> the formula milk industry continues to put sales and shareholder interests before infant health.<sup>10</sup>

WHO and the United Nations International Children's Emergency Fund (UNICEF) do not consider the MAIF Agreement as meeting the criteria for implementing the Code. Hence Australia is reported as not having implemented the Code in international monitoring reports.<sup>11</sup>

Dietitians Australia strongly advocate that the Australian Government implement, regulate, monitor, and enforce the Code and subsequent WHA resolutions.

Below outlines responses to the discussion paper.

## Discussion

### Part 1: Introduction and demographic information

<<This information has been submitted into the survey response portal>>

### Part 2: Is the MAIF Agreement effective in achieving its aims?

#### The MAIF Agreement is effective in achieving its aims.

Strongly disagree.

The MAIF Agreement is not fit-for-purpose and needs to be replaced by fully implementing the Code and subsequent WHA resolutions. These should be legislated as regulations enforceable under Australian law as current voluntary, self-regulated arrangements are inadequate.

This has been previously recommended<sup>12-14</sup> and has been formalised by the Australian Government in the Australian National Breastfeeding Strategy:<sup>15</sup>

- Objective 4: Strengthen the regulatory arrangements for marketing of infant formula and breastmilk substitutes (0-36 months) so that inappropriate marketing and distribution ceases (p11)
- Action 1.2: Review regulatory arrangements for restricting the marketing of breastmilk substitutes (p34).

### Part 3: Is the scope of the MAIF Agreement appropriate: is it still meeting the objectives?

#### The scope of the MAIF Agreement is appropriate.

Strongly disagree.

#### The scope of products covered by the MAIF Agreement is appropriate.

Strongly disagree.

The MAIF agreement does not give full effect to the Code and subsequent WHA resolutions. Dietitians Australia notes that the MAIF scope currently omits the following:

- toddler milks 12 to 36 months
- complementary foods for infants
- feed bottles and teats
- the promotion and price discounting by retailers.

Toddler milks are of particular concern as these can be used to cross-promote infant formula.<sup>15</sup> Toddler milk sales in Australia grew in 2020. Euromonitor reported 14% value growth in 2020, worth an estimated \$294 million, in powdered follow-on formula for 6–12-month-olds.<sup>16</sup> Growing-up formula for 12+ month-olds saw a 12% value growth, worth an estimated \$375 million in the same year. This profit would act as a disincentive for manufacturers to prohibit the marketing or advertising of these products. This omission however means Australia is not meeting international guidelines as toddler milks, suitable up to 3 years of age, are within scope of the Code.

#### The scope of parties covered by the MAIF Agreement is appropriate.

Strongly disagree.

Dietitians Australia notes that:

- not all manufacturers, distributors and importers of infant, follow-on/up and toddler formulas and milks are signatories
- retailers, such as pharmacies and supermarkets are omitted from the agreement
- digital marketing platforms (e.g., Instagram, Meta/Facebook, Google search, Twitter, electronic mailings, mothers' clubs, influencers, targeted marketing etc.) are omitted from the agreement.

**The MAIF Agreement (under Clause 7) restricts the type of information that can be provided to health care professionals on infant formula products. What activities can be done to increase the awareness of the appropriate use of breast milk substitutes amongst health care professionals?**

Dietitians Australia strongly encourages the implementation of best practice international guidelines developed by the WHO through expert panels, robust evidence-based science which is free from conflicts of interest.

**Are the current advertising and marketing provisions covered by the MAIF agreement appropriate?**

Strongly disagree.

- a) Should the scope be changed to include modern marketing techniques, such as targeting advertising on social media platforms?**

Strongly agree.

The WHO report titled *Scope and impact of digital marketing strategies for promoting breast-milk substitutes*<sup>17</sup> has outlined the digital marketing techniques designed to influence the decisions new parents make on how to feed their babies. The report highlighted that through apps, virtual support groups or 'baby-clubs', paid social media influencers, promotions and competitions and advice forums or services, formula milk companies can buy or collect personal information and send personalised promotions to pregnant women and mothers.

The report summarises findings of research that sampled and analysed 4 million social media posts about infant feeding published between January and June 2021 using a commercial social listening platform. These posts reached 2.47 billion people and generated more than 12 million likes, shares, or comments.<sup>17</sup>

Formula milk companies post content on their social media accounts around 90 times per day, reaching 229 million users; representing three times as many people that are reached by informational posts about breastfeeding from non-commercial accounts.<sup>17</sup>

- b) What changes would you suggest and how could they be implemented?**

Dietitians Australia advocates for the full implementation of the Code and subsequent WHA resolutions, with monitoring and rigorous enforcement.

In addition, it is critical to support breastfeeding through maternity protection<sup>18</sup> and through effective support to parents.<sup>10,19</sup>

#### **Part 4: Are the MAIF Agreement processes appropriate?**

##### **The MAIF Agreement complaints processes are appropriate.**

Strongly disagree.

Dietitians Australia is concerned about the current voluntary, self-regulatory approach and impact of significant conflicts of interest in governance and enforcement of the MAIF agreement. This includes concerns with representation of industry on the complaints committee. Entities with a vested interest in the manufacturing, promotion and sales of formula milk should not be engaging in setting or regulating the agreement.

There is a growing body of evidence that demonstrates industries producing infant formulas often attempt to delay, weaken, distort and/or impede the development of nutrition policies and programmes that can effectively contribute to healthier and more sustainable food systems.<sup>20</sup> To safeguard against possible conflicts of interest in maternal, infant, and young child nutrition WHO has developed a draft approach for the prevention and management of conflicts of interest in the policy development and implementation of nutrition programmes.<sup>21</sup>

Notably, the principles of National Preventive Health Strategy clearly identify the public health policies and action should be free from the influence of vested and commercial interests.<sup>22</sup> This principle should apply in the Australian application of the Code and subsequent WHA resolutions.

##### **The MAIF Agreement guidance documents are appropriate to support interpretation of the MAIF Agreement?**

N/A

##### **Have you lodged a complaint with the MAIF Agreement Complaints Committee?**

Dietitians Australia has not lodged a complaint.

##### **The MAIF Agreement complaints process is independent.**

Strongly disagree.

As noted above there are significant concerns regarding conflicts of interest.

##### **The MAIF Agreement complaints process is transparent.**

Strongly disagree.

##### **The MAIF Agreement complaints process is administered in a timely manner.**

N/A

##### **Publication of breaches of the MAIF Agreement is an appropriate enforcement mechanism.**

Strongly disagree.

Dietitians Australia does not consider publication of breaches an appropriate enforcement mechanism.

In addition, there is no independent monitoring of MAIF breaches and no statutory reporting or required accountability to Parliament.

**Part 4 continued: Is the voluntary, self-regulatory approach fit for purpose or are there alternative regulatory models?**

**The MAIF Agreement's effectiveness is not reduced by its voluntary, self-regulatory approach.**

Strongly disagree.

Voluntary, self-regulatory approaches are not considered best practice by the WHO.

**What are alternative approaches for regulating infant formula in Australia? In your response, please include how your suggested alternative approach improves outcomes and what would be the impacts of your suggested alternatives on relevant stakeholders? How could negative impacts be managed?**

Dietitians Australia advocates for the full implementation of the Code and subsequent WHA resolutions, with monitoring and rigorous enforcement.

In addition, it is critical to support breastfeeding through maternity protection<sup>18</sup> and through effective support to parents.<sup>10,19</sup>

**Part 5: What are the benefits, costs and any limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes?**

**a) What changes would you make to the MAIF Agreement and its processes?**

Dietitians Australia advocates for the full implementation of the Code and subsequent WHA resolutions, with monitoring and rigorous enforcement.

In addition, it is critical to support breastfeeding through maternity protection<sup>18</sup> and through effective support to parents.<sup>10,19</sup>

**b) What do you think would be the potential benefits of these changes?**

Full implementation of the Code and subsequent WHA resolutions would support the achievement of health targets set by the Australian Government. The Australian National Breastfeeding Strategy 2019 and beyond aims to increase the proportion of babies who are exclusively breastfed to 6 months.<sup>15</sup> The National Preventive Health Strategy includes a target to increase the rate of exclusive breastfeeding in the first 6 months up to at least 50%,<sup>22</sup> in line with the WHO/UNICEF global target.<sup>23</sup> At present one in three (35.4%) infants are exclusively breastfed to 6 months in Australia.<sup>24</sup>

Breastfeeding is the healthiest start for infants.<sup>3</sup> Breastmilk is the ideal food for babies. Infants (aged ≤12 months) and young children (aged 12–36 months) are most likely to survive, grow, and develop to their full potential when breastfed,<sup>2</sup> due to the dynamic and interactional nature of breastfeeding and the unique properties of breastmilk.<sup>25,26</sup>

Breastfeeding promotes healthy brain development and is essential for preventing malnutrition, infectious diseases, and mortality, while also reducing the risk of obesity and chronic diseases in later life in both low- and high-income countries alike.<sup>2,27,28</sup> Breastfeeding also helps to protect the mother against chronic diseases, including breast and ovarian cancers, type 2 diabetes, and cardiovascular disease.<sup>2,29</sup>

The substantial, positive, early-life effects of breastfeeding for children, mothers, families, and wider society are sustained over the life course,<sup>30</sup> with strong economic benefits. An estimated US\$341.3 billion is lost globally each year from the unrealised benefits of breastfeeding to health and human development due to inadequate investment in protecting, promoting, and supporting breastfeeding.<sup>31</sup>

Other benefits may include environmental and planetary health. Breastfeeding is the most sustainable food source. It does not burden the planet with waste requiring disposal. By comparison, the formula milk industry has a significant impact on planetary health considering its effects on climate change, water use and pollution.<sup>32,33</sup>

**c) What do you think would be the potential costs of these changes?**

The cost of no action is extensive - an estimated US\$341.3 billion is lost globally each year from the unrealised benefits of breastfeeding to health and human development due to inadequate investment in protecting, promoting, and supporting breastfeeding.<sup>21</sup>

**d) What do you think would be the potential limitations of these changes?**

Full implementation of the Code and subsequent WHA resolutions requires effective monitoring and rigorous enforcement, free from conflicts of interest.

**To support your responses under Part 5 - the benefits, cost and any limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes. Please attach supporting evidence (data or literature) here.**

N/A.

**Part 6: Final comments**

Marketing is part of everyday life, experienced by everyone. However, marketing of formula milk is different because feeding practices in the first years of life profoundly affect the survival, health and development of children both immediately and throughout their lives.<sup>1</sup> Deciding how infants and children are fed should be based on the very best information and evidence, influenced only by what is best for the child and parents and not commercial interests.<sup>1</sup> Appropriately qualified health professionals, particularly dietitians, can support carers with evidence-based decision making for infant feeding.

Commercially driven marketing practices are not new, but have become increasingly sophisticated, diverse, and powerful. Each year, worldwide, the formula milk industry invests more than \$3.5 billion in advertising, lobbying, social media, and sponsorship of health professionals.<sup>34</sup>

In 1981, the Australian Government agreed to protect infant feeding, by adopting the Code at the WHA. But for more than four decades, the Code has not been fully implemented, despite the unequivocal evidence demonstrating that marketing disrupts informed decision-making and undermines children's health and human rights.

Dietitians Australia strongly advocates for the Code and subsequent WHA resolutions to be legislated as regulations and enforceable under Australian law.



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