



Our Ref: C2007/1426
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11 July 2007

[name]
[address]

Dear [name]

Re: Application for minor variation of authorisations A30146, A90539 and A90540 relating to the Marketing in Australia of Infant Formula Agreement

The Australian Competition and Consumer Commission (ACCC) has received an application to vary authorisations A30146, A90539 and A90540 previously granted to Abbott Australasia Pty Ltd and Nestle Australia Limited (Nestle). The ACCC would like to invite you to comment on the application for minor variation.

Authorisations A30146, A90539 and A90540 were originally granted on 23 September 1992. The authorisations¹ relate to the *Marketing in Australia of Infant Formula: Manufacturers and Importers Agreement* (MAIF agreement) which applies to the marketing of infant formula when such products are marketed or represented to be suitable for use as a partial or total replacement of breast milk. The MAIF agreement restricts the advertising and promotional activities that might ordinarily be undertaken by manufacturers and importers in the marketing of infant formula.

Proposed minor variation to A30146, A90539 and A90540

The variation sought allows for the addition of new parties to the agreement. The original authorisation applied to all industry participants and all parties were individually identified in the agreement. Some industry players have since come and gone and the industry submits that the variation will maintain the industry-wide approach of the agreement. The introduction of an 8-10 year time limit on the authorisation to allow for more regular review of the authorisation has also been sought.

¹ Authorisation provides immunity from legal action for conduct that might otherwise raise concerns under the competition provisions of the Trade Practices Act.



For further information on the application for minor variation, please see the attached submission.

The ACCC has granted interim authorisation allowing the arrangement to continue on an industry wide basis while it considers the merits of the proposed variation.

Request for submissions

The ACCC invites you to make a submission on the likely public benefits and the likely effect on competition, or any other public detriment, from the proposed variation.

In particular, the ACCC would appreciate your views on the following issues:

- the proposed variation to the authorisation to allow for the addition of new parties to the MAIF Agreement as the industry players come and go; and

the introduction of an 8-10 year time limit in order to allow for regular review of the authorisation.

The ACCC asks for submissions to be in writing so they can be made publicly available. They are placed on a public register for this purpose.

Persons lodging a submission with the ACCC may request that information included in the submission be excluded from the public register in certain circumstances. Submissions which are excluded from the public register may still be taken into account by the ACCC when conducting its assessment of an authorisation application. Guidelines for seeking exclusion from the public register are attached for your information.

If you wish to lodge a submission, please address your submission to:

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

Submissions can also be lodged by email to adjudication@accc.gov.au or by facsimile on 02 6243 1211. If relevant, please provide a preferred email address for any future correspondence from the ACCC.

If you intend to provide a submission in relation to the application for minor variation, please do so by **27 July 2007**.

Alternatively, if you would like to provide comments orally, please contact Eve Massey on (02) 6243 1354 to organise a suitable time.

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information.

Please inform us if you do not wish to make a submission at this time, but would like to be informed of the progress of these applications at the draft and final determination stages. You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding this application for minor variation.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Eve Massey on (02) 6243 1354.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Gregson', with a long horizontal flourish extending to the right.

Scott Gregson
General Manager
Adjudication Branch

Indicative Timetable

4 July 2007	Lodgement of application and supporting submission.
11 July 2007	Interim authorisation granted
11 July 2007	Public consultation process begins.
27 July 2007	Closing date for submissions from interested parties.
8 August 2007	Applicant responds to issues raised in the public consultation process.
August/September 2007	Determination.