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**From:** Susan Day  
**Sent:** Monday, 9 November 2015 4:57 PM  
**To:** Adjudication  
**Subject:** "A91506 & A91507 – Infant Nutrition Council – submission"

**Categories:** Submission

Dear ACCC,

Please accept this email as my submission to your draft deliberation for the re-authorisation of MAIF for a further 10 years (A91506 & A91507 – Infant Nutrition Council – submission).

Firstly I would like to say that a 14 day window of opportunity for community feedback on your draft deliberation is an incredibly short time line. I would have thought on a matter as important as infant and maternal health that you would be encouraging of submissions not trying to rush the process through?

Secondly when reading through the submissions sent by industry, community and public health experts I am surprised that the ACCC accepted the INC's additional submission (dated 22nd Sept), well after the closing date. From reading this industry submission it is clear that it was written as a rebuttal to the consumer and health advocates concerns. It does a very good job at clouding and misdirecting the concerns of these groups and playing down their importance. I must question why the ACCC (which is supposed to protect consumers) allowed this additional submission - it hardly seems a level playing field if one party can refute and dismiss anothers concerns after the closing date and prior to your draft deliberation? It leaves me wondering who this process is protecting - Large multinational industry or mothers and infants?

In the most strongest terms I object to the ACCC's draft deliberation going ahead and granting industry's request for a further 10 years reauthorisation of MAIF. To do so when you are well aware that WHO are looking to strengthen marketing guidelines in this area (expected early next year) and the Dept of Health are reviewing its the outcomes of the 2010-2015 *Australian National Breastfeeding Strategy* seems to me to be rather strange? Given knowledge of this it would make sense to only grant an interim re-authroisation of 1 year so that these important reviews to public health policy can be taken into consideration.

I am equally surprised that you have swallowed the INC's claims that a re-authroisation of MAIF for 10 years would not stop government from making any changes after the WHO report is released. Whilst technically this may be the case anyone with a dose of common sense knows that once an agreement such as this has been authorised for 10 years then any government will put it to the bottom of their to-do list regardless of new and compelling research. Industry knows once they have a reauthorisation for 10 years they will be laughing as any changes are likely to be years and years away. The previous history of minimal changes to MAIF since its inception in 1992 is testimony to this. That is despite concerns from many parties over many years that the MAIF is inadequate and far too narrow in its scope.

It is inappropriate to grant a re-authroisation to MAIF for a further 10 years when this is being done so without a review on MAIFs effectiveness/or not. MAIFs narrow scope suits industry just fine and they are keen for it not to be reviewed as they know, as was shown in the Best Start Parliamentary Enquiry into Breastfeeding, that consumers and health advocates believe that MAIF should be extended to cover all infant food including Toddler Milks and baby foods.

Toddler Milks are the biggest growing area of infant formula sales. The fact that they are totally unnecessary and potentially harmful seems not to matter as they are worth millions of dollars in sales. Given the NHMRC recommends cows milk for children over 12 months who are not breastfeeding it is incredulous that rampant marketing of these not needed products is allowed to occur in a country that has a growing obesity epidemic in our children.

Industry is keen for the Toddler Milks to be kept out of scope of MAIF as not only do they want to keep advertising in this growing market space, preying on vulnerabilities of mothers they are well aware of the fact that mothers do not differentiate between advertising for toddler milks, follow on formula or standard infant formula. Marketing in one bracket markets to all brackets.

MAIF does not cover social media or electronic marketing. The weak industry put-together “guidelines” in this area have questionable legal status and given the breaches of MAIF carry no consequences these guidelines are worthless. With the growth in online advertising if protection of mothers and babies from misleading advertising is really the aim of MAIF then it is essential that all forms of marketing are included within the body of the agreement and not appended in guidelines that may or may not have to be followed.

As retailers are currently not covered by MAIF there is a big loop hole in the weak protection provided by MAIF, it is ridiculous that supermarkets and pharmacies whose primary aim is to make money can market directly to consumers and undermine all the work done by breastfeeding and public health advocates. Retailers need to be included in MAIF.

The governance of the MAIF Agreement is far from transparent, does not involve breastfeeding experts and lacks government oversight and accountability. How do we have any idea on the effectiveness or not of MAIF under these conditions? To re-authorise the MAIF for a further 10 years with all these questions and concerns yet to be addressed is careless in the extreme.

You have noted in your deliberations that a voluntary, self regulating agreement is a cheap option for Australia. At a time where governments are looking to save money this may appear appealing to continue down this pathway. I argue strongly against your comment that it could take years and years to draft and implement a legislative approach. Developing countries can do this, so can Australia if it has strong politicians that truly believe in protecting those most vulnerable in our society. Money invested in a legislated approach encompassing the WHO Code would pay for itself in the cost savings that would occur with a rise in breastfeeding rates. At a time of global obesity rates and the rise in chronic disease governments should be doing everything in its power to improve breastfeeding rates as dollars invested now save huge amounts down the track.

We are at an important time in history for protecting breastfeeding. In Australia we now have over 96% of mothers initiating breastfeeding. Mothers get how important breastfeeding is and they want to breastfeed their infants. However we know for various reasons many are not exclusively breastfeeding in line with current health recommendations and duration rates are poor. New mothers are bombarded with misleading marketing around formula and baby foods that prey on concerns that all mothers have. There is a wealth of evidence that shows better breastfeeding outcomes when countries adopt the WHO Code in full.

As a consumer, a mother and an International Board Certified Lactation Consultant I would like to see the ACCC, standing up against powerful industry to protect Australia’s mothers and babies, both breastfed and formula fed from the unscrupulous tactics of the formula industry by:

1. Refusing the INC request to re-authorise MAIF for 10 years
2. Grant an interim 1 year re-authorisation of MAIF
3. Recommend that a full and wide ranging review of MAIF occur prior to the next re-authorisation
4. Allow more realistic time lines for consumer input in future consultations on this topic.

regards

Susan Day IBCLC