

MAIF SUBMISSION 10 November 2015

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MAIF AGREEMENT:

The MAIF Agreement was set up and authorised under the Trade Practices Act in 1992 as a voluntary self-regulatory code of conduct between manufacturers and importers of infant formula in Australia. This was overseen by APMAIF up until November 2013 when this advisory panel was disbanded.

The MAIF Agreement is Australia's response to becoming a signatory to the World Health Organization's International Code of Marketing of Breast-milk Substitutes (WHO Code). It aims '...to contribute to the provision of safe and adequate nutrition for infants, by the protection and promotion of breastfeeding ...'

Jennifer James was the community and consumer representative on APMAIF for 6 years (2003 – 2008) and Margaret Grove was the representative for 5 years (2009 – 2013). Over these 11 years, we were able to form an intimate knowledge of the Agreement.

INQUIRY INTO BREASTFEEDING:

In 2007 the Best Start Inquiry by the House of Representatives Standing Committee on Health and Ageing made 22 recommendations for the protection and promotion of breastfeeding.

The Committee noted in their *Best Start Report on the inquiry into the health benefits of breastfeeding* that:

8.40 The Justice and International Mission Unit of the Uniting Church in Australia provided a recent legal opinion that challenges the ruling of the Trade Practices Commission. The opinion states that the Commonwealth Parliament would not be restricted from passing legislation which enacted the WHO code by virtue of the Trade Practices Act provided the instrument introducing the WHO Code complies with the National Competition Principles Agreement (CPA). The CPA is an intergovernmental agreement which was signed by the Commonwealth and all states and territories in 1995. The agreement provides that legislatures can pass legislation which restricts competition, as long as they have undertaken an analysis and formed the conclusion that the public benefits of the restriction outweigh any potential detriment that may flow.⁴¹ The committee considers that there is clear evidence of significant public benefit through the introduction of the WHO Code.

The Standing Committee thus made the following recommendation:

Recommendation 22

8.44 That the Department of Health and Ageing adopt the World Health Organisation's International Code of Marketing of Breast-milk Substitutes and subsequent World Health Assembly resolutions.

The Committee also recommended publication of *The Australian National Breastfeeding Strategy 2010 – 2015* to provide a framework and prioritise actions for governments to protect, promote, support and monitor breastfeeding in Australia.

OUR CONCERNS:

The MAIF Agreement has major flaws that have been documented in reports such as the 2000 Knowles Report and the 2012 MAIF review. Concerns have been expressed by many experts in the industry including the Australian Lactation Consultants' Association, the Australian Breastfeeding Association (ABA) and many other health professional organisations and individuals.

The main areas of concern include:

- Not all manufacturers or importers of infant formula are signatories. Non-signatories are not covered by the MAIF Agreement so have no obligation to abide by its clauses.
- The MAIF Agreement does not extend to retailers or pharmacies. This means that infant formula advertising can appear in retail catalogues without breaching the MAIF Agreement
- Toddler milk is not covered by the MAIF Agreement since this product is targeted at babies over 12 months. Toddler milk packaging has designs almost identical to infant formula packaging, and seen by many people as a subtle way of promoting infant formula. Moreover, health experts agree that babies over 12 months do not need specialised formula such as toddler milks.
- The MAIF Agreement does not cover other breastmilk substitutes, bottles or teats, unlike the WHO Code. This normalises infant formula as a way of feeding babies as bottle symbols are commonly seen, for example, on the doors of baby rooms in shopping centres.
- APMAIF had no power to impose a penalty if a signatory breached the MAIF Agreement. The current independent overseeing body has even less powers than APMAIF.
- The MAIF Agreement allows advertising to health professionals, many of which are women who may subsequently have babies.
- Manufacturers are allowed to supply samples of infant formula to health professionals. According to the Agreement, samples are to be available for research and evaluation purposes only, but in practice they are usually given out to mothers
- In recent years, there has been an explosion of digital technologies, allowing enhanced communication between mothers and infant formula companies, including websites and social media. Prior to APMAIF being disbanded, the panel was working with signatories to address these current and future challenges.

We feel that to grant a 10 year renewal of the MAIF Agreement in its present form would be a huge setback for breastfeeding rates, protection and support. Australia's breastfeeding initiation rates are very good, with over 90% of mothers starting to breastfeed. However, these rates fall dramatically, so that by 6 months (the recommended age for exclusive

breastfeeding set by WHO, NHMRC and ABA) the rates are well under 20% for fully breastfed babies.

OUR RECOMMENDATIONS:

We recommend that instead of reinstating the MAIF Agreement for 10 years, it is given an interim extension for one year to allow time for the government to review the outcomes of the *The Australian National Breastfeeding Strategy 2010 – 2015* and to put into place stronger measures to promote and protect breastfeeding.

In order of priority, we recommend these two alternative measures:

1. To implement the full WHO Code as recommended by the House of Representatives Standing Committee on Health and Ageing. Recommended breastfeeding is core to public health and as such should be overseen by State and National Government Health Departments

2. To extend the MAIF Agreement so that it includes:

- Retailers, pharmacies, non-signatories
- All breastmilk substitutes, bottles and teats
- Toddler and other milks aimed at the older baby
- A ban on samples
- Digital technologies
- The provision of some form of penalty for breaches of the Agreement