

Submission of Rachel McDonald to the ACCC
Re Proposed Extension of the MAIF Agreement

11 November 2015

Adjudication Branch
Australian Competition and Consumer Commission
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Canberra ACT 2601
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Dear Adjudication Branch staff,

Re The Application by the Infant Nutrition Council Limited applications for authorisation A91506 and A91507 concerning renewal/extension of MAIF Agreement for a period of 10 years

I am writing to comment on the draft proposal of the ACCC to reauthorise the MAIF Agreement for a period of 10 years, as per the said applications. To extend the Agreement for such period does not effectively protect the infants of Australia, or their mothers, who are consumers and require protection.

Legislative-Based Regulation

In my view, only legislative-based regulation of the marketing of breastmilk substitutes, with enforceable penalties, undertakings and other mechanisms, including injunctions, and perhaps overseeing regulators such as inspectors, with other remedies and access to a clear and viable complaints process, with the mechanism for the ACCC to regulate this area and to initiate legal action on its own initiative, will more effectively protect breastfeeding in Australia. The Australian Consumer Law should be reviewed with an intention to regulate marketing and promotion of breastmilk substitutes and other paraphernalia such as breast pumps, teats, bottles, dummies etc.

These views are formed from my experience as a Breastfeeding Counsellor with the Australian Breastfeeding Association (qualified 2003 – to present), as a mother who has experienced and witnessed breaches of the WHO Code that should be recognised as breaches in Australian law, as a current PhD research student who is researching breastfeeding laws in Australia and the return to work of women in the paid workforce (UQ Law School), and as a former litigation lawyer of the Australian Government Solicitor (wherein I represented and undertook litigation on behalf of the ACCC) and as a former Legal Counsel with the Attorney-General's Department (Cth).

Consumer Protection?

Why does the ACCC exist? Why do consumer protection laws exist? If you were a corporation who belonged to the Infant 'Nutrition' Council, would you want the MAIF Agreement to continue in its current form? Why? How would such a company benefit?

How would the ACCC function without powers and remedies of enforcement to support regulation? Would it be respected? How much respect does the MAIF Complaints Tribunal have? Would it be

able to negotiate for better outcomes for consumers? Would it protect consumers? To what extent, if any?

The point of these questions is to make one think more deeply about the current MAIF Agreement and the MAIF Complaints Tribunal and to consider the need for protection of breastfeeding in Australia.

Breastfeeding rates could be much better. Breastfeeding experiences could be far more positive for mothers, babies, their families (including fathers) and for society. Breastfeeding in public and at work could be normal, supported, accepted, accommodated.

Impact of Formula promotion on medical services

Health Professionals, such as GPs, Obstetricians and Paediatricians who do not have a good knowledge of breastfeeding, could be more knowledgeable and assess babies in more successful ways to give skilled advice and diagnosis with more accuracy as to whether there is actually a feeding problem and how to remedy it.

Why are those medical professionals not more knowledgeable? Possibly, it is the lack of an onus on a medical professional to know anything about breastfeeding, apart from some broad acknowledgement that it is somehow 'best', when the simple, fast solution to any feeding or management of a baby is to tell the mother to wean and or 'top up' with formula. There is a lack of education for such professionals of whom mothers then expect to have answers. If women breastfed only, then there would be a higher onus on health professionals to seriously improve their education in the area of breastfeeding and baby care information. If a baby is fussy, 'wean' and give the baby formula, if the baby bites, 'wean', if the baby's weight is somehow outside the 50% line of an outdated graph based on mid-western formula fed babies from the 1970s, 'wean'. 'Give formula, there is no nutritional value for your baby after x months', 'Your baby should sleep all night now, so give formula as your milk is not enough'.

How does it come to be that a proportion of medical professionals are so reliant on referring mums to formula rather than to seriously give the proper medical and or care advice or diagnosis or to refer the mother to Lactation Consultants, local health clinics or the Australian Breastfeeding Association? Is it because of the lack of education at medical school and then no training from then on combined with the promotion and supply of medical professionals with formula materials and samples that aggressively market formula as the 'fall back position when breastfeeding is not working'. Ironically, breastfeeding is often working just fine but many medical professionals have not been educated to know what is normal in breastfeeding and in a breastfed baby or child. It is easier to get the quick solution to all feeding 'problems' by authoritatively stating that formula is the answer. Tongue tie may go undiagnosed, where diagnosed then parents may not get warned of the major hurdles a baby and mother can experience and the treatment to remedy this, babies are not designed to sleep very deeply for long hours (some do) and it is normal to breastfeed regularly day and night, there is no time at which breastmilk is not nutritive, breastfed babies weight can vary and is dependent on many factors. Despite these indications of normalcy, breastfeeding oftens cops a

rap and formula is suggested as either the replacement and or to supplement breastfeeding where often breastfeeding the baby again will effectively 'supplement' the baby.

Swimming Upstream: Marketing impacts breastfeeding and supporters

Formula has its place. I am not against formula. However, marketing tactics of breastmilk substitutes fly in the face of the 'protection, support and promotion of breastfeeding'. Health professionals including the midwives and hospitals who try to help mothers initiate breastfeeding, Lactation Consultants and nurses who support mothers once mothers leave hospital, Australian Breastfeeding Association Breastfeeding Counsellors who voluntarily run support and information groups and counselling in the Nationally funded Breastfeeding Helpline or who receive private calls and or email counselling, all these people invest time and effort into helping mothers. However, marketing through advertising and through distribution of brochures and samples of formula, salubrious 'free' lunches hosted by formula companies and their reps at GP practices and elsewhere (including the 2009/10 APMAIF panel recorded breach by Bayer Australia in its 'nurse education' at a hospital, see NHMRC Clinical Trials, University of Sydney, Report on the Implementation of the WHO Code, cited below,p22) at such medical practices where ABA cannot get its foot in the door to give information about breastfeeding, breastmilk substitute samples in hospital ante-natal and postnatal packs for new mothers and mother to be (I have received these as a mother to be and new mother), and advertising through 'news articles' that are typically anti-breastfeeding while promoting formula, create a prevalent attitude that breastfeeding is not really necessary, it is inconvenient, it embarrasses people in public and at work, it's not good for mothers who are 'pressured' and 'stressed', 'breastfeeding is the best but let's face it, not all mothers can do it, so it really is the only option'. The negative impact of such marketing inspired the formulation of the International WHO Code. It needs to be implemented in its full capacity. Breastfeeding needs to be a higher priority than the profit making of a selection of corporations who have a vested interest in the protection of their own business interests.

Such attitudes, that confuse the normalcy and necessity of formula and the inconvenience, inferiority and embarrassment of breastfeeding, are then shared by medical professionals who are severely restricted in their confidence by their lack of breastfeeding knowledge and so are dependent on formula referral, shared by some health professionals who think the baby is not 'putting on enough weight' when often the baby is doing ample nappies that is one major evidence piece that the baby is certainly getting enough breastmilk and this often occurs where a mother perceives or is told that she 'does not have enough milk'(from my experience speaking with mothers over 12 years, they have often been told they do not have enough milk for a variety of incorrect and unexplored reasons with no attempt to guide them to improving the perceived 'problem' because marketing convinces many that formula cures all 'problems'). Where co-workers and employers do not respect breastfeeding, then it will because of the prevalent attitudes about the inconvenience of breastfeeding and expressing and the 'ease' of giving formula. Where members of the public attack women who breastfeed in public or who take and post 'breelfies' (breastfeeding selfies'), this is the prevalent attitude at play – of the embarrassment that the mother is creating, of how someone will be offended (eg the waitress or the pool staff will point at a group of kids or someone else who possibly were either breastfed themselves or who breastfed a baby and are not even consulted as to

whether they are somehow offended. See the experience of Kylie Robinson and her treatment at a Sunshine Coast public swimming pool in Queensland as an example of this:
<http://www.sunshinecoastdaily.com.au/news/breast-feeding-mum-told-stop/344859/>).

Who benefits from such attitudes? Could it be the formula companies? Could it be the companies that sell breast pumps – both manual and electric? Sellers of bottles, teats, and other paraphernalia? Is breastfeeding protected and promoted under such a cycle of the promotion of breastmilk substitutes and the prevalence of stereotypes, assumptions, misinformation and myths that then generate to the detriment of mothers and their babies.

Lack of education, short hospital stays – Do formula companies benefit?

Why is education about breastfeeding so limited or non-existent –in schools and beyond? Who benefits?

Why are new mothers discharged from maternity wards a short time after giving birth, especially now that BFHI hospitals don't allow free samples of formula to mothers? What promoted this change from longer hospital stays to exiting within 48 hours, and short stays even where a mother has had a caesarian section and should be cared for? New mothers leave before their milk has 'come in' – ie the colostrum (a superfood produced and digested in very small quantities as the baby's digestion learns to cope – for the first time – with fluids from the mother's breast) to larger quantities of 'mature milk'. Often the mother's breasts change during this time also, so mothers often experience feeding problems and find themselves at home trying to clean houses, do washing etc and establish breastfeeding which can be a full time job in itself, when many should still be cared for and helped in an ongoing basis by breastfeeding professionals. Attending a doctor for help can be a disaster for the breastfeeding mother if the doctor is limited in their knowledge of breastfeeding. Would so many women use formula if hospital stays and or post birth support for breastfeeding was free, professional, supportive and on an ongoing basis? When formula is then proposed as 'the answer', who benefits from this?

Is there a picture forming here about how unfortunate babies and their mothers and fathers are, the society who will spend a lot of money on paying for the ill health of children who become unhealthy adults for life (refer to the excellent work of researcher Julie Smith, economist and academic, as well as The Best Start Report as to the costs to the health system alone for the 5 major illnesses of which the risk of experiencing is higher for people who were not breastfed)? These people will potentially experience discomfort throughout their life including possibly any of the following: obesity, diabetes, respiratory problems, atrophy, and this list is not exhaustive. More and more research continues to provide evidence for the benefits of breastfeeding and inversely the risks of not breastfeeding. Is there a picture forming about how a lack of protection, education and acceptance of breastfeeding can inversely benefit those who benefit from the profits made from breastmilk substitutes?

Role of Government – Protection of the Child’s Human Rights?

Is the ACCC actually interested in consumer protection of babies who are voiceless and yet according to international conventions and declarations are entitled to human rights to receive optimum nutrition (see, eg, the Convention on the Rights of the Child, Article 24)? I refer to the ‘Paper for Lactation Consultants Association Conference, March 1999’ by A.B.Smith of the Children’s Issues Centre, entitled ‘Children’s rights: The rights of babies and young children’. Smith quotes Moss and Petrie (1997):

The growing emphasis on targeted and piecemeal public interventions has been part of a larger shift in welfare discourse and policy, which allots a diminishing and residual role for the State.... In short, the process of individualizing and privatizing welfare ensures that children are increasingly exposed to the full force of the market, with its attendant, inherent and increasing inequalities and insecurities ((p3); see Smith, p12).

Smith argues that the State has a responsibility to protect, educate and enhance the development of children, as one of three basic concepts of children’s rights emanating from Article 24 of the Convention of the Rights of The Child (the other two being autonomy of the child to express views – of which babies can’t – and the primary responsibility of the family to nurture, care for and educate the child). Smith contends that the state is particularly struggling with its role of protection (see page 11). Despite being written some years ago and in the New Zealand context, the issues can be posed in an examination of how the Australian government is protecting babies and mothers and future generations of mothers and babies in the breastfeeding sphere. Is the government doing enough to properly protect babies where marketing by formula corporations as manufacturers, as beneficiaries of the distribution and retail of their product are only governed by a weak agreement that not all corporations of signatories of and of which holds no enforceable remedies?

Last week I created the Breastfeeding Advocacy Australia Facebook Group of which group has attracted academics, advocates, health professionals, authors, mothers and others. The following statement summarises one of the group’s interests:

“In terms of advocacy, the World Health Organisation’s International Code of Marketing of Breast Milk Substitutes is recognised by the group as providing a vital document that informs how breast milk substitutes **can be** regulated (my emphasis). Human Rights conventions, such as the Convention on the Rights of the Child (Article 24), the Universal Declaration of Human Rights (article 25(1)), the International Covenant on Economic, Social and Cultural Rights (Article 11) are also important to the placing of breastfeeding and child nutrition in the framework of international human rights...”

Other important recommendations and declarations to breastfeeding include the International Labor Organisation’s Maternity Protection Convention 183, revised 2000, providing for lactation breaks since 1919, recommended at the Third Convention in 1919. Why is it that Australia has no guaranteed breastfeeding/lactation breaks in its National policy or its laws? Over 137 countries do have such guaranteed breaks, even developing countries. Why does Australia lag? When the US was legislating for lactation breaks in 2011, why did Australia only pass an amendment to an already heavily criticised as ‘weak’ anti-discrimination law to make breastfeeding a separate ground without specifying guaranteed lactation breaks and guaranteed accomodation (the Sex Discrimination Act

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1984, for criticisms see eg the Senate Committee Report on the Effectiveness of the Sex Discrimination Act 1984 (2008), see also articles by Beth Gaze, Belinda Smith, Margaret Thornton etc)? Why was 'breastfeeding' as a separate ground of discrimination left out of the *Fair Work Act 2009*, when every other anti-discrimination ground made it in? Who benefits from this lack of provision? Why hasn't the federal government ratified this ILO Convention? Why has it taken so long to legislate for paid parental leave? Why is it only 18 weeks and not 26 weeks which would enable many women to exclusively breastfeed to 5 or 6 months, prior to return to work? If there was not support for this, why not? Was the policy fully explained to the electorate? Why is the Innocenti Declaration of 1990 that encourages countries to legislate creatively to promote and protect breastfeeding been largely ignored?

Further, other countries have far higher rates of implementing and legislating for the BFHI hospitals certification than in Australia. Again, who benefits? Not the babies and mothers, not the society that will benefit from babies who receive great bonding and developmental progress through the act of breastfeeding in addition to the nutrition of the milk (see the works of Nils Bergman, neuroscientist, in this regard about the greater neurodevelopment of synapses in the brain of the breastfed child), not the society that will fund the poor health outcomes far ahead into the future.

The implementation of the WHO Code is one of the many important areas of how breastfeeding can be protected, supported and promoted, together with BFHI hospitals, workplace laws that recognise the work health and safety aspects of women needing to breastfeed or express at work as well as their reproductive right to experience motherhood in their preferred relationship of breastfeeding their baby or child, postnatal support once mothers leave hospital, education at school and in medical and health courses, ongoing education once qualified, education about the importance of the WHO Code, laws to protect and support as normal breastfeeding in public and some form of resilience training for women who encounter negative pressures in public and at home from relatives and friends who have misinformation and misconceptions about breastfeeding and breastfed babies.

Due to the limits of time, I refer to the ABA submission to the ACCC dated 17 August 2015 and I endorse and support the contents of that submission.

Further, I refer to the following works to support my following points of objection to an extension of 10 years of the current MAIF Agreement:

1. J Smith, J Galtry and L Salmon, 'Confronting the Formula Feeding Epidemic in a New Era of Trade and Investment Liberalisation', 73 *Journal of Australian Political Economy* (Winter 2014), 132-171;
2. NHMRC Clinical Trials Centre, The University of Sydney, 'An International Comparison Study into the Implementation of the WHO Code and other Breastfeeding Initiatives, Final Report', (Sept 2011, 146 page report including findings on Australia's implementation of the Code as compared to the WHO Code:
[http://www.health.gov.au/internet/main/publishing.nsf/Content/1C29E44FE6BB3C4DCA257BF0001BDBC5/\\$File/111027%20Final%20Report.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/1C29E44FE6BB3C4DCA257BF0001BDBC5/$File/111027%20Final%20Report.pdf)
3. 'We need to get some perspective: when the pressure to breastfeed gets too much'. This apparent news item seems to be an example of promotion of formula ie there is Aptamil Nutricia Profutura store online purchase ad prominently displayed alongside the 'news' item at <http://www.news.com.au/lifestyle/parenting/we-need-to-get-some->

[perspective-when-the-pressure-to-breastfeed-becomes-too-much/story-fnet08xa-](http://www.abc.net.au/news/2015-03-11/perspective-when-the-pressure-to-breastfeed-becomes-too-much/story-fnet08xa-1227248968687)

[1227248968687](http://www.abc.net.au/news/2015-03-11/perspective-when-the-pressure-to-breastfeed-becomes-too-much/story-fnet08xa-1227248968687). When you click on the page to see more there is a picture of a heavily pregnant woman smiling and holding what looks like a planner/ipad – implying she is planning ahead to – not breastfeed – to formula feed. There are products below including vitamins and formula – no, not just toddler formula, it is ‘from birth to 6 months’ and 6 months to 1 year, and from 1-2 and from 2 onward: see

http://www.profuturastore.com.au/?utm_source=ATP&utm_medium=contextual&utm_content=300x250&utm_campaign=profutura-au-store-Q3-2015. This is similar to another ‘news item’ this year that actually had photo images of the formula cans in the article about ‘Dad fights against pressure to feed’ with the same father called “James” and not otherwise identified. I cannot obtain the link presently.

More blatant advertising, this time Bellamy’s Organic complete with a promotion by a mother sitting next to two tins of the product being placed and a scooper. This is marketing at its finest because it isn’t really marketing – or is it? Obviously any Code or laws need to target product placement and advertising through ‘news’ stories:

<http://www.smh.com.au/national/health/bellamys-organic-white-gold-what-is-in-baby-formula-20151108-gku16x.html>.

4. Academic and former UNICEF staff member, George Kent has also written on the WHO Code and its implementation and why this is so important as well as breastfeeding rights of the mother and baby dyad. See, for instance, ‘Child Feeding and Human Rights’, *International Breastfeeding Journal* 2006, 1:27. Kent maintains that:

IBFAN has developed a model law for countries that want to adopt the principles of the International Code of Marketing of Breastmilk Substitutes into their national law[38]. Of course countries that draw guidance from this model also should consult the specific legislation that has been adopted in other countries, and they should make adaptations to suit their own local circumstances.’

Note, that it is to suit the local circumstances, not to suit the formula and breastmilk substitute corporations. Footnote 38 refers to Sokol, E: *The Code Handbook: A Guide to Implementing the International Code of Marketing of Breast Milk Substitutes 2nd Edition*. Penang, Malaysia: International Baby Food Action Network, International Code Documentation Centre; 2005.

5. The *Best Start Report* and its section on the WHO Code/ marketing of formula and its two recommendations that have not been implemented: House of Representatives Standing Committee on Health and Ageing, *The Best Start, Report on the inquiry into the health benefits of breastfeeding*, Parliament of the Commonwealth of Australia, Canberra 2007. See particularly chapter 8 on the impact of breastmilk substitutes and regulation thereof. See also chapter 3 on the health benefits and costs of not breastfeeding.
6. The issue should actually extend beyond whether the MAIF Agreement is adequate and examine whether the International WHO Code is actually adequate. There is some criticism of the Code being only a ‘recommendation’, a de-facto contract between NGOs and Nestle, and so it is ‘soft law’ and lacks the greater dynamics of a rights-based approach (See B Meier and M Labbok, ‘From the Bottle to the Grave: Realizing a Human Right to Breastfeeding Through Global Health Policy’, [2010] 60(4) *Case Western Reserve Law Review* 1074-1142, at

pp1131-34). My submission will not advance this issue further, however, the issue is raised: is the Code as well as the Agreement adequate for the protection of breastfeeding in Australia? Further research on this topic may be required, though such inquiry extends beyond the ACCC's current inquiry. However, as Michael Latham contends:

The Code is surely a minimum requirement, and was a compromise between industry and those who believe that all promotion of infant formula should be barred....The corporations have worked in many countries to weaken or prevent the Code from becoming law... Free formula is still provided by many manufacturers to hospitals in many countries...[t]his gives mothers the impression of medical endorsement of formula feeding'. Corporations try to purchase support from paediatricians, senior health officials, and others by giving funds for travel, for society meetings, for research and for other purposes. All of this is promotion.(M Latham, 'Breastfeeding – a human rights issue?'(1997) 5 *The International Journal of Children's Rights*, 397-417 at 409-410.

How can breastfeeding compete with such promotion and marketing?

Points of objection:

1. Self-regulation of a voluntary code of manufacturers is questionable and the weakest system of regulation that places control with those who benefit by way of profits with no onus to consider real accountability and the real best interests of babies, children and mothers;
2. No enforceable remedies for breach of the MAIF agreement, retailers and distributors are not covered, toddler aged babies and formula are not covered, so promotion of toddler formula can influence societal perceptions and mother infant feeding choices that are supposed to be protected. Promoting toddler formula as necessary is highly questionable;
3. 10 years is a long time to have an agreement without review;
4. WHO may be about to change infant feeding recommendations in the next year or so a 10 year agreement will not consider changes and new world leading information/guidelines.
5. Australia needs stronger, broader laws to capture all promoters and sellers of breastmilk substitutes including baby foods. It needs the ACCC to enforce breaches of a stronger code or enforceable laws, given the powers of the ACCC and the greater respect it has in regulating consumer markets. As a former litigation lawyer for the ACCC, the lack of enforceable undertakings, injunctions, compensation, public and private apologies and other remedies and mechanisms are unthinkable in terms of regulating corporations and the corporations producing and promoting formula are some of the biggest corporations in the world and market. The Australian Consumer Law should be examined to see where protections for breastfeeding via control of marketing and other promotion can be included in the Law and regulated by the ACCC with the full force of all of its powers.
6. Not all breastmilk substitute companies are signatories to the MAIF Agreement. Any system needs to have all in and covered by the regulations, including promoters of other paraphernalia such as bottles, teats and expressing breast pumps which may be promoted as being equal to breastfeeding and normalising expressing to the detriment of mother-baby

breastfeeding eg at workplaces there is an emphasis of looking at expressing milk at the optimum solution. It is not. It normalises pumping to the detriment of breastfeeding solutions that could include onsite or near to work creches and childcare so that mothers and babies can be in close proximity for breastfeeding and bonding. I refer to the work of Virginia Thorley, 'The dilemma of breastmilk feeding', (2011) 19(1) *Breastfeeding Review*, 5-7.

7. The fact that in 2006/07 there were 982 complaints received by APMAIF about companies engaging in conduct that seemed to breach the MAIF Agreement but over 700 were excluded as being outside the scope of the MAIF agreement and that not one was upheld to be a breach, calls for questions about what those complaints were about. Were they based on the WHO Code? Is this the true benchmark that needs to be in place for the regulation of corporations who compete with breastfeeding and each other? My view is that the WHO Code in its entirety needs legislative foundation and enforcing in Australia by the ACCC. A weak, powerless Tribunal that is apparently not transparent in its funding apparently by some industry members and represented by industry members on the Tribunal is a ludicrous state of affairs in terms of being seen to be and respected as being an independent arbiter and regulator. What if the ACCC were influenced by such things? It flies in the face of the separation of industry from its regulation. Self-regulation does not work. You only need to examine environmental self-regulation by corporations to learn lessons about how it is placing the ball in the court of the victor. The control of the market needs to be taken away from the players. They should be nowhere near the judge and jury or rule setter. It is farcical. It is a Clayton's regulation to make somebody, somewhere feel happy but it does nothing for breastfeeding, for babies and for the confidence of mothers who often feel that they have failed to give birth naturally and who then 'fail' to breastfeed. A true balance of power will not see this watered down voluntary agreement endure. In fact, it may well inspire stronger efforts by advocates to reform this very reformable and inadequate, lip-serviced system. There were no recorded breaches in 2004/05 to 2007 and only 1 breach for 2008/09 and 2009/2010 (see page 22 of the NHMRC Clinical Trial Centre/University of Sydney Final Report, referenced above). Really? Were there so few actual breaches of the MAIF Agreement? Or is there something sadly wrong about this system? Do we need an app to be developed to educate women on what the breaches are and so that people can lodge instant complaints?
8. A baby needs their mother to breastfeed them. A baby is born from the mother's body and firstly seeks out his or her mother's breast. The baby can crawl to the mother's breast once placed on the mother's tummy. The baby can seek and attach to the mother's breast. They do not seek out an alien bottle, teat and artificial milk. The breastfed baby will not generally wean for a very long time and it has been estimated that normal weaning is around 4.2 in humans. Mothers in some other cultures do not have 'breastfeeding problems', so why is our society so complacent about breastfeeding and so determined to have a culture of breastfeeding failure? Other countries, such as Norway, have much higher breastfeeding rates. The MAIF Agreement is one area in a puzzle of parts that needs to be reviewed with greater scrutiny.

Formula was supposed to be a very small part of human life, for babies whose mothers died or whose mothers were ill – emergency type situations. The rise and rise of formula and the decline or deprivation of babies receiving breastmilk is a human experiment of which

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humans are still coming to terms with how it affects our health, our species. Such an unnatural displacement of the healthiest and most natural feeding method has required persistent, systematic, blatant, aggressive, assertive marketing. Formula sales increase. Scaremongering of breastfeeding is as recent as this week's news (apparently linking obesity to breastmilk of which was not the finding or the title of the original research and if anything the researchers are trying to advocate more research on HMOs in breastmilk to find how they are protective of obesity so they can supplement formula which has no HMOs, that also act as a prebiotic in the baby's gut:

<http://www.sciencedaily.com/releases/2015/10/151029101148.htm>). It is time to open eyes and apply the same type of regulation that cigarette selling has undergone eg tins without heartwarming and branding labels with their psychological impacts, no advertising anywhere – why do they need to advertise if their product is so necessary (I cannot currently read my emails without Aptamil formula ads constantly playing next to my email despite my clicking that 'I don't want to see this'!)? Websites that say they are for toddlers but link back to formula from birth or under 12 months. These are mastermind marketing tactics and probably paid top dollars to produce aggressive campaigns. Can the government similarly invest equal amounts of money to the promotion and protection of breastfeeding?

This is the submission of a mother who is a supporter of breastfeeding mothers (I also have created a 'breastfeeders at Work in Australia' Facebook page to help mothers returning to work of whom many are being denied time and a space to breastfeed or are told to, and I quote, 'Go do it [express] in the toilet and stop being such a drama queen!') and a supporter of continued breastfeeding for humans that can well be threatened by formula use if it is adopted as the premium and then only method of feeding. This sounds radical but the 1950s witnessed the huge decline in the breastfeeding culture and many mothers and grandmothers of today's breastfeeding mothers lost their knowledge and power over breastfeeding and control of their parenting as the 'experts' told them how and what to feed, where a baby should sleep (not near mother with accessible breasts), how long a baby should sleep, if a baby was 'good' or inconvenient, that breastmilk was inferior, that breastfeeding was upsetting them and their babies who were 'starving', that babies should only be fed four hourly, that babies be separated from mothers at birth and etc. Such ideas could well return. This is the submission of a lawyer and a research student who has witnessed the effectiveness of good regulatory models and the ineptitude of a weak enforcement model.

Please consider this, for whose purpose does a weak, unenforceable marketing of breastmilk substitutes 'agreement' benefit? Who has agreed to it? Certainly not the mothers and babies of Australia and their supporters – not a weak system of unaccountability.

Rachel McDonald