

To The Australian Consumer and Competition Commission

I am writing to advise you in the strongest terms of my objection to the ACCC's recent draft deliberation that approves the Infant Nutrition Council (INC) request for a re-authorization of the Marketing in Australia of Infant Formula (/MAIF agreement) for a further ten years.

I have read the draft deliberation at <http://registers.accc.gov.au/content/index.phtml/itemId/1188093/fromItemId/278039> and am incredibly concerned with the proposed outcome. I understand that this decision has been reached because "The ACCC considers that the MAIF Agreement has resulted, and is likely to continue to result, in public benefits in the form of:

- protecting and promoting breastfeeding
- avoided regulatory costs."

On both of these points, I challenge the argument that overall there is greater public benefit in retaining the MAIF Agreement.

Firstly, as Australia's response to the implementation of the World Health Organisation (WHO) International Code on Marketing of Breast-milk Substitutes and subsequent World Health Assembly resolutions (The WHO Code), the MAIF Agreement has been a toothless tiger. The governance of the MAIF Agreement is not transparent, does not involve breastfeeding experts and lacks Australian government oversight and accountability. This body falls very far short of protecting and promoting breastfeeding.

The MAIF Agreement has remained virtually the same since it was first implemented in 1992. As the MAIF Agreement is a voluntary, industry self-regulated agreement it fails to provide the full protection that Mothers and Infants would receive if Australia legislated the WHO Code. The MAIF agreement does not apply to retailers, which is a significant loop-hole that allows retailers to be involved in marketing practices that would be otherwise disallowed. Similarly, the MAIF Agreement does not include marketing by electronic media or of toddler milks, which are covered in the full scope of the updated WHO Code and World Health Assembly resolutions. Industry is keen to keep this the status quo as it allows them to market toddler formula directly to consumers. This is done in such a way that mothers are unaware from the marketing that this product is not in fact infant (0-6 months) or follow on formula (6-12 month), both currently unable to be marketed directly to mothers by industry. Australian research shows that consumers do not differentiate between the toddler and infant/follow-on formula. Marketing in one is effectively marketing in all brackets.

As a woman who has breastfed in line with WHO recommendations and as someone who has advocated for, and educated on, breastfeeding, I am very aware of the

pressures and confusion that marketing of infant formula creates for new mothers and babies at a very vulnerable stage in their lives. This continues as they reach milestone ages, at which time advertising suggests that it's time to wean, time to switch to toddler milks. This pressure and confusion leads to cessation of breastfeeding earlier than WHO recommendations and a consequent uptake of formula and toddler milks when none of this is necessary and indeed leads to poorer health outcomes than would have been achieved if breastfeeding had continued.

I believe it is important that all mothers and infants be protected from unscrupulous and misleading marketing. At the time I breastfed, my local supermarkets and pharmacies continuously advertised, promoted and had sales on infant formula. I wrote regularly to the MAIF council, only to be told that all of this was out of scope. Even if anything has finally been found to be in scope, breaches of MAIF carry no repercussions. How can this be protecting mother and infants?

In recent years, formula companies have become very adept at accessing women and families via social media. In preparation for writing to you, I looked up the Infant Nutrition Council. Within a minute of doing this, I was stunned to receive formula advertising via my internet feed. Australia's implementation of the WHO Code is half-hearted and simply has not kept up with modern marketing methods by electronic and social media, including online sales and loyalty programs. Manufacturers and importers can advertise toddler milks on TV, Facebook, company websites, industry-funded blogs, parent information and advice services, and baby clubs.

Research shows that implementation of the WHO Code in full is an effective tool to protecting breastfeeding. To combat obesity, the WHO is in the process of strengthening protections against food marketing to children and their parents. This may result in changes to the WHO Code, but these are not due out until early next year. Australia is also in the middle of reviewing its national policy on breastfeeding, the National Breastfeeding Strategy due at the end of 2015. Far from re-authorising MAIF, I believe that a review is very much needed and that information from both of these processes should be considered and included in any such review.

As far as suggested benefits from avoided regulatory costs, I would simply say, the evidence based costs to the Australian health budget and the long term health deficit experienced by Australian children as a result of not being breastfed in line with WHO recommendations far outweighs the costs of any regulation applied to MAIF.

Given all of the above, I would strongly urge the ACCC to amend its draft decision and issue an interim re-authorisation of 1 year rather than 10 years, thereby allowing closer review of MAIF and more effective implementation of WHO Code in Australia.

Yours sincerely

*Sally Eldridge*

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