



Australian Government

Department of Health

**Re-authorisation of the Marketing in Australia of Infant
Formulas: Manufacturers and Importers Agreement
(MAIF Agreement) by the Australian Competition and
Consumer Commission (ACCC) A91506 &A91507**

Submission to the ACCC Pre Conference

DEPARTMENT OF HEALTH

December 2015

The World Health Organization's *International Code of Marketing of Breast-milk Substitutes* (WHO Code) was introduced in 1981 as a model set of recommendations to protect breastfeeding and, when necessary, ensure the proper use of breast-milk substitutes. In response to the WHO Code, in 1992 the *Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement* (MAIF Agreement) was introduced in Australia as a voluntary, self-regulated industry code of conduct.

Australia currently implements the WHO Code and related World Health Assembly (WHA) resolutions in a number of ways that are appropriate to Australia's social, legal and economic environments, the primary mechanism being the MAIF Agreement. Consequently, authorisation of the MAIF Agreement is paramount in ensuring that the effective operation of the MAIF Agreement continues.

The Department of Health reiterates its view that despite the uncertainty around the potential changes to the WHO Code and subsequent WHA resolutions in mid-2016 and any implications this may have to the MAIF Agreement, any re-authorisation granted by the ACCC would not prevent the Infant Nutrition Council from seeking to vary the authorisation at any time, should it be considered appropriate. The Department also notes that it is possible for the ACCC to revoke the authorisation at any time if they become aware that circumstances have changed and the benefits of the arrangements no longer outweighed the detriments.

In relation to the scope of the MAIF Agreement in 2012, the Nous Group was engaged by the Department of Health to conduct a *Review of the effectiveness and validity of operations of the MAIF Agreement*¹. Key findings from this review found that, on the whole, stakeholders stated that voluntary, industry self-regulation remains an effective and appropriate model for the MAIF Agreement. As a result a recommendation from this review found that the voluntary, self-regulatory nature of the MAIF Agreement should remain in operation provided it continues to promote the aim of the MAIF Agreement and industry coverage remains high. A further recommendation from the review found that the coverage of the MAIF Agreement should not be extended to cover:

- Any food described or sold as an alternative for human milk for the feeding of infants beyond the age of twelve months;
- Retailers and pharmacies; and
- Other infant feeding products such as bottles, teats and complementary foods.

¹ <http://www.health.gov.au/internet/main/publishing.nsf/Content/review-effective-infant-formula>