



**NICK XENOPHON**  
Independent Senator for South Australia  
**AUSTRALIAN SENATE**

Our ref: NC-ACC/SKM

Mr David Hatfield  
Director, Adjudication Branch  
Australian Competition and Consumer Commission  
23 Marcus Clarke Street  
Canberra ACT 2601

**URGENT BY EMAIL:** adjudication@accc.gov.au

Dear Mr Hatfield

**RE: Proposed re-authorisation of infant formula marketing code**

I write to you in relation to the ACCC's current consideration of the proposal to re-authorise for a period of ten years, the *Marketing in Australia of Infant Formula Agreement* (MAIF), the Infant Nutrition Council's voluntary and self-regulatory code which governs the marketing of infant formula for infants up to 12 months.

I am concerned that the proposed MAIF allows infant formula to be provided to hospitals and health care professionals (for free or at low cost) which in turn leads to fewer women breastfeeding exclusively and also reduces the duration for which they breastfeed. Research published in the UK medical journal *The Lancet* in 2015 showed that the cost to Australian Gross National Income from IQ effects of premature weaning to be around \$6 billion a year, while a recent epidemiological study found around 250 women a year are diagnosed with breast cancer in Australia attributable to insufficient duration of breastfeeding.

I understand the MAIF can only be re-authorised if the ACCC is satisfied that the public benefit of the conduct permitted under the code outweighs any public detriment. I am deeply concerned that in this instance the public detriment could indeed outweigh the public benefits of the MAIF claimed by the Infant Nutrition Council.

As a result, should the ACCC decide to re-authorise the MAIF, I strongly encourage the ACCC to impose a requirement that any milk formula provided to hospitals or health care professionals be supplied at retail price, and that a review is conducted within two years.

Should you have any questions about this letter please do not hesitate to contact my office on 08 8232 1144.

I look forward to your response.

Yours sincerely



**NICK XENOPHON**

12/5 / 2016