



The Hon Ged Kearney MP
Assistant Minister for Health and Aged Care
Assistant Minister for Indigenous Health
Member for Cooper

MS24-001236

Commissioners
Australian Consumer Competition Commission
adjudication@acc.gov.au

Dear Commissioners

The Australian Government welcomes the opportunity to provide a submission to the Australian Consumer Competition Commission (ACCC) to inform ongoing consideration regarding authorisation of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement) as an industry code of practice.

The Government is committed to supporting breastfeeding as a foundational component of a child's life and a key contributor to public health outcomes. There is a wealth of evidence demonstrating that breastfeeding contributes to healthier outcomes for both infants and mothers, including reduced risks of chronic diseases, enhanced immune function, and long-term health benefits. The Government's commitment to supporting breastfeeding is underpinned by the National Breastfeeding Strategy: 2019 and Beyond which sets a clear vision for increasing breastfeeding rates across Australia. Additionally, as a Member country of the World Health Organization (WHO), Australia takes its obligations under the WHO's International Code of Marketing of Breast-milk Substitutes seriously. The Government considers that significant risk would arise from the removal of all controls on the marketing of infant formula in Australia.

Our Government knows that stronger regulation of infant formula marketing is crucial to support safe and adequate nutrition for babies. The Government is committed to mandating the MAIF Agreement and acknowledges that a stronger regulatory framework is required. However, time to transition to a mandated MAIF Agreement is needed. It is anticipated that this will take two years, noting that enabling legislation via amendments to the *Food Standards Australia New Zealand Act 1991* will be required before the development of a mandatory Code can proceed.

Maintaining the authorisation of the voluntary MAIF Agreement during transition to a mandated agreement is essential. The Department of Health and Aged Care is strengthening the administration of the voluntary MAIF Agreement to address key concerns identified in the recent review, and by the ACCC draft determination.

Re-authorisation would provide certainty to industry and consumers, and support an orderly transition to mandated controls. Re-authorisation will also reduce the risk that resultant marketing practices confuse parents, caregivers and the general public, which would undermine the Government's priority to support breastfeeding and public health outcomes.

The Minister for Health and Aged Care, the Hon Mark Butler MP, has directed the department to address issues around the scope of the MAIF Agreement as a priority. In line with the recommendations of the independent MAIF Review, the Government is not currently proposing to include toddler milk within the scope of the mandatory MAIF Agreement. However, in my capacity as Chair of the Food Ministers' Meeting, I emphasise the serious concerns I share with my state and territory colleagues regarding toddler milk. This is an issue best resolved through the food regulatory system, and I look forward to FSANZ's review of regulatory arrangements of these products in Australia.

In writing directly to you, I affirm our Government's commitment to giving infants the best possible start to life. Through this work, our priority is to ensure safe and adequate nutrition for babies, and to support parents and caregivers to make informed, evidence-based decisions.

I thank the ACCC for your careful consideration of these issues.

Yours sincerely

A large grey rectangular box redacting the signature of Ged Kearney.

Ged Kearney

16 / 10 / 2024