



25 March 2021

Mr. David Hatfield  
Director  
Competition Exemptions Branch  
Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra ACT 2601

Via email: [david.hatfield@accg.gov.au](mailto:david.hatfield@accg.gov.au)

Dear Mr. Hatfield,

**Re. Infant Nutrition Council application for revocation of authorisations A91506 and A91507 and substitution of new authorisation AA1000534 – response to draft determination**

Thank you for the opportunity to provide feedback on the Australian Competition and Consumer Commission's (ACCC) draft determination regarding the Infant Nutrition Council application for re-authorisation (application for revocation and substitution) of the Marketing in Australia of Infant Formula (MAIF) Agreement.

The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 300,000 nurses, midwives and carers across the country.

Our members work in the public and private health, aged care and disability sectors across a wide variety of urban, rural and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.

Our strong and growing membership and integrated role as both a professional and industrial organisation provide us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.

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**ANMF Journals**

Australian Nursing and  
Midwifery Journal (ANMJ)  
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Australian Journal of  
Advanced Nursing (AJAN)  
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ABN 41 816 898 298



Through our work with members, we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.

Nationally, the ANMF represents the largest number of midwives in the country of any organisation, with more than 20,000 midwife members. This accounts for more than 75% of the 26,380 midwives employed in midwifery in Australia.<sup>1</sup> We also represent the interests of maternal, child and family health nurses and nurses working in general practice, both areas of nursing where our members are providing information to consumers on infant and young child feeding.

The ANMF supports a reduction of the re-authorisation period as identified in the draft determination. However, the request the proposed five years be further reduced to 2 years, to align with the Australian National Breastfeeding Strategy<sup>2</sup> "review of the regulatory arrangements for restricting marketing of breastmilk substitutes" (p34).

The ANMF also welcomes and supports the ACCC's draft determination to impose a condition that extends the limitations on advertising set out in Clause 5(a) of the MAIF Agreement to apply to all breastmilk substitutes, including toddler milk.

The draft determination appropriately acknowledges the research demonstrating consumers do not differentiate between advertising for infant formula and toddler milk and the subsequent negative effect of infant formula promotion through toddler milk marketing.<sup>3</sup> It does not however acknowledge the detrimental impact of toddler milk advertising on the protection and promotion of breastfeeding for children over 12 months of age.

Optimal nutrition in the first 2 years of a child's life is seen as particularly important for lowering morbidity, mortality, and long-term chronic disease<sup>4</sup>. Breastfeeding and human breastmilk have a pivotal role in this optimal nutrition not only in the first year of life but also into toddlerhood offering significant public health advantages over other milks. Despite the Infant Nutrition Council's statement that toddler milks are different to the breastmilk substitutes targeted at infants, and are designed as an alternative to milks other than breastmilk (e.g. cow's milk, goat's milk, soymilks), they are in fact a replacement for breastfeeding and breastmilk.

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<sup>1</sup> Australian Government Department of Health (2020). Midwifery Workforce Factsheet 2019, Available at: <https://hwd.health.gov.au/assets/Midwife%202019.pdf>

<sup>2</sup> Australian Government Department of Health (2020). Breastfeeding. Available at: <https://www1.health.gov.au/internet/main/publihlhsing.nsf/Content/health-pubhlth-strateg-brfeed-index.htm>

<sup>3</sup> Berry N, Jones S & Iverson D (2011). Toddler milk advertising in Australia: Infant formula advertising in disguise? *Australasian Marketing Journal*. 20(1):24–27.

<sup>4</sup> World Health Organisation (2020). Infant and young child feeding. Available at: <https://www.who.int/news-room/fact-sheets/detail/infant-and-young-child-feeding#:~:text=The%20first%20%20years%20of,and%20fosters%20better%20development%20overall>



Toddler milk advertising sends an inherent, false message that breastfeeding and breastmilk do not continue to provide benefit beyond the first year of life for individual and long-term health. This is not consistent with recommendations by the National Health and Medical Research Council<sup>5</sup> and the World Health Organisation and does not protect the public.

The Infant Nutrition Council claims there will be insufficient publicly available information to support breastmilk substitute use (when it is required) if marketing regulation is tightened. The ANMF would argue there is already a lack of information for families and health professionals to guide breastmilk substitute selection and use. There is very little research available that is not industry biased and the loopholes in marketing make it possible for formula manufacturers to make ambiguous claims in the advertising of breastmilk substitutes. Whilst not within the ACCC's purview, there is a distinct need for independent, transparent research and information dissemination to support the optimal use of breastmilk substitutes. This is not a role for industry and extending clause 5(a) of the MAIF Agreement will not change the volume of quality information available to the public.

To this end, the ANMF supports the World Health Organisation's 2016 World Health Assembly resolution which classifies a "breast-milk substitute as...any milks..., in either liquid or powdered form, that are specifically marketed for feeding infants and young children up to the age of 3 years (including follow-up formula and growing-up milks<sup>6</sup>)" and its inclusion in the MAIF Agreement to limit the advertising of toddler milks in Australia.

We appreciate the opportunity to participate in this consultation process and provide feedback on behalf of our membership. Should you require further information on this matter, please contact Julianne Bryce, ANMF Senior Federal Professional Officer at [REDACTED] or on [REDACTED].

Yours sincerely

[REDACTED]

**Annie Butler**  
Federal Secretary  
Australian Nursing and Midwifery Foundation

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<sup>5</sup> National Health and Medical Research Council, Australia (2012). Infant Feeding Guidelines: information for health workers. Available at: <https://www.nhmrc.gov.au/about-us/publications/infant-feeding-guidelines-information-health-workers>

<sup>6</sup> World Health Organisation. (2016). Maternal infant and young child nutrition; guidance on ending the inappropriate promotion of food for infants and young children. Available at: <https://www.who.int/nutrition/topics/guidance-inappropriate-food-promotion-iyce/en/>