

March 19, 2021

IBFAN Submission to the draft determination of the ACCC for grant re-authorization to the MAIF agreement for the next 5 year, regarding the marketing of infant formula (0 to 6 mo.), follow-up formula (6 to 12 mo.) and drinks for young children (12 to 36 mo.)

The International Baby Food Action Network (IBFAN) is pleased to have the opportunity to present our submission on the ACCC draft determination on the MAIF agreement. Our comment will outline the rationale for our recommendation that the MAIF agreement not be renewed.

The adverse effects of commercial marketing of breastmilk substitutes, including all baby milks and drinks, on exclusive and sustained breastfeeding rates and young child health are well documented. Marketing of any milk product or drink targeting children 0-36 months impacts negatively on both the exclusivity and duration of breastfeeding. (cross branding undermines confidence in breastfeeding below and beyond 6 months).

Where countries have fully adopted the International Code and subsequent relevant World Health Assembly resolutions¹ (hereafter “the Code”), into adequate and enforceable legal measures along with breastfeeding support exclusive and sustained breastfeeding rates are invariably higher than in countries where no legal measures exist². For example Brazil³, where the full Code is law, exclusive breastfeeding rates increased from 3.1% (1975) to 41% (2008) despite increased urbanization and more women entering the workplace. While in the US where no marketing legislation is in place, exclusive breastfeeding rates are reported by the CDC⁴ at 25% and only 58% breastfed at all at 6 months. Formula supplementation before 2 days of age had increased from 16.9% to 19.2% from 2016 to 2017. In India where the Code is law and strictly enforced, Code violations are few and 56% of babies are exclusively breastfed for the first six months^{5,6}.

We commend Australia’s national targets⁷ for 80% of infants to be fully breastfed for around six months of age – a target that sadly remains unmet. Data reported by the Australian Bureau of Statistics for the reference period 2017-2018 show that although 93% of children aged 0 to 3 years received some breastmilk, only 29% were exclusively breastfed as recommended by the WHO and by Australia’s National Health. Australia’s exclusive breastfeeding rates have not increased since the 2014-2015 reporting.

Globally many studies have concluded that regulating the marketing of breastmilk substitutes is key to establishing breastfeeding supportive environments². Moreover that governments should incorporate the Code and subsequent resolutions fully into their laws and regulations and should invest in independent monitoring, free from commercial interest, and effective enforcement mechanisms. Evidence from India^{5,6} suggests that violations are far fewer when the Code is enshrined in law and enforcement is effective.

Australia has ratified the Convention on the Rights of the Child and as such has the duty to ensure the highest attainable standard of child health through the protection and support of breastfeeding. Additionally mothers and caregivers have the right to make informed decisions on how to feed their children free from commercial interference.

The consequences of not breastfeeding contributes to non-communicable conditions, such as obesity, overweight, cancers, diabetes, as well as dental caries and is associated with decreased performance in intelligent tests. The Australian Institute of Health and Welfare 2020 report, entitled: Overweight and Obesity reported that “in 2017-18 an estimated 1 in 4 children and adolescents aged 2 to 17 were overweight or obese”.

Importantly, breastfeeding brings substantial economic benefits⁸. For each dollar invested in breastfeeding, \$35 are generated in economic returns. The cost of long-term cognitive losses impact at all levels, such as school performance, workplace capacity at a cost of billions annually at national level.

The WHO, UNICEF, IBFAN 2020 Status Report, Marketing of Breast-Milk Substitutes National Implementation of the International Code² documents that globally 136 countries out of 194 (70%) have taken legal measures covering all or some of the provisions of the Code and WHA resolutions, yet Australia remains one of 49 countries with no legal measures taken.

IBFAN strongly agrees with the ACCC draft determination to increase the scope of the authorisation to include toddler drink products. The WHA resolution of 69.9 (2016) on the inappropriate marketing of breastmilk substitutes⁸ notes that all milks marketed to the age of three years function as breastmilk substitutes. Additionally the drinks for young children are considered not necessary (WHA resolution 39.28) and contribute to the risk of dental caries and obesity. The WHA resolution 69.9 also recommends that there should be no cross promotion to market breastmilk substitutes via the promotion of other similarly branded products.

Regarding accountability for exporting BMS, the European Union Export Directive 2007^{9,10,11}, does have provisions that safeguard the labeling and use of these products to importing countries. The export of infant formula to third countries Provision 26 requires compliance with Codex Alimentarius standards; labeling to avoid the risk of confusion between the age specific products; prohibits the idealizing of the products and limits the use of nutrition and health claims.


The previous five years of voluntary MAIF agreements have not led to improvements in breastfeeding practices. In order that Australia’s target of 80% breastfeeding for the first six months to have a realistic potential of being met IBFAN recommends that.

- 1. The MAIF agreement not be renewed and instead a process put in place to develop legal measures to be implemented into law within a timeframe of two years.** The protection and support of breastfeeding, bio-diverse, culturally appropriate and sustainable complementary feeding will require the establishment of regulations to eliminate misleading marketing of all baby feeding products alongside independent monitoring and appropriate enforcement.^{12,13} The previous five-year MAIF

agreement has not improved breastfeeding rates and a continuation of the status quo will be a barrier to improving breastfeeding rates and the reduction of health risks associated with BMS use.

2. **Australia adopt export regulations aligned with the Code:** Australian BMS products are exported primarily to Asian countries where conditions for its use pose serious health risks of malnutrition, illness and increased mortality. Australia is failing in its duty to adopt effective export regulations that eliminate inappropriate marketing and labeling of BMS exports. This responsibility should not be left to a voluntary code. There is no evidence that voluntary codes are effective in stopping harmful marketing. Australia must adopt regulations controlling trade within its borders and exported from it as a matter of urgency.
3. **Australia to ensure safer global trade.** IBFAN urges Australia to support the inclusion of the International Code and subsequent Resolutions into the scope of the draft standard for follow-up formula and drinks for young children at the Codex Alimentarius Committee on Nutrition and Foods for Special Dietary Uses. This would help align Codex with its proposed national policy that follow-up formula and “toddler milks” function as breastmilk substitutes. In addition to their potential to undermine breastfeeding, ultra processed BMS products pose great risks to human and planetary **health**.
4. **Australia work towards reducing greenhouse gases.** According to a study by Dr Julie Smith¹⁴, of the Australian National University, *“The most alarming finding in our latest research is a very large proportion of greenhouse gas emission impact is associated with the so-called growing up milks or toddler formula ... In China, nearly half of the sales of milk formula is toddler formula.”* Hence the importance of mandatory regulations for all BMSs to reduce the environmental impact of the production and use of these products.

Kind regards,



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