



Good food, Good life

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6 April 2021

Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601
Attention : Hannah Ransom

Your ref : AA1000534

By email : exemptions@acc.gov.au

Dear David Hatfield / Hannah Ransom

AA1000534 – Infant Nutrition Council - submission

I refer to the Australian Competition & Consumer Commission's Draft Determination dated 1 March 2021 (**Draft Determination**) on the application by the Infant Nutrition Council (**INC**) for re-authorisation of the Marketing in Australia of Infant Formula: Manufacturers and Importers Agreement (**MAIF Agreement**) and associated guidelines.

Nestlé Australia Ltd (**Nestlé**) is a current signatory to the MAIF Agreement and member of the INC. We welcome the opportunity to comment on the Draft Determination.

Globally, Nestlé is committed to marketing breast milk substitutes responsibly and we comply with the WHO International Code of Marketing of Breast-milk Substitutes (**WHO Code**) and all relevant World Health Assembly resolutions, as implemented by national governments around the world.

We support breastfeeding as the ideal nutrition for babies and we recommend breastfeeding over all other feeding alternatives. For infants who are not breastfed or who are partially breastfed, Australian Infant Feeding Guidelines published by the Australian Government and developed by the National Health and Medical Research Council¹ (**NHMRC Infant Feeding Guidelines**) provide that commercial infant formulas should be used as an alternative to breastmilk until 12 months of age.

Nestlé is committed to providing safe, high quality nutrition for infants and young children, based on the latest science and research.

Regardless of how they feed their baby, we believe mothers and all caregivers should feel respected and at peace with their decision.

¹ National Health and Medical Research Council (2012) *Infant Feeding Guidelines: summary*



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The MAIF Agreement is Australia's response to the WHO Code and has been in place since 1992, with minimal amendments during that time. Nestlé has demonstrated its commitment to complying with the MAIF Agreement and we take our compliance obligations very seriously.

We fully support the MAIF Agreement in its current form and believe it is an effective voluntary industry code. The MAIF Agreement aligns with current Australian government policy and has broad industry coverage. There is also a high level of compliance by signatories, demonstrated by the low number of breaches found against INC members in the last 5 years².

We do not believe the condition proposed by the ACCC in its Draft Determination is warranted or appropriate for a number of reasons and we fully support the INC's response to the Draft Determination. The proposed condition would fundamentally change the scope of the MAIF Agreement and necessitate a complete re-drafting of the agreement and its key provisions, together with published interpretation guidelines. While it will be up to individual signatories to respond, we share the concerns raised by the Department of Health and the INC that the imposition of this condition risks reducing industry participation in the MAIF Agreement, if signatories opt-out or new market entrants are deterred from signing.

All of the available evidence is supportive of a general increase over the last few decades in both the rate and duration of breastfeeding in Australia³. The NHMRC Infant Feeding Guidelines state 90-96% of mothers in Australia commence breastfeeding. Reasons why women stop breastfeeding have been studied in an Australian context - these are multifactorial, but have not been shown to relate to the advertising of toddler milk drink⁴.

We believe that a proposal of this nature requires full consultation and consideration of current evidence, impacts and the health, social and legislative context in Australia. This is a matter of public health policy that is properly the role of government and to that end, we welcome the planned review of the MAIF Agreement by the Department of Health later this year.

Yours sincerely



Xavier Payrard

² 10 complaints resulted in a breach assessment over the 5 years to the 2019-20 financial year. See Department of Health submission on AA1000534 dated December 2020.

³ NHMRC Infant Feeding Guidelines (2012) ; Wen LM, Rissel C, Xu H, Taki S, Buchanan L, Bedford K, et al. Effects of telephone and short message service support on infant feeding practices, "tummy time," and screen time at 6 and 12 months of child age: A 3-group randomized clinical trial. *JAMA Pediatr.* 2020 ; Scott, J.; Ahwong, E.; Devenish, G.; Ha, D.; Do, L. Determinants of Continued Breastfeeding at 12 and 24 Months: Results of an Australian Cohort Study. *Int. J. Environ. Res. Public Health* 2019, 16, 3980; Newby, R. M., & Davies, P. S. (2016). Why do women stop breast-feeding? Results from a contemporary prospective study in a cohort of Australian women. *European Journal of Clinical Nutrition*, 70, 1428–1432.

⁴ Newby, R. M., & Davies, P. S. (2016). Why do women stop breast-feeding? Results from a contemporary prospective study in a cohort of Australian women. *European Journal of Clinical Nutrition*, 70, 1428–1432.