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2 December 2020

Mr David Hatfield  
Director  
Competition Exemptions Branch  
Australian Competition and Consumer Commission  
23 Marcus Clarke Street  
CANBERRA ACT 2601

Via email: [exemptions@acc.gov.au](mailto:exemptions@acc.gov.au)

Dear Mr Hatfield

**AA1000534 – Infant Nutrition Council – submission**

Thank you for inviting The Royal Australasian College of Physicians (the RACP) to comment on the above application regarding the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement).

The Paediatrics & Child Health Division (PCHD) of the RACP has strongly advocated for increased regulation of infant formula in order to protect the health and wellbeing of children and parents.

The RACP recommends that the ACCC reconsider the duration of the authorisation (proposed to be 10 years) in light of actions set out in the [Australian National Breastfeeding Strategy: 2019 and beyond](#) (the Strategy). Specifically, the strategy tasks the Commonwealth with commissioning an independent review to determine:

- The effectiveness of the MAIF Agreement in restricting inappropriate marketing of breastmilk substitutes
- The feasibility of including all manufacturers of infant and follow-up formula in the scope of the MAIF Agreement and all retailers (supermarkets, pharmacies etc.) in the scope of the agreement
- The transparency of the complaints process and outcomes from MAIF Complaints Committee meetings.

As the application notes, the Commonwealth is yet to commence the implementation of the Strategy. Given this, we request that the ACCC consider a shorter authorisation period, with longer authorisation to occur once the actions in the Strategy, and other concerns outlined below, have been addressed.

We also have concerns about the nature and operations of the MAIF. The MAIF does not sufficiently address the provisions of the World Health Organisation's *International Code of Marketing of Breast Milk Substitutes* or subsequent resolutions from the WHO.

Elements of the WHO Code not covered by the MAIF Agreement include:

- Coverage of pharmacies and retailers; the MAIF Agreement only covers importers and manufacturers
- Coverage of ancillary products, such as bottles and teats
- Lack of applicability to any party that has not voluntarily opted-in to the MAIF Agreement.

The RACP also has concerns regarding the voluntary and self-regulated nature of the MAIF agreement, and notes that it does not allow for sanctions to be passed for significant or repeated violations.

The RACP will continue to advocate for more effective regulation of the marketing of infant formula in Australia. If you have questions relating to this letter, please contact Dr Rebecca Randall, Senior Policy and Advocacy Officer, on at [REDACTED].

Yours sincerely



Clinical Professor Catherine Choong  
President  
Paediatric & Child Health Division, RACP