

Submission by the Australian Nursing and Midwifery Federation

**Australian Competition and Consumer  
Commission: Infant Nutrition Council  
Limited application for revocation of  
authorisation AA1000534 and  
substitution AA1000665**

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Australian  
Nursing &  
Midwifery  
Federation



**Annie Butler**  
**Federal Secretary**

**Lori-Anne Sharp**  
**Federal Assistant Secretary**

**Australian Nursing and Midwifery Federation**  
**Level 1, 365 Queen Street, Melbourne VIC 3000**  
**E: [anmffederal@anmf.org.au](mailto:anmffederal@anmf.org.au)**  
**W: [www.anmf.org.au](http://www.anmf.org.au)**



## Introduction

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 320,000 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.

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.

The ANMF welcomes the opportunity to provide feedback to the Australian Competition and Consumer Commission (the ACCC) regarding the Infant Nutrition Council application for re-authorisation (application for revocation and substitution) of the Marketing in Australia of Infant Formula (MAIF) Agreement. We represent the interests of midwives, maternal, child and family health nurses and nurses working in general practice, who provide information on infant and young child feeding as a significant proportion of their work.



As outlined by the 2019 Australian National Breastfeeding Strategy (ANBS)<sup>1</sup>, promoting breastfeeding, and creating a positive breastfeeding culture are critical public health actions for the health of people in Australia. In Australia, whilst approximately 96% of women initiate breastfeeding, only 39% exclusively breastfeed until the infant is three months of age and just 15.4% to six months<sup>2</sup>. Breastfeeding initiation and continuation rates are significantly lower among Aboriginal and Torres Strait Islander peoples, than their non-indigenous counterparts.<sup>3</sup> These statistics demonstrate a lack of effective public health initiatives to support and protect breastfeeding in Australia, and that existing mechanisms such as the MAIF Agreement are not fit for purpose. Support and encouragement at all levels of the community is essential to maintain and improve initiation rates and the duration of breastfeeding by women in Australia.

Nurses and midwives work with families to promote optimal nutrition in the early years for lifelong health and wellbeing as a long-term public health strategy. Rigorous oversight of the marketing and promotion of breastmilk substitutes is needed to support all health practitioners, including nurses and midwives, to undertake this role and enable people to make informed decisions unbiased by strong industry messages in a breastfeeding positive culture.

The World Health Organisation International Code of Marketing of Breastmilk Substitutes and subsequent World Health Assembly (WHA) resolutions (the Code) were formulated and adopted to address the significant public health issues associated with low breastfeeding rates globally. In Australia, the MAIF Agreement is the primary instrument to implement the Code. However, the MAIF Agreement is outdated, and only partially adopts the Code recommendations. Consequently, manufacturers and importers of breastmilk substitutes in Australia are able to continue to undermine a positive breastfeeding culture by inappropriately promoting the use of breastmilk substitutes as an optimal infant and child feeding choice.

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<sup>1</sup> COAG. (2019). The Australian National Breastfeeding Strategy: 2019 and Beyond. In C. H. Council. Australia: COAG Health Council, accessed 11 April, 2024 from <https://www.health.gov.au/topics/pregnancy-birth-and-baby/breastfeeding-infant-nutrition/australian-national-breastfeeding-strategy>

<sup>2</sup> Reynolds, R et al. (2023). Breastfeeding practices and associations with pregnancy, maternal and infant characteristics in Australia: A cross-sectional study. *International Breastfeeding Journal*, 18(8). <https://doi.org/10.1186/s13006-023-00545-5>

<sup>3</sup> Zheng, C et al. (2023). Factors influencing Aboriginal and Torres Strait Islander women's breastfeeding practice: A scoping narrative review. *Women's Birth*, 36(1). Doi: 10.1016/j.wombi.2022.03.011.



Despite the WHA resolution in 2016 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>4</sup>)”, in Australia the MAIF Agreement permits the continued promotion of toddler milks by not restricting the marketing of products recommended for those over 12 months of age. This does not recognise, and therefore protect, the importance of breastfeeding to public health beyond the first year of life and poses a risk to health outcomes for children.

Permitted advertising of toddler milks enables the formula industry to position their product as having a key role in optimal nutrition for children over 12 months of age. Not only does this not support the continuation of breastfeeding beyond 12 months of age but also undermines Australian healthy eating guidelines and misleads the public of the purported health benefits of toddler milks for growth, development, immunity. Health practitioners, including nurses and midwives, support families with infant and young child feeding. Families often report confusion to nurses and midwives about following infant and young child feeding recommendations when faced with the marketing and advertising tactics used by formula companies to promote toddler milks.

Toddler milks are also permitted to be advertised as a breastmilk substitute despite falling under the definition of the Code. This enables industry in Australia to market and promote infant formula without breaching the MAIF Agreement, with research demonstrating people do not differentiate between advertising for infant formula and toddler milks.<sup>5</sup> To advertise one, is to advertise all, particularly when the products are in near identical packaging and designed to be used sequentially, for example step 1 (0-6 months), step 2 (6-12 months) and step 3 (toddler milks).

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4 World Health Organisation, Maternal infant and young child nutrition; guidance on ending the inappropriate promotion of food for infants and young children (2016). Available at:

<https://www.who.int/nutrition/topics/guidance-inappropriate-food-promotion-iyg/en/>

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



Therefore, it is imperative the advertising of toddler milks is included in any regulatory model that is amended or adopted to restrict the marketing of breast milk substitutes in Australia if the ANBS key principle to ‘ensure that governments and health care and education institutions protect the community from false and misleading marketing and advertising of breast milk substitutes’<sup>6</sup> is upheld.

The MAIF Agreement has also not been updated to reflect changes in the way people access health information. Industry is now able to have direct contact with people via social media platforms thereby promoting their brand and product without being in breach of the Agreement. Again, undermining breastfeeding as the normal way to feed an infant and young child.

According to the ANBS, health practitioners, including nurses and midwives need to “*protect the community from false and misleading marketing and advertising of breastmilk substitutes that fall within the WHO Code and subsequent WHA resolutions.*” (p 29). As a result of the MAIF Agreement, health practitioners are often left in limbo with either inadequate information or research on breast milk substitutes or submit to receiving industry biased messages to perform this role. The education of health practitioners in this area should not be the domain of industry. By amending the MAIF Agreement to further restrict the dissemination of industry biased research to health practitioners in line with the Code, there will be greater recognition of the need for independent, transparent education in this area to support National Health Targets.

As the ACCC are now likely aware, the Department of Health and Aged Care has recently released the Final Report<sup>7</sup> of a review of regulatory arrangements for restricting the marketing of breastmilk substitutes, and in particular the effectiveness and scope of the MAIF Agreement.

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<sup>6</sup> COAG. (2019). The Australian National Breastfeeding Strategy: 2019 and Beyond. In C. H. Council. Australia: COAG Health Council, accessed 11 April, 2024 from <https://www.health.gov.au/topics/pregnancy-birth-and-baby/breastfeeding-infant-nutrition/australian-national-breastfeeding-strategy>

<sup>7</sup> Department of Health (2023). Review of the Marketing in Australia of Infant Formulas: Manufacturers and importers agreement. Final Report. Accessed 15 April 2024 from [https://www.health.gov.au/sites/default/files/2024-04/review-of-the-marketing-in-australia-of-infant-formulas-manufacturers-and-importers-maif-agreement-final-report\\_1.pdf](https://www.health.gov.au/sites/default/files/2024-04/review-of-the-marketing-in-australia-of-infant-formulas-manufacturers-and-importers-maif-agreement-final-report_1.pdf)



This review recommends a “stronger regulatory framework to restrict the marketing of infant formula in Australia” is required (p8) and that the MAIF Agreement is no longer fit for purpose. If the current MAIF Agreement were to be re-instated for a further 5 years, the review recommendations would be redundant and result in no substantive change in breastfeeding public policy in the short term. It is therefore premature to approve the proposed INC application.

## Conclusion

To this end, the ANMF objects to the approval of the Infant Nutrition Council (INC) application for re-authorisation of the MAIF Agreement for a further five years. If Australia aspires to uphold the essence of the Code and the ANBS, the recommendations of the Department of Health and Aged Care’s review of the MAIF Agreement need to be acted upon without delay. If the INC is to be granted approval for re-authorisation of the MAIF Agreement as a short-term measure, more stringent restrictions must be applied, consistent with the evidence and the Code, regarding the marketing and misleading claims of toddler milks advertising.