

Response ID ANON-NN54-U4HK-1

Submitted to Review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement)
Submitted on 2023-05-12 16:46:47

MAIF Survey

Privacy and Personal Information

1 I acknowledge that I have read and understood the 'Privacy and Personal information'

Yes:
Yes

Publishing Consent

2 Do you provide consent to publish your submission/survey responses? Please indicate your publishing preference:

Yes, please publish my response (name/organisation name included)

PART 1 - Introduction and Demographic Information

3 What is your name or organisation name?

Name::
Breastfeeding Advocacy Australia

4 What is your email address?

Email::
breastfeedingadvocacyaustralia@gmail.com

5 Please select the option that best describes you or your organisation?

Breastfeeding Advocacy Group

If 'Other' is selected, please specify::

If 'Overseas-based Organisation' is selected, please name the country in which your central office is located::

6 Please answer questions i and ii:

i. Have you ever purchased infant formula products for your child or a child under your care (under 12 months of age)? :

Yes

If you selected 'Yes', what affected your decision to purchase a product? (suggested word limit 250 words): :

Members of BAA have purchased infant formula and have done so because of a lack of support and aggressive marketing that led to the false belief that their milk supply was insufficient and inadequate. Others have been instructed to use infant formula by ignorant health workers, such as gps, who receive training from the breastmilk substitute industry and are influenced by marketing too.

ii. Have you ever purchased 'toddler milk' for your child or a child under your care (aged 12 – 36 months)? :

No

If you selected 'Yes', what affected your decision to purchase a product? (suggested word limit 250 words)::

PART 2 - Is the MAIF Agreement effective in achieving its aims?

14 The MAIF Agreement is effective in achieving its aims.

Strongly disagree

Please provide more detail about your response (suggested word count 250 words)::

Voluntary, self-regulated agreements do not work - as determined by the WHO. MAIF is no exception to this. There are ZERO consequences to signatories that are found 'in breach'. They are not even required to remove the offending advertisement! Manufacturers continue to advertise infant formula and a range of growing up milks as a means to cross promote the entire range and circumnavigate the weak MAIF agreement. The scope of the MAIF doesn't include products advertised as partial or full replacement of breastfeeding, feeding bottles, teats -including dummies (as per the Code). Breast pumps, bottles, teats, dummies, probiotics, supplements, maternal 'lactation' milks are examples of products infant formula manufacturers produce and market

to pregnant and breastfeeding mothers as partial or full replacement of breastfeeding- and increased gain market share. MAIF is not the reference point from which the DoH should start. The International Code (including WHA resolutions) as a MINIMUM standard - with penalties and fines for breaches is what is required to protect the mothers and infants from marketing tactics that de-rail breastfeeding relationships. Marketing is a completely inappropriate method of communicating information to parents because it is inherently designed to increase profits - not for educational/informational purposes. The WHO provides detailed guidance on how *appropriate* information can be delivered to parents regarding supplements- there is no need for industry to be involved in the transfer of information. *Appropriately trained* health workers who are Code compliant are the best people for infant feeding guidance, delivered one on one to the person who will be using the product.

PART 3 - Is the scope of the MAIF Agreement appropriate: is it still meeting the objectives?

15 The scope of the MAIF Agreement is appropriate.

Strongly disagree

Please provide more detail about your response (suggested word count 250 words)::

There are hundreds of products that are marketed as substitutes for breastfeeding other than infant formula. MAIF only covers signatories and not all infant formula manufacturers and distributors in Australia have signed the voluntary agreement. Therefore the scope of coverage is so limited and narrowly focused industry has an unlimited number of products, proxies and mechanisms that are incredibly effective at circumnavigating the MAIF. The International Code of Marketing of Breastmilk Substitutes and subsequent relevant WHA resolutions provide the MINIMUM standard (including scope) for protecting mothers and their families from unethical and aggressive marketing that undermines breastfeeding. Every WHA resolution urges countries and Governments to implement policies and regulations that are required in that country. This means that products outside the black and white definition of the code scope can be included and Governments have the sovereign power to do so.

16 The scope of products covered by the MAIF Agreement is appropriate.

Strongly disagree

Please provide more detail about your response (suggested word count 250 words)::

Only infant formula is covered and ONLY if the manufacturer of importer is a MAIF signatory. This scope is drastically insufficient. The statement "It also restricts the promotion of 'breastmilk substitutes' which includes 'any food marketed as partial or full replacement for breastmilk, whether or not suitable for that purpose'" is included as Clause 3 of MAIF Agreement but only as a definition of a breastmilk substitute. It misrepresents the scope of the Agreement to include the definition of a breastmilk substitute in the MAIF review survey as part of the scope, and compromises the validity of the review. It is clear that the DoH does not understand what products are marketed 'any food marketed as partial or full replacement for breastmilk, whether or not suitable for that purpose'- other than infant formula. These products include (but are not limited to) condensed milk and other milk products, yoghurt, probiotics, cereals for infants, vegetable mixes, 'baby teas', juices, follow-up milks, feeding bottles, and teats. The WHO Guidance on Ending the Inappropriate Promotion of Foods for Infants and Young Children was established in 2016 through the WHA Resolution 69.9. This resolution not only identifies follow-up formulas and growing-up milk as BMS but also offers suggestions to put an end to inappropriate advertising of commercial complementary foods for infants and young children aged 6 months to 3 years. This guidance is what should be implemented in Australian regulations. This misrepresentation of the scope further highlights how poorly planned the MAIF Agreement was in its inception, and how convoluted the MAIF and its processes are for consumers. Working under the assumption that all involved have a sound knowledge and experience of regulatory and policy documents yet the Department of Health and Ageing (DoH) signed off on the survey that misrepresents the scope - what hope do consumers have navigating the complaints process? For these reasons (but not limited to) it cannot be said that MAIF fulfills Australia's obligations under the International Code, or even be considered a 'response' to it.

17 The scope of parties covered by the MAIF Agreement is appropriate.

Strongly disagree

Please provide more detail about your response (suggested word count 250 words)::

Being a voluntary self regulated agreement means there is only a limited number of companies that are signatories. Advertising & media influence infant & young child feeding practices & shape decision making. Studies have shown that mothers do not differentiate between advertising of 'growing up milks' & infant formula. Marketing of infant formula (0-12 months) is supposed to be restricted in Australia (in effect it's not). However, cross-promotion is a common marketing tactic that manufacturers of breastmilk substitutes use in Australia to exploit gaps in national advertising regulations. The packaging of infant formula ranges are identical to other product lines which are unsuitable for infants under 12 months. This has been identified as a risk to babies health, as infants can be mistakenly fed products which do not meet their unique nutritional requirements. Additionally, complementary foods marketed at children 0-36 months have been identified to displace breastmilk feeds and promote premature weaning displace breastmilk feeds and promote premature weaning (12). Please also read the recent report published by Breastfeeding Advocacy Australia titled - Undermining Breastfeeding for Profit: A Report on the Weekly Collection of International Code Breaches, March 2021 to December 2022. This report summarises products that members of the BAA facebook group have reported and includes the companies, products and type of advertising that mothers are bombarded with every day. All these should be included in future scope and coverage for regulatory measures.
<https://storage.googleapis.com/wzukusers/user-34970444/documents/c16190fb7ac544af9e2583a59eb976ca/Violations%20Report%20April%202023.pdf>

18 The MAIF Agreement (under Clause 7) restricts the type of information that can be provided to health care professionals on infant formula products. What activities can be done to increase the awareness of the appropriate use of breast milk substitutes amongst health care professionals?

Please provide more detail about your response (suggested word count 250 words)::

Scale up the Baby Friendly Hospital Initiative. Starting with removing Australian College of Midwives as steward. They are sponsored by infant formula supplier, bottle and teat company and probiotics company that markets themselves as a partial replacement to breastfeeding. They are not Code compliant and it is outrageous that the responsibility (and funding!) is with an organisation that does not adhere to the principles of the Code.

Strengthen Health Systems rationale:

Studies have identified that Australian health professionals do not receive adequate education or clinical skills training to help mothers manage common breastfeeding concerns (Brodribb, 2012; Holtzman & Usherwood, 2018). Their advice is heavily influenced by personal experience that is unhelpful for mothers (Clifford & McIntyre, 2008; Holtzman & Usherwood, 2018). Professional development is necessary, but can be problematic because health workers often attend conferences sponsored by industry. Industry funded education teaches health workers to promote products, not clinical breastfeeding skills (Grummer-Strawn et al., 2019; World Health Organization & United Nations Children's Fund, 2022). There are estimated to be 266 maternity facilities across Australia. Only 73 of them hold Baby Friendly Hospital Initiative (BFHI) accreditation (Baby Friendly Hospital Initiative, 2020). The BFHI is built upon the 10 Steps to Successful Breastfeeding, established by the WHO and United Nations Children's Fund (UNICEF) to protect, promote and support breastfeeding in maternity facilities and other healthcare settings, see Figure 2 (Baby Friendly Hospital Initiative, 2020). WHO Code compliance has been identified as a critical element in the success of the BFHI 10 Steps to Successful Breastfeeding (World Health Organization, 2016a). Studies have shown that when health workers undergo education and clinical skills training in line with the 10 Steps to Successful Breastfeeding, breastfeeding rates increase. For example, when BFHI was implemented in Hong Kong, breastfeeding rates in the first hour after birth and on hospital discharge more than doubled (Shing et al., 2022). If Australia ratifies the WHO Code into legislation professional organisation sponsorships would be banned, and health workers would receive conflict free breastfeeding professional development (Ching et al., 2021)

Reference provided upon request.

19 Are the current advertising and marketing provisions covered by the MAIF agreement appropriate?

Strongly disagree

Should the scope be changed to include modern marketing techniques, such as targeting advertising on social media platforms? (suggested word count 250 words)::

Please read the recent report published by Breastfeeding Advocacy Australia titled - Undermining Breastfeeding for Profit: A Report on the Weekly Collection of International Code Breaches, March 2021 to December 2022. This report summarises products that members of the BAA facebook group have reported and includes the companies, products and type of advertising that mothers are bombarded with every day. All these should be included in future scope and coverage for regulatory measures.

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WHO, UNICEF, ANBS 2019, IBFAN, ICDC, and other peer review literature should be considered as sources as well.

What changes would you suggest and how could they be implemented? (suggested word count 250 words): :

Australian National Breastfeeding Strategy 2019 and beyond (The Strategy) was commissioned by the Council of Australian Governments (COAG) to create an enduring framework for scaling up breastfeeding in Australia. It states:

"(The Strategy) provides a framework for integrated, coordinated action to shape and inform Commonwealth, state, territory and local government policies and programs as they support mothers, fathers/partners and their babies throughout their breastfeeding journeys. It sets out a vision, objectives, principles, priority areas and action areas to provide a supportive and enabling environment for breastfeeding".

The review of the MAIF Agreement, commissioned by the Department of Health and Ageing conducted by Allen + Clarke Consulting, is the first action area implemented under The Strategy - priority area 1.2 'prevent inappropriate marketing of breastmilk substitutes'. Understanding that this review is part of a policy document with stated objectives and evidence based rationale, the next appropriate step is to carry out the recommendations within the ANBS. Evidence indicates that countries who adopt a multi-level public health strategy, such as ANBS 2019, have had the most significant success increase breastfeeding rates. However, no single component is as effective if it is delivered independent of the framework it operates within. It requires collaboration between government and non-government organisations; and involvement of health workers, community, policy makers and advocacy groups. The strategy must be underscored by strong political will. For example, Brazil implemented the 'Breastfeeding Gear' model, which employs a 'complex adaptive systems approach' utilising effective strategies that protect, promote and support breastfeeding in multiple settings, and all life stages continuum. A comparison was made with Mexico, who implemented weak, and incomplete measures. The outcomes were significantly different. Mexico had little change to breastfeeding exclusivity or duration, but Brazil increased dramatically.

The Australian government has not invested sufficient funding or resources to implement the ANBS. Central to the breastfeeding gear model is establishing a National Breastfeeding Advisory Committee to coordinate, monitor and evaluate multi-level strategies, such as the ANBS. The MAIF Agreement does not form part of the recommendations in ANBS. Therefore it must be replaced by enacting the International Code and WHA resolutions into legislation, with penalties and fines for breaches. With sound monitoring and evaluation processes, that are free from industry connections and conflicts of interest.

Breastfeeding Advocacy Australia provides a list of recommendations in Undermining Breastfeeding for Profit: A Report on the Weekly Collection of International Code Breaches, March 2021 to December 2022, and the soon to be published 'MAIF Review and Recommendations'.

<https://storage.googleapis.com/wzukusers/user-34970444/documents/c16190fb7ac544af9e2583a59eb976ca/Violations%20Report%20April%202023.pdf>

PART 4 - Are the MAIF Agreement processes appropriate?

20 The MAIF Agreement complaints processes are appropriate.

Strongly disagree

Please provide more detail about your response (suggested word count 250 words)::

Please read this section in tandem with viewing the PowerPoint presentation and interview recording with members of the Breastfeeding Advocacy Australia attended on Thursday 13th April with Allen + Clarke.

21 The MAIF Agreement guidance documents are appropriate to support interpretation of the MAIF Agreement?

Strongly disagree

Please provide more detail about your response (suggested word count 250 words):

The Guidance documents are not together with the Agreement on the website and are confusing and difficult to interpret.

22 Have you lodged a complaint with the MAIF Agreement Complaints Committee?

Yes

23 If you selected 'Yes' to lodging a complaint with the MAIF Agreement Complaints Committee (Question 22). Please answer the sub-questions below.

i. How many complaints have you lodged in the last five years?:

80

ii. When did you lodge your most recent complaint? :

April 2023

iii. How long did it take to resolve your complaint? :

6 months to make a determination on 8 complaints, 5 months to make a determination on the other 15. 7 months and still waiting on the outcome of 56 complaints dated from September 2022 to April 2023

iv. How did you find the process for lodging your complaint including completing the form and communicating with the MAIF Secretariat? (suggested word count 250 words): :

MAIF Summary

March 2022-April 2023

79 complaints submitted by BAA from 25.3.22 to 2.4.23.

Over 30 MAIF breaches captured waiting on volunteer breastfeeding advocates to have time to submit via the complicated MAIF process.

23 final determinations made by committee (2 letters); 16 found in breach, 7 out of scope.

Only 1/23 final determinations are visible on the DoH website.

ALL 16 found in breach are still visible on the manufacturer's social media.

6 months to make a determination on 8 complaints, 5 months to make a determination on the other 15.

7 months and still waiting on the outcome of 56 complaints dated from September 2022 to April 2023

Zero penalty for any of the manufacturers of infant formula found in breach.

All manufacturers found in breach have continued to use the same advertising practices - and have new complaints pending determination by the committee.

v. What was the outcome, and what was your view of the outcome? (suggested word count 250 words):

The complaints process is not transparent and currently has the president of the infant formula lobby group as one of the 3 members. I received two sentences as explanation. MAIF is a farce.

24 The MAIF Agreement complaints process is independent.

Strongly disagree

Please provide more detail about your response (suggested word count 250 words):

The complaints process is not transparent and currently has the president of the infant formula lobby group as one of the 3 members. Further to this industry is INVITED to participate in the complaints process at 2 separate junctions BEFORE a determination is met. This is outrageous, industry run and influenced, MAIF is a farce.

Please read this section in tandem with viewing the PowerPoint presentation and interview recording with members of the Breastfeeding Advocacy Australia attended on Thursday 13th April with Allen + Clarke where these issues are defined further.

25 The MAIF Agreement complaints process is transparent.

Strongly disagree

Please provide more detail about your response (suggested word count 250 words):

I received at most 2 sentences as explanation. Given the complexity of the MAIF agreement and guidance documents this does not reconcile. The reason there is no explanation is that there is no internal processes guiding the determinations. They literally make up their own rules.

26 The MAIF Agreement complaints process is administered in a timely manner.

Strongly disagree

Please provide more detail about your response (suggested word count 250 words)::

The longest BAA has waited for a determination has been 15 months, the fastest 5 months. Unacceptable!

27 Publication of breaches of the MAIF Agreement is an appropriate enforcement mechanism.

Strongly disagree

Please provide more detail about your response (suggested word count 250 words)::

The list of publications on the DoH website does not include most of the complaints BAA has made! So there is LITERALLY no consequences for being found in breach. Not that being published on a website is sufficient penalty in the first place!

PART 4 continued - Is the voluntary, self-regulatory approach fit for purpose or are there alternative regulatory models?

28 The MAIF Agreement's effectiveness is not reduced by its voluntary, self-regulatory approach.

Strongly disagree

Please provide more detail about your response (suggested word count 250 words)::

MAIF cannot be described as an effective regulatory mechanism because there is no monitoring, enforcement or internal evaluation measures in place. The agreement is only applicable to signatories, and it doesn't include the vast majority of companies that advertise breastmilk substitutes to pregnant and breastfeeding mothers in Australia. MAIF only covers infant formula products from 0-12 months, and no other products, and only applies to signatories if they have initiated the advertising or promotion. Noteworthy, only a limited number of manufacturers of infant formula are signatories. The International Code and WHA resolutions are intended to be a MINIMUM standard for protecting breastfeeding from unethical and aggressive marketing practices that undermine breastfeeding and compromise maternal and child health. The severely limited scope and coverage of MAIF is nowhere close to a MINIMUM standard. It is well understood internationally that voluntary, self-regulatory systems are ineffective at reducing the power of, and exposure to, breastmilk substitute marketing and other infant and young child feeding products.

29 What are alternative approaches for regulating infant formula in Australia? In your response, please include how your suggested alternative approach improves outcomes and what would be the impacts of your suggested alternatives on relevant stakeholders? How could negative impacts be managed?

(suggested word count 500 words)::

The European model law has been endorsed by WHO and developed ICDC is a robust regulatory framework that countries can use and add whatever they need to protect mothers and children from exploitative marketing that undermines successful breastfeeding. It can be found here. It states: "The International Code of Marketing of Breastmilk Substitutes and subsequent Resolutions by the World Health Assembly, along with the 2016 WHO Guidance on ending the inappropriate promotion of foods for infants and young children provide the regulatory framework to put an end to unethical marketing practices. This policy brief provides step-by-step guidance on how to review the current level of national implementation of these instruments and then proceed to strengthen measures and establish effective systems for implementation and enforcement. This includes the use of a "model law" developed specifically for the Region to demonstrate what effective regulations should look like"

The WHO Guidance on Ending the Inappropriate Promotion of Foods for Infants and Young Children should be used in tandem with the Model Law states:

"In 2016, the World Health Assembly approved the WHO Guidance on Ending the Inappropriate Promotion of Foods for Infants and Young Children.

The Guidance aims to protect breastfeeding, prevent obesity and chronic diseases, and to promote a healthy diet. In addition, the Guidance aims to ensure that parents and other caregivers receive clear and accurate information on the best way to feed their infants and young children.

To assist countries in achieving these aims, the Guidance lays out several recommendations for controlling the marketing of foods and beverages targeted toward children under the age of 36 months, with the goal of protecting breastfeeding, preventing obesity and chronic diseases, and promoting a healthy diet."

PART 5 - What are the benefits, costs and any limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes?

30 What changes would you make to the MAIF Agreement and its processes?

a. (suggested word count 250 words)::

MAIF needs to be abandoned. Recommendations as per previous question and found in BAA's soon to be published 'MAIF Review and Recommendations'.

b. What do you think would be the potential benefits of these changes (suggested word count 250 words)?:

Legislation of The WHO Code and regulatory measures that limit the marketing of breastmilk substitutes, is a cost-effective strategy for the Government and Department of Health to tackle while working within budget constraints. This however, must be coupled with effective coordination, monitoring and enforcement and evaluation.

Countries that have implemented WHO Code legislation have significant improvements in exclusive breastfeeding rates and duration. For example, in 2009 Vietnam's exclusive breastfeeding rates were 20%. With Code legislation and other coordinated measures to promote breastfeeding implemented, rates rose to 62% by 2014.

Climate change is increasing the frequency and severity of natural disasters and it is the infants who are formula fed that are the most vulnerable to disease and death in these crises. This is because of the difficulty accessing clean water and electricity required for preparation. The 2019 bushfires and the 2022 floods taught Australians that natural disasters caused by global warming impact wealthy countries too. Infant formula cannot be safely prepared in emergency settings. It requires boiling water, clean water to wash hands, sterilizing equipment, clean space to prepare. This is because formula milk powder contains harmful bacteria that must be killed with previously boiled water, no cooler than 70 degrees celcius. Breastfeeding is food security, safe and easily transportable, with no supply chain shortages as occurs with infant formula.

In 2015 a study concluded that greenhouse gases produced from powdered milk formula and powdered toddler drinks in just 6 Asia Pacific countries was the equivalent of 9 billion kilometres of car travel. Most of the emissions coming from toddler drink. Noteworthy is that toddler drinks and other powdered milk products grouped as growing up milks (GUMs) have been identified by WHO as unnecessary and potentially harmful due to high sugar content and being an ultra-processed food substitute that displaces breastmilk and home cooked, locally sourced family foods. Additionally, it is estimated that 4000 litres of water is required to make just one tin of formula. With global water scarcity crisis, it is not sustainable to continue to manufacture and export these environmentally damaging products.

c. What do you think would be the potential costs of these changes (suggested word count 250 words)? :

The ANBS suggests removing GST exemption from all foods, including infant formulas, aimed at infants and young children as a disincentive to use artificial formulas and other ultra-processed packaged foods aimed at infants and young children. It is noteworthy that there is a potential to widen the gap in health equity between the most disadvantaged and least disadvantaged by removing GST exemption, as the highest rate of non-exclusive breastfeeding is among mothers in low socioeconomic households. This can be offset by providing a minimum 6m maternity leave, affordable & accessible child care, and work place protections, including paid lactation breaks and safe place to store milk or breastfeed. This is particularly important for Indigenous mothers who have lower initiation and exclusive breastfeeding rates and poorer health outcomes than non-Indigenous mothers. They are 4.6 times more likely to die in the early postpartum than non-Indigenous mothers too.

d. What do you think would be the potential limitations of these changes (suggested word count 250 words)?:

Changes are only limited by a lack of political will.

31 To support your responses under Part 5 - the benefits, cost and any limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes. Please attach supporting evidence (data or literature) here.

Upload (word or PDF) document:

Violations Report April 2023.pdf was uploaded

PART 6 - Final Comments

32 Do you have anything further to add?

(suggested word count 250 words)::

Allen + Clarke have the health of mothers and children in their hands. The lens through which this review is viewed must keep the International Code and WHA resolutions as its focus. The evidence is overwhelmingly in favour of enacting robust International Code legislation into Australian law with penalties and fines for breaches. This must be coupled with a regulatory framework that incorporates monitoring and evaluation which is overseen by a governing body that is free from industry connections and any associated conflicts of interest.