

Response ID ANON-NN54-U4X9-Y

Submitted to Review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement)
Submitted on 2023-05-12 14:16:47

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::
Institute for Physical Activity and Nutrition, Deakin University

4 What is your email address?

Email::
ipandir@deakin.edu.au

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

Health, Public Health Representative/Organisation

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)? :
No

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

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)::

The baby food industry uses a powerful system of marketing to influence consumers, health professionals, scientists and policy-makers.¹ The MAIF Agreement is a code of conduct voluntarily followed by the industry, which doesn't hold any legal power or regulation. Companies who haven't signed the MAIF Agreement aren't bound by its terms, and many such companies choose not to sign up. Breaching the MAIF Agreement doesn't lead to any penalty for the signatories. The absence of strict penalties for manufacturers and importers who violate the provisions of the Code creates a situation where healthcare professionals, advocates, and families in Australia are unable to counter the sophisticated yet elusive and intrusive marketing methods employed to undermine and mislead them. This is especially concerning as it deprives women of their right to make informed decisions about their baby's feeding, which is of utmost importance. A committee dominated by the industry decides on the complaints related to MAIF Agreement breaches. This committee has strong connections with the manufacturers and isn't statutory. Unlike the pre-2013 APMAIF arrangements, there is no independent monitoring of MAIF breaches, no statutory

reporting or accountability to Parliament.

Follow on formula, toddler milk, and packaged baby foods aren't included in the MAIF Agreement, which enables cross-promotion of breastmilk substitutes. In contrast the WHO Code and relevant documents describe breastmilk substitutes as "any food being marketed or otherwise represented as a partial or total replacement for breast-milk, whether or not suitable for that purpose". Breastmilk substitutes include any milks in either liquid or powdered form, that are marketed for infants and young children up to the age of three years. This includes infant, follow-on and toddler formulas, and products such as bottles and teats^{2,3}.

The MAIF Agreement doesn't restrict marketing by retailers or pharmacies, including those who sell their own label formula products. These outlets often promote infant formula products through their stores and catalogues, and it's difficult to ascertain if these promotions are based on the information provided by the companies or not.

The MAIF Agreement doesn't prohibit the marketing of breastmilk substitutes to health professionals and early child care educators. Manufacturers can provide samples of these products to these professionals who can then pass them on to families.

Breastmilk substitute manufacturers advertise their products on various digital channels like social media, search engines, company or third-party websites, streaming services, and smartphone apps, among others⁴. These advertisements may contain claims that manipulate families into believing that breastmilk substitute products are important for their child's health⁵. This contradicts the WHO Code and subsequent WHA Resolutions, and studies show that exposure to such information lowers the intention to breastfeed and initiate breastfeeding⁶.

1. Rollins, N., Piwoz, E., Baker, P., Kingston, G., Mabaso, K. M., McCoy, D., ... & Hastings, G. (2023). Marketing of commercial milk formula: a system to capture parents, communities, science, and policy. *The Lancet*, 401(10375), 486-502.
2. World Health Organization. (2016). Maternal, infant and young child nutrition: guidance on ending the inappropriate promotion of foods for infants and young children, sixty-ninth World Health Assembly A69/7 Add.1. WHO.
3. World Health Organization. (2016). Guidance on ending the inappropriate promotion of foods for infants and young children: implementation manual, sixty-ninth World Health Assembly, A69/7 Add.1. Geneva: WHO
4. Jones, A., Bhaumik, S., Morelli, G., Zhao, J., Hendry, M., Grummer-Strawn, L., & Chad, N. (2022). Digital marketing of breast-milk substitutes: a systematic scoping review. *Current Nutrition Reports*, 11(3), 416-430. <https://doi.org/10.1007/s13668-022-00414-3>
5. VicHealth. (2020). Toddler milks overpriced, high in sugar and potentially harmful to health. Victorian Health Promotion Foundation. <https://www.vichealth.vic.gov.au/-/media/Toddler-milk-and-food-research-Media-Release.pdf?la=en&hash=8635183DE48575665C45FC2C9290BDFDC13C8AF4>
6. Zhang, Y., Carlton, E., & Fein, S. B. J. J. o. H. L. (2013). The association of prenatal media marketing exposure recall with breastfeeding intentions, initiation, and duration. *Journal of Human Lactation*, 29, 500-509.

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)::

The MAIF Agreement, which purports to implement the WHO Code, is not enforceable and has a narrow scope. The MAIF Agreement is limited to infant and follow-on formula for children between the ages of 0 and 12 months, and it excludes toddler milk beverages, commercial baby foods, as well as bottles and teats used to cross promote breastmilk substitutes. Retailers are not covered by the agreement, and not all manufacturers and importers have signed it. The level of transparency concerning the interpretation and monitoring of the MAIF Agreement is low, and there are no sanctions imposed when a violation is discovered.

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)::

Toddler milks marketed for young children aged 13 to 36 months should be included in the MAIF agreement. WHO technical guidance states that these are within scope of the International Code of Marketing of Breastmilk Substitutes. Currently, toddler milks are packaged, branded and labelled in near identical ways to infant formula, as a deliberate strategy used by the industry to cross promote infant formula products and 'market around' the current scope of the MAIF. This is a form of commercial misinformation, that deliberately misleads parents and caregivers^{1,2}. This cross-promotion strategy is used extensively worldwide, including in Australia. Evidence shows that advertising a product in a similarly branded range promotes other products in the range, such as toddler milk drinks which are often confused with infant formula.³⁻⁵ In Australia and Italy, for example, 67% and 81% of mothers surveyed reported having seen an infant formula advertisement respectively, despite the legal non-existence of such advertisements.^{4,6}

1. Rollins, N., Piwoz, E., Baker, P., Kingston, G., Mabaso, K. M., McCoy, D., ... & Hastings, G. (2023). Marketing of commercial milk formula: a system to capture parents, communities, science, and policy. *The Lancet*, 401(10375), 486-502.
2. World Health Assembly. (2016). Sixty-ninth World Health Assembly: ending inappropriate promotion of foods for infants and young children: May 28, 2016. WHA. https://apps.who.int/gb/ebwha/pdf_files/WHA69/A69_R9-en.pdf?ua=1
3. Pomeranz, J. L., Romo Palafox, M. J., & Harris, J. L. (2018). Toddler drinks, formulas, and milks: labeling practices and policy implications. *Preventive Medicine*, 109, 11-16. <https://doi.org/10.1016/j.ypmed.2018.01.009> ,
4. Berry, N. J., Jones, S. C., & Iverson, D. (2012). Toddler milk advertising in Australia: infant formula advertising in disguise? *Australasian Marketing Journal*, 20(1), 24-27. <https://doi.org/https://doi.org/10.1016/j.ausmj.2011.10.011>
5. Smith, J., & Blake, M. (2013). Infant food marketing strategies undermine effective regulation of breast-milk substitutes: trends in print advertising in Australia, 1950-2010. *Australian and New Zealand Journal of Public Health*, 37(4), 337-344. <https://doi.org/10.1111/1753-6405.12081>
6. Cattaneo, A., Pani, P., Carletti, C., Guidetti, M., Mutti, V., Guidetti, C., & Knowles, A. (2015). Advertisements of follow-on formula and their perception by pregnant women and mothers in Italy. *Archives of Disease in Childhood*, 100(4), 323-328. <https://doi.org/10.1136/archdischild-2014-306996>

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)::

The MAIF Agreement needs to include retailers and manufacturers who direct-sell, not just importers and manufacturers, to close a major loophole in breastmilk substitute marketing. Retailers like supermarkets and pharmacies are not currently bound by any restrictions or penalties for advertising formula products, leading to violations of the WHO Code's advertising and promotion rules. This allows formula manufacturers to appear to comply with the Code while pushing the marketing role onto retailers who have no fear of penalties. In Australia, supermarket and pharmacy catalogues frequently advertise formula products, and discounted prices are commonly seen on shelves. 35.14% of breaches of the WHO Code reported in a recent ABA survey were by supermarket and pharmaceutical retailers.

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)::

Manufacturers of breastmilk substitutes systematically target health professionals with their marketing, because they know professional recommendations to mothers, parents and caregivers are highly influential in shaping decisions regarding infant and young child feeding. At the same time there is a major lack of training provided to health care professionals on the protection, promotion and support for breastfeeding, which provides a vacuum in knowledge and skills that the companies exploit. Companies engage health professionals through multiple channels, including sponsorship of conferences, providing branded materials, and through direct provision of professional training on infant and young child feeding.¹⁻³ There is also evidence from the UK, that the milk formula industry has powerfully shaped guidelines concerning the diagnosis of cows milk protein allergy, and the over-diagnosis of this condition more than 10-fold higher than background prevalence.^{4,5} These practices should be prevented and stopped. Any guidelines and training provided to health care professionals – including midwives, maternal and child health nurses, general practitioners and paediatricians – concerning breastfeeding or the use of infant formula, should be unbranded and free from commercial conflicts of interest. Our research shows that formula fed infants are more likely to experience rapid weight gain which is associated with a higher risk of overweight and obesity in childhood and adulthood. Our systematic review showed that the provision of 'best practice' formula feeding advice to reduce rapid weight gain should include recommendations for correct formula preparation, not adding cereals into bottles, not putting a baby to bed with a bottle, and not overfeeding formula.⁶ However a survey of Australian mothers found one fifth who were formula feeding did not receive any formula feeding advice from professional sources, compared to only a small fraction (4.5%) of mothers breastfeeding who reported not receiving any breastfeeding advice from professional sources.⁷ Embedding appropriate information on best practice formula feeding advice into pre-service training for health professionals should be considered alongside professional development for health professionals in the workforce. This training should be evidenced based, unbranded and developed by academics and professional associations free from commercial conflicts of interests, and without industry involvement, to ensure balanced and appropriate information is provided.

1. Baker, P., Russ, K., Kang, M., Santos, T. M., Neves, P. A., Smith, J., ... & McCoy, D. (2021). Globalization, first-foods systems transformations and corporate power: a synthesis of literature and data on the market and political practices of the transnational baby food industry. *Globalization and health*, 17(1), 58.
2. Baker, P., Santos, T., Neves, P. A., Machado, P., Smith, J., Piwoz, E., ... & McCoy, D. (2021). First-food systems transformations and the ultra-processing of infant and young child diets: The determinants, dynamics and consequences of the global rise in commercial milk formula consumption. *Maternal & child nutrition*, 17(2), e13097
3. Rollins, N., Piwoz, E., Baker, P., Kingston, G., Mabaso, K. M., McCoy, D., ... & Hastings, G. (2023). Marketing of commercial milk formula: a system to capture parents, communities, science, and policy. *The Lancet*, 401(10375), 486-502.
4. van Tulleken, C. (2018). Overdiagnosis and industry influence: how cow's milk protein allergy is extending the reach of infant formula manufacturers. *BMJ*, 363.
5. Smith, T. D., Townsend, R., Hussain, H. S., Santer, M., & Boyle, R. J. (2021). Milk allergy guidelines for infants in England promote over-diagnosis: a cross-sectional survey. *Clinical and Experimental Allergy: Journal of the British Society for Allergy and Clinical Immunology*.
6. Appleton J, Russell CG, Laws R, Fowler C, Campbell K, Denney-Wilson E. Infant formula feeding practices associated with rapid or excess weight gain, a systematic review and narrative synthesis. *Maternal and Child Nutrition* 2018 14(3):e12602
7. Appleton J, Russell G, Laws R, Fowler C, Denney-Wilson E. Professional and non-professional sources of formula feeding advice for parents in the first six months. *Maternal & Child Nutrition* 2020: e12942

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)::

Digital marketing of commercial milk formula in Australia is a powerful and sophisticated system that relies on personal data and social media platforms to target women and promote their products. Influencers, including celebrities, experts, and mom influencers, regularly post about formula milk. Women report being inundated by marketing for formula milk, which can negatively impact breastfeeding rates. A study conducted recently¹ discovered that more than 90% of parents with young babies saw ads that violated the WHO Code on digital platforms. Parents who reported seeing more ads were 62% less likely to exclusively breastfeed, 2.5 times more likely to mix feed, and nearly twice as likely to use formula¹. The current MAIF guidance only limits the paying of social media influencers to promote infant formula and does not prevent formula companies from paying celebrities and social media influencers to promote toddler milk drinks or offering them free toddler milk drinks.

1. Unar-Munguía, M., Santos-Guzmán, A., Mota-Castillo, P. J., Ceballos-Rasgado, M., Tolentino-Mayo, L., Sachse Aguilera, M., . . . Bonvecchio, A. (2022).

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

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)::

IPAN, Deakin University have a number of serious concerns with the MAIF complaints processes:

1. The MAIF Complaints Committee is a passive regulator, only responding to public complaints to investigate potential MAIF Agreement breaches.
2. Responsibility for monitoring and reporting violations is outsourced to the community, with the burden falling largely on organizations staffed mainly by volunteers, and almost exclusively by women. This is unfair and costly to the community. Time spent by these organizations and volunteers on these activities takes away from time spent promoting and supporting breastfeeding in the community. Monitoring and reporting responsibilities should be predominantly the responsibility of a government body.
3. The committee responsible for handling complaints related to breaches of the MAIF Agreement is industry-dominated and lacks statutory authority. It has close ties with manufacturers and there is no independent monitoring of MAIF breaches, nor any reporting or accountability to Parliament as there was under the pre-2013 APMAIF arrangements.
4. Further, we are concerned about the small number of members on the MAIF complaints committee and their lack of expertise in infant feeding, particularly breastfeeding. We suggest adding three new members, including a community and consumer representative, a legal expert, and a marketing and communications expert, to advocate for parents and provide legal and social media perspectives. The previous advisory panel, APMAIF, had a broader understanding of parent and advocate issues and included the first two recommended members.
5. Many complaints fall outside the scope of the MAIF due to its narrow scope and lack of mandatory participation from manufacturers and importers. For example in 2021-22, 73% of complaints were deemed "out of scope" highlighting the insufficiency of the MAIF Agreement and the ways in which formula manufacturers can exploit its loopholes to promote their products despite the agreement's existence. It is concerning that eight companies who had not signed the MAIF Agreement received complaints, and the response from the MAIF Complaints Committee was inadequate as they only invited these companies to sign the agreement.
6. Complaints are often not addressed promptly, allowing companies to continue violating the agreement.
7. No penalties are imposed for violations, even when they are found to have occurred. There should be strong penalties introduced, including substantial financial penalties for violators.

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

Not Answered

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

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

Not Answered

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?:

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

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

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): :

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

24 The MAIF Agreement complaints process is independent.

Strongly disagree

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

The committee responsible for handling complaints related to breaches of the MAIF Agreement is strongly influenced by industry and lacks statutory authority. It has close ties with manufacturers and there is no independent monitoring of MAIF breaches, nor any reporting or accountability to Parliament as there was under the pre-2013 APMAIF arrangements.

25 The MAIF Agreement complaints process is transparent.

Not Answered

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

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

Not Answered

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

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)::

Publication of breaches is an ineffective enforcement mechanism. As an example, During 2021-22, The LittleOak Company and Sprout Organic, both signatories of the MAIF Agreement, were found guilty of multiple breaches, but no penalties were imposed on them for their deliberate violations. Additionally, as of March 3rd, 2023, The LittleOak Company was still advertising infant formula on its website, which is a clear violation of the MAIF Agreement, indicating the ineffectiveness of the complaints process.

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)::

Companies who haven't signed the MAIF Agreement aren't bound by its terms, and many such companies choose not to sign up and continue to breach the MAIF agreement. Further, The committee responsible for handling complaints related to MAIF Agreement breaches is largely made up of industry representatives and lacks legal authority. This committee is closely linked to manufacturers and lacks independent monitoring or accountability to Parliament, in contrast to the pre-2013 APMAIF arrangements. Finally, breaching the MAIF Agreement doesn't lead to any penalty for the signatories. In summary, The MAIF Agreement is an ineffective industry-led, voluntary, self-regulatory arrangement that does not curb harmful marketing of breastmilk substitute products in Australia.

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)::

Australia can meet its obligations under the International Code of Marketing of Breastmilk Substitutes, the Convention on the Rights of the Child, and other human rights treaties, by expanding the scope of the MAIF Agreement and referring to the Model Law to strengthen national regulations.

The Model Law1 is a regulation that was created to improve national regulations in Europe and safeguard infants and young children from the harmful impacts of food marketing, including breastmilk substitutes. It can help policymakers identify gaps and weaknesses in their regulations and provide guidance on appropriate legal language to enhance national laws on marketing breastmilk substitutes. Australia can use the Model Law or a similar law designed with WHO guidance to integrate all provisions of the WHO Code, relevant World Health Assembly resolutions, and WHO Guidance.

The Model Law prohibits various activities related to the marketing of breastmilk substitutes, including promoting to the public, using health claims, cross-promotion, and inappropriate messaging. It also restricts promotion through the healthcare system and requires statements that support breastfeeding and reinforce the appropriate age for introducing complementary feeding. Additionally, the law prohibits any behavior by health workers or their associations that would constitute a conflict of interest.

To ensure the protection of breastfeeding and the health of infants, this law should be:

1. Mandatory and legally binding, rather than voluntary.
2. Include products marketed for ages 0-36 months.
3. Prohibit cross-promotion.
4. Include retailers and manufacturers who directly sell infant formula and toddler milk drinks, in addition to importers and manufacturers.
5. Limit marketing practices, particularly on websites, social media, and direct marketing to parents.
6. Establish a transparent and real-time monitoring system with effective penalties.
7. Update the agreement to include World Health Assembly (WHA) resolutions that have been passed to regulate the marketing of breastmilk substitutes, formula, and toddler milk drinks, and continue to update the agreement

1. <https://www.who.int/europe/publications/i/item/WHO-EURO-2022-4885-44648-63367>

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)::

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

The benefits of these changes would be a reduction in marketing of breastmilk substitutes which has been shown to have a negative impact on breastfeeding rates. Not breastfeeding has various costs such as health, human capital, and economic costs.¹ To help policymakers estimate these costs, the Cost of Not Breastfeeding tool was created, which can be adjusted to national data. In Australia, the estimated cost of not breastfeeding is AUD\$125.4 billion per year. Globally, the disease burden associated with not breastfeeding includes 595,379 childhood deaths (6 to 59 months) annually from diarrhoea and pneumonia, 974 956 cases of childhood obesity, and 98 243 maternal deaths each year from breast and ovarian cancers as well as type II diabetes. This leads to a global healthcare system treatment cost of US\$1.1 billion each year¹.

1. Walters, D. D., Phan, L. T. H., & Mathisen, R. (2019). The cost of not breastfeeding: global results from a new tool. *Health Policy and Planning, 34*(6), 407-417. <https://doi.org/10.1093/heapol/czz050>

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

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

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:

No file uploaded

PART 6 - Final Comments

32 Do you have anything further to add?

(suggested word count 250 words)::