epoch – Translate
Translating Early Prevention of Obesity in Childhood

A submission to the Department of Health and Aged Care Consultation on the Marketing in Australia of Infant Formula (MAIF) Agreement

NHMRC Centre of Research Excellence in Translating Early Prevention of Obesity in Childhood (CRE EPOCH-Translate)

12 May 2023

1. **The MAIF Agreement is effective in achieving its aims.**

   Strongly disagree
   The MAIF Agreement is industry-based, voluntary, self-regulatory and non-binding. Companies who haven't signed the MAIF Agreement aren't bound by its terms – and those that do are not obliged to comply with the World Health Organization Code of Marketing of Breastmilk Substitutes (WHO Code) in protecting breastfeeding [1]. Many such companies choose not to sign up to the MAIF Agreement. Researchers from the Early Prevention of Obesity in Childhood: EPOCH Centre of Research Excellence have highlighted where the Commonwealth Health Department does not have the authority to regulate the marketing of formula, complementary foods, and foods/drinks marketed to young children and cannot act to penalise signatories to the MAIF Agreement for violations [2]. We draw attention to the flaws of a self-regulation model, where industry can meet the standards that they set, and therefore continue their practices, even when the agreements themselves are not effective in improving public health.

   We also draw attention to the limited breadth of the MAIF Agreement. The WHO Code 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". Follow on/stage 2 formula, toddler milk, and packaged foods for babies and toddlers are not covered in the MAIF Agreement – a limitation of the MAIF Agreement are that companies market follow on formula and toddler formula to cross-pollinate brand recognition [3] and serve as a proxy for infant formula purchasing decisions [4]. Packaged foods for babies are not covered by the MAIF Agreement, and the introduction of solid foods before 6 months of age can interfere with breastfeeding – the branding of baby food as being suitable from 4 months of age does create confusion on feeding decisions with parents [5, 6].

   [1] McVeagh P. (2005). The World Health Organization Code of Marketing of Breastmilk Substitutes and subsequent resolutions (The WHO Code). *New South Wales Public Health Bulletin*, *16*(3-4), 67–68. https://doi.org/10.1071/nb05017

   [2] Esdaile, E. K., Rissel, C., Baur, L. A., Wen, L. M., & Gillespie, J. (2022). Intergovernmental policy opportunities for childhood obesity prevention in Australia: Perspectives from senior officials. *PloS one*, *17*(4), e0267701. https://doi.org/10.1371/journal.pone.0267701

[3] 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/10.1016/j.ausmj.2011.10.011

[4] Berry, N. J., Jones, S., & Iverson, D. (2010). It's all formula to me: women's understandings of toddler milk ads. *Breastfeeding review: professional publication of the Nursing Mothers' Association of Australia*, 18(1), 21–30.

[5] Walsh, A., Kearney, L., & Dennis, N. (2015). Factors influencing first-time mothers' introduction of complementary foods: a qualitative exploration. *BMC public health*, 15, 939. https://doi.org/10.1186/s12889-015-2250-z

[6] Isaacs, A., Neve, K., & Hawkes, C. (2022). Why do parents use packaged infant foods when starting complementary feeding? Findings from phase one of a longitudinal qualitative study. BMC public health, 22(1), 2328. https://doi.org/10.1186/s12889-022-14637-0

2. The scope of the MAIF Agreement is appropriate

Strongly disagree

The MAIF Agreement is not a suitable alternative to the WHO Code. It is not enforced, has no penalties for breaches, its scope is too narrow in only focusing on infant formula and needs to address follow on/step 2 formula, toddler formula, complementary baby and toddler foods, baby bottles and teats.

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

Strongly disagree

We re-iterate our position in Question 14: toddler formula is marketed for young children aged 13 to 36 months and is not covered in the MAIF Agreement. The latest WHO Code updates include toddler formula [1]. Marketing tactics for toddler formula are permitted in the MAIF Agreement, and allows for the tacit marketing and brand recognition of infant formula by the same company [2]. The scope of products covered by the MAIF Agreement needs to be expanded.

[1] The International Code of Marketing of Breast-milk Substitutes: Frequently Asked Questions (2017 Update), Geneva, Switzerland, World Health Organization; 2017. Licence: CC BY-NC-SA 3.0 IGO. https://apps.who.int/iris/bitstream/handle/10665/254911/WHO-NMH-NHD-17.1-eng.pdf

[2] Harris, J. L., & Pomeranz, J. L. (2020). Infant formula and toddler milk marketing: opportunities to address harmful practices and improve young children's diets. Nutrition reviews, 78(10), 866–883. https://doi.org/10.1093/nutrit/nuz095

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

Strongly disagree

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.

5. **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?**

Health professionals, such as general practitioners, child and family health nurses, midwives, pediatricians, and dietitians, are trusted sources of information and need to provide suitable and unbiased education and support for best-practice formula and bottle feeding for parents who choose not to breastfeed. However, marketing tactics by formula companies through conferences and training events can lead to health professionals, knowingly or unknowingly, repeating marketing messages to parents [1]. Nurses who wanted professional development on bottle feeding identified the need for education independent of commercial companies and associated bias [2].

For parents, there may be more services provided to support breastfeeding than formula feeding [3], when both services are important – particularly on formula feeding safely and to avoid risks of overfeeding, overweight and obesity, choking and tooth decay. However, if health professionals are unavailable to provide information, mothers may instead use formula tins: 22% of mothers in one Australian study reported only receiving formula feeding information from non-professional sources (family, friends, formula tin, online) [4] and may be influenced by the advertising of toddler milk.

Our position is that appropriate information on best-practice formula feeding advice be embedded into pre-service training for health professionals, along with 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] How the marketing of formula milk influences our decisions on infant feeding. Geneva: World Health Organization and the United Nations Children's Fund (UNICEF), 2022. Licence: CC BY-NC-SA 3.0 IGO. https://www.who.int/publications/i/item/9789240044609

[2] Kotowski J, Fowler C, Orr F. Bottle-feeding, a neglected area of learning and support for nurses working in child health: An exploratory qualitative study. J Child Health Care. 2022 Jun;26(2):199-214. doi: 10.1177/13674935211007321. Epub 2021 Apr 8. PMID: 33829871.

[3] Hegedus J, Mullan J. Are we adequately providing support services for optimal infant nutrition in Australia? A study in regional NSW. Aust J Prim Health. 2015;21(3):293-8. doi: 10.1071/PY14044. PMID: 25347753.

[4] Appleton, J, Fowler, C, Laws, R, Russell, CG, Campbell, KJ, Denney-Wilson, E. Professional and non-professional sources of formula feeding advice for parents in the first six months. Matern Child Nutr. 2020; 16:e12942. https://doi.org/10.1111/mcn.12942

6. **Are the current advertising and marketing provisions covered by the MAIF Agreement appropriate?**

Strongly disagree

We re-iterate that the MAIF Agreement does not cover baby and toddler complementary foods. There is no policy to regulate digital advertising and marketing of toddler formula and baby and toddler foods [1]. Digital marketing by Australian baby and toddler food companies normalise and encourage the use of packaged foods, and can project a 'health halo' of presumed healthiness [2]. Parents who use packaged baby foods believe that these foods will contain appropriate amounts of salt and sugar, be at an appropriate texture and contain suitable ingredients for babies [3]. However, in reality, many toddler foods available in Australia are ultra-processed, high in sugar and salt, and are regulated only for health-related marketing claims [4]. The consequences of reliance on packaged baby and toddler foods include establishing early preference of high salt and sugar foods that may develop feeding choices that increase overweight/obesity risk.

[1] Esdaile EK, Rissel C, Baur LA, Wen LM, Gillespie J (2022) Intergovernmental policy opportunities for childhood obesity prevention in Australia: Perspectives from senior officials. PLOS ONE 17(4): e0267701. https://doi.org/10.1371/journal.pone.0267701

[2] Dearlove, T.; Begley, A.; Scott, J.A.; Devenish-Coleman, G. Digital Marketing of Commercial Complementary Foods in Australia: An Analysis of Brand Messaging. Int. J. Environ. Res. Public Health 2021, 18, 7934. https://doi.org/10.3390/ijerph18157934

[3] Isaacs, A., Neve, K., & Hawkes, C. (2022). Why do parents use packaged infant foods when starting complementary feeding? Findings from phase one of a longitudinal qualitative study. BMC public health, 22(1), 2328. https://doi.org/10.1186/s12889-022-14637-0

[4] McCann, J., Russell, G., Campbell, K., & Woods, J. (2021). Nutrition and packaging characteristics of toddler foods and milks in Australia. Public Health Nutrition, 24(5), 1153-1165. doi:10.1017/S1368980020004590

7. **The MAIF Agreement complaints processes are appropriate**

Strongly Disagree

We are concerned with the MAIF complaints process. Breaches to the MAIF Agreement do not result in penalties – the advisory panel can only advise remedial steps [1]. The complaints process is neither independent or transparent [2]. We advise substantial financial penalties for violations – despite multiple violations of the MAIF Agreement by identifiable companies in 2022, breaches continue without consequence [3].

[1] McVeagh P. (2005). The World Health Organization Code of Marketing of Breastmilk Substitutes and subsequent resolutions (The WHO Code). New South Wales Public Health Bulletin, 16(3-4), 67–68. https://doi.org/10.1071/nb05017

[2] Munzer M, Cashin J, Jameson N, Ching C, Chin S, Hou K, Aung CM, Zambrano P, Hoang DV, Mathisen R. Babies before bottom lines: A call for Australia to end exploitative marketing of commercial milk formula at home and abroad. Lancet Reg Health West Pac. 2022 Nov 14;29:100640. doi: 10.1016/j.lanwpc.2022.100640. PMID: 36407868; PMCID: PMC9672941.

[3] Australian Government. 2023. Marketing in Australia of Infant Formulas (MAIF) Complaints Committee. Committees and groups. Accessed 12 May 2023. https://www.health.gov.au/committees-and-groups/maif-complaints-committee

8. **The MAIF Agreement guidance documents are appropriate to support interpretation of the MAIF Agreement?**

   Due to the many shortcomings of the MAIF Agreement, we do not consider these guidance documents useful.

9. **The MAIF Agreement complaints processes is independent**
   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. [response cited from colleagues at the Institute of Physical Activity and Nutrition, Deakin University]

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

    Strongly disagree
    Publication of breaches is ineffective – multiple violations by Sprout Organic have been documented in 2022 [1] and these continuing breaches, without meaningful consequence, demonstrate that the complaints process is ineffective.

    [1] Australian Government. 2023. Marketing in Australia of Infant Formulas (MAIF) Complaints Committee. Committees and groups. Accessed 12 May 2023. https://www.health.gov.au/committees-and-groups/maif-complaints-committee

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

    Strongly disagree
    The MAIF Agreement is not effective. Being voluntary and self-regulated is only one factor that highlights its ineffectiveness.

12. **What are alternative approaches for regulating infant formula in Australia?**

    Australia should be a signatory to the WHO Code, adopt this in the national legislation, and adopt a regulatory approach to trade and export standards that align with the Code [1].

    [1] Munzer M, Cashin J, Jameson N, Ching C, Chin S, Hou K, Aung CM, Zambrano P, Hoang DV, Mathisen R. Babies before bottom lines: A call for Australia to end exploitative marketing of commercial milk formula at home and abroad. Lancet Reg Health West Pac. 2022 Nov 14;29:100640. doi: 10.1016/j.lanwpc.2022.100640. PMID: 36407868; PMCID: PMC9672941.

13. **What changes would you make to the MAIF Agreement and its processes?**

    Due to the limitations of the MAIF Agreement, Australia should legislate the WHO Code [1].

    [1] Munzer M, Cashin J, Jameson N, Ching C, Chin S, Hou K, Aung CM, Zambrano P, Hoang DV, Mathisen R. Babies before bottom lines: A call for Australia to end exploitative marketing of commercial milk formula at home and abroad. Lancet Reg Health West Pac. 2022 Nov 14;29:100640. doi: 10.1016/j.lanwpc.2022.100640. PMID: 36407868; PMCID: PMC9672941.

14. **Do you have anything further to add?**

Infants fed with infant formula are at greater risk for excess weight gain and for early obesity. Marketing of infant formula undermines women's confidence in breastfeeding by medicalising normal infant behaviour like fussiness and crying and implies that breastmilk may not be adequate. Australia adopting the WHO code, limiting marketing of infant formula to vulnerable parents may reduce early child obesity.