

Report
of the
Advisory Panel
on the
Marketing in Australia of Infant Formula
July 2004–June 2007

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Letter of Transmittal

The Hon Nicola Roxon MP
Minister for Health and Ageing
Parliament House
CANBERRA ACT 2600

ANNUAL REPORTS OF THE
ADVISORY PANEL ON THE MARKETING IN AUSTRALIA OF INFANT FORMULA
FOR THE YEARS ENDING 30 JUNE 2005, 30 JUNE 2006 AND 30 JUNE 2007

Dear Minister Roxon

I am pleased to present to you the combined annual reports of the Advisory Panel on the Marketing in Australia of Infant Formula (APMAIF) for the financial years ending 30 June 2005, 30 June 2006 and 30 June 2007.

The APMAIF is a non-statutory advisory panel established by the Australian Government in 1992. In accordance with its terms of reference, the APMAIF receives and investigates complaints relating to the marketing in Australia of infant formulas, and provides advice to the Australian Government Minister for Health and Ageing on the operation of the *Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement)*.

Delays in finalising the 2004–05 and 2005–06 APMAIF Annual Reports were occasioned by the unexpected resignations of the previous two Chairs of APMAIF and an unprecedented number of complaints received by the Secretariat.

The APMAIF looks forward to resuming regular reporting in future.

Yours sincerely



John Kain
Acting Chair
APMAIF
21 December 2007

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Foreword

The 2004 to 2007 period was characterised by an increase in public interest and awareness of both breastfeeding and infant formula marketing issues. This resulted in the referral of an unprecedented number of complaints regarding the marketing of infant formula to the APMAIF for investigation. In 2006-07 alone, almost 900 new complaints were recorded. Whilst the majority of these complaints fell outside of the scope of the MAIF Agreement, it is worth noting that the number of complaints referred to the APMAIF during this one year period was almost equivalent to the 938 complaints referred in the preceding thirteen years. Of the complaints referred to the APMAIF during the 2004 to 2007 period, none were found to involve a breach of the MAIF Agreement.

The increased public interest in breastfeeding and infant formula marketing issues was not unexpected given the announcement in November 2006 that the House of Representatives Standing Committee on Health and Ageing was holding an *Inquiry into Breastfeeding*. This report was publicly released in August 2007.

In the years 2004 to 2007, the APMAIF focussed on increasing liaison and communication with stakeholders. A highlight was the attendance of the then Parliamentary Secretary to the Minister for Health and Ageing, the Hon Christopher Pyne MP, at a stakeholder gathering in Adelaide on 17 May 2006. Discussions were held with the following stakeholders: the Infant Formula Manufacturers Association of Australia (IFMAA) and representatives of the Australian Breastfeeding Association and the Australian Lactation Consultants Association on a number of infant formula issues.

There were a number of membership changes for the APMAIF during these years. The 2004-05 period ended with the resignation of the Chair, Dr Maria Dudycz, who served a term that extended for almost four years (September 2001 to June 2005). Ms Pru Goward took on the role of Chair of the APMAIF in November 2005 before resigning in November 2006. The infant formula industry representative, Mr David Forsythe, who had served on the APMAIF since 1999, resigned in March 2007. Ms Janet Carey, the new Executive Director of the Infant Formula Manufacturers' Association of Australia has subsequently been appointed to the role of industry representative on the APMAIF.

In 2006, APMAIF membership expanded to include a member with legal expertise. I was appointed to this position in August 2006, and then accepted a temporary appointment as Acting Chair pending the appointment of the APMAIF Chair.

I would like to take this opportunity to thank all members of the APMAIF for their efforts in assisting to fulfil the APMAIF terms of reference. The APMAIF would also like to thank the previous chairs, Ms Pru Goward and Dr Maria Dudycz for their service, and the many stakeholders for their contribution and support to the APMAIF.

John Kain
Acting Chair

Chapter 1: Overview of the APMAIF

About the APMAIF and the MAIF Agreement

The APMAIF is a non-statutory advisory panel established by the Australian Government in 1992 to monitor compliance with and advise the Government on the *Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement)*.

The MAIF Agreement is a voluntary, self-regulatory code of conduct between manufacturers and importers of infant formula in Australia. It aims to contribute to the provision of safe and adequate nutrition for infants, by the protection and promotion of breastfeeding and by ensuring the proper use of breast milk substitutes, when they are necessary, on the basis of adequate information and through appropriate marketing and distribution. A copy of the MAIF Agreement is at Appendix A.

The MAIF Agreement applies to the marketing and promotion of infant formulas by those Australian manufacturers and importers of infant formula who are signatories to the MAIF Agreement. The MAIF Agreement does NOT cover:

- other milk products, foods or beverages
- fortified 'toddler milk' drinks marketed for toddlers over 12 months of age
- infant feeding bottles and teats or dummies
- retailer activity
- manufacturers and importers of infant formula who have not agreed to abide by the MAIF Agreement.

As these issues are not covered by the MAIF Agreement, the APMAIF does not have the authority to address complaints on those matters.

The APMAIF has no statutory or formal regulatory powers either to obtain information from industry participants or other parties or to enforce the MAIF Agreement. The APMAIF relies upon the cooperation of the industry participants in the MAIF agreement and other stakeholders to provide information, and on the voluntary commitment of industry participants to implement any changes to marketing practices that are requested by the APMAIF. The APMAIF's role is described below in its terms of reference.

Terms of Reference

The APMAIF's terms of reference are to:

1. receive and investigate complaints regarding the marketing in Australia of infant formulas
2. act as a liaison point for issues relating to the marketing in Australia of infant formulas
3. develop guidelines on the interpretation and application of the MAIF Agreement
4. provide advice on the operation of the MAIF Agreement to the Australian Government Minister for Health and Ageing.

APMAIF Reporting

Under its fourth term of reference, the APMAIF reports to the Australian Government Minister (or Parliamentary Secretary) for Health and Ageing on the operation of the MAIF Agreement. As well as providing an annual report to the Minister or Parliamentary Secretary, the annual reports are normally tabled in Parliament and copies made available to stakeholders. In recent years the reports have also been made available via the Department of Health and Ageing's APMAIF internet pages: www.health.gov.au/apmaif

There are no financial or legal sanctions associated with breaches of the MAIF Agreement. If the APMAIF determines that a breach of the MAIF Agreement has occurred, the only sanction available to APMAIF is to inform the Minister and publish details of the breach in its annual report.

Delays in APMAIF Reporting

The APMAIF normally meets quarterly. However due to the resignation of the APMAIF Chair in June 2005 there was a gap of ten months between the 19 May 2005 meeting and the next time the panel met to consider complaints on 22 March 2006. These circumstances led the APMAIF to initially decide to combine its annual reports for 2004–05 and 2005–06. However, an unprecedented increase in the number of complaints received by the APMAIF secretariat in the second half of 2006 combined with the resignation of the replacement Chair in November 2006 imposed significant workload pressures on the secretariat, again delaying the preparation of the annual reports.

In the interim, the Acting Chair of the APMAIF wrote to the then Parliamentary Secretary drawing his attention to the unprecedented number of complaints, particularly out-of-scope complaints that had been directed to the APMAIF in the second half of 2006. The APMAIF also prepared a submission to the parliamentary inquiry into the health benefits of breastfeeding that was provided to the former Parliamentary Secretary for Health and Ageing for noting prior to submission to the inquiry on 13 June 2007. Subsequently, the present Acting Chair of the APMAIF decided to present the Minister with three years of combined annual reports covering the period 2004 to 2007.

APMAIF Members

In 2004–05 and 2005–06 the APMAIF comprised four members including the Chair, a community and consumer representative, a public health and infant nutrition expert and an industry representative. In 2006–07 the membership increased to five with the addition of a new panel member with the combined roles of Deputy Chair and member with legal expertise. All the members of the APMAIF are part time. Remuneration arrangements are outlined in Chapter 4. The Parliamentary Secretary to the Minister for Health and Ageing appoints the panel members. The industry representative is first nominated by the Infant Formula Manufacturers' Association of Australia (IFMAA) and then ratified and appointed by the Parliamentary Secretary.

The role of APMAIF Chair and Deputy Chair

The APMAIF protocols state that the Chair must be present for a meeting to proceed. When the Chair resigned on 30 June 2005, this meant that the APMAIF was unable to consider complaints until the appointment of a new Chair, resulting in a ten month gap between meetings. When a second Chair resigned on 1 November 2006, it was decided to temporarily appoint Mr John Kain, the panel member with legal expertise as Acting Chair, to avoid further disruptions to the APMAIF business. In June 2007 Mr Kain's role as panel member with legal expertise was extended to include the additional designation of Deputy Chair. The Deputy Chair designation was created to provide continuity until a new substantive Chair is appointed and also as a contingency to assume the role of the APMAIF Chair in the event that a future substantive APMAIF Chair became temporarily unavailable.

APMAIF Chair

Dr Maria Dudycz was appointed as the APMAIF Chair on 24 September 2001. Dr Dudycz has medical and law degrees and has worked as a medical practitioner and in the area of legal medicine. Dr Dudycz resigned from the position of APMAIF Chair on 30 June 2005.

Ms Pru Goward was appointed as the APMAIF Chair in November 2005. Ms Goward has been a journalist, broadcaster and commentator. During 2005–06 she was the Australian Government appointed Federal Sex Discrimination Commissioner for the Human Rights and Equal Opportunity Commission. Ms Goward resigned as Chair of the APMAIF in November 2006 following her preselection as a candidate for the NSW State Parliament seat of Goulburn.

Acting Chair, Deputy Chair and Member with Legal Expertise

Mr John Kain is the APMAIF member with legal expertise. His term of appointment is from 1 August 2006 to 30 June 2008.

Mr John Kain was also appointed as temporary Acting Chair from 13 November 2006. In June 2007 Mr Kain's role was extended to include the new designation of Deputy Chair.

Community and Consumer Representative

Dr Jennifer James was appointed as the community and consumer representative in June 2002. Dr James was re-appointed in December 2004 and again in December 2006, continuing to 30 November 2008.

Dr James currently lectures in midwifery and human lactation at RMIT University in Melbourne and was the Clinical Nurse Consultant on Lactation at Melbourne's Royal Women's Hospital. She is the Vice President of the Australian Lactation Consultants Association National Board and has been a breastfeeding counsellor with the Australian Breastfeeding Association since 1983. Dr James completed her doctorate degree on the *Influences on women's decisions to wean their babies in the first three months*.

Public Health and Infant Nutrition Expert

Professor Colin Binns was first appointed as the public health and infant nutrition expert in October 2001. In November 2005 Professor Binns was re-appointed. His term was further renewed in June 2007 and continues to 30 November 2008.

Professor Binns is Professor of Public Health at Curtin University and Associate Director of the Western Australian Centre for Health Promotion Research. Professor Binns is widely respected for his extensive work and research in nutrition and breastfeeding.

Industry Representative

Mr David Forsythe served as the industry representative on the APMAIF from late 1999 until early in 2007. In March 2007 Mr Forsythe retired from his position as the Executive Director of the Infant Formula Manufacturers Association of Australia (IFMAA) and also resigned from his position on the APMAIF. Mr Forsythe was the Executive Director of the New Zealand Infant Formula Marketers' Association (NZIFMA).

Ms Janet Carey who replaced Mr Forsythe as Executive Director of IFMAA and NZIFMA, has also been appointed as the industry representative on the APMAIF. Ms Carey has an extensive background in infant health, having previously been responsible for developing and maintaining the national not for profit organisation, SIDS and Kids' research and educational programs which have successfully reduced infant mortality in Australia. She was Chair of SIDS and Kids Scientific Advisory Committee, a member of the Global Strategy Task Force for education and SIDS and Kids' representative on SIDS International.

Ms Carey is committed to best outcomes for infants and in addition to her new role with IFMAA, is also an Executive Board member of the International Stillbirth Alliance and a co-founder of the research organisation the Australian and New Zealand Stillbirth Alliance.

Companies Authorised under the MAIF Agreement

Participating manufacturers and importers of infant formula companies during 2004–05 to 2006–07 included:

- Abbott Australasia Pty Ltd
- Nestle Australia Limited
- Wyeth Pharmaceuticals Pty Ltd
- H J Heinz Company Australia Ltd
- Nutricia Australia Pty Ltd

During 2006, Bayer Australia Limited became a member of IFMAA and expressed its willingness to become a signatory to the MAIF Agreement.

Other Key Players 2004–07

The Australian Government Department of Health and Ageing

The Australian Government recognises the important role of breastfeeding in infant nutrition and supports the recommendations made by the World Health Organization and the National Health and Medical Research Council to exclusively breastfeed infants to six months of age.

The Australian Government Department of Health and Ageing (Department) has maintained observer status on the APMAIF and attended APMAIF meetings since the APMAIF was established in 1992. The Department was part of the team that developed the MAIF Agreement in the early 1990s and has provided secretariat services and administrative support to the APMAIF since July 2001. A departmental observer attends APMAIF meetings, along with secretariat staff. The Department is not a member of the APMAIF or a party to the MAIF Agreement.

The Department publishes the APMAIF annual reports and assists the APMAIF in its preparation, however the views expressed in this report are those of the APMAIF.

The Infant Formula Manufacturers' Association of Australia Inc.

The Infant Formula Manufacturers' Association of Australia (IFMAA) is a voluntary organisation that represents the majority of companies marketing and manufacturing infant formula in Australia. All signatories to the MAIF Agreement are members of IFMAA with the exception of Abbott Australasia Pty Ltd. The members work together and with key stakeholders to support the public health goals of promoting breastfeeding and good nutrition for infants and to ensure that the needs of mothers who are unable to breastfeed or make an informed decision not to breastfeed are met.

Food Standards Australia New Zealand

Food Standards Australia New Zealand (FSANZ) is an independent statutory agency established under the *Food Standards Australia New Zealand Act 1991*. Working within an integrated food regulatory system involving the governments of Australia and the New Zealand Government, FSANZ sets food standards for the two countries. FSANZ is part of the Australian Government's Health and Ageing portfolio.

FSANZ develops food standards and joint codes of practice with industry covering the content and labelling of food sold in Australia and New Zealand. Although FSANZ develops food standards, responsibility for enforcing and policing food standards in Australia rests with the states and territories.

Infant formula composition, quality and labelling are regulated under the Australia New Zealand Food Standards Code Standard 2.9.1—Infant Formula Products.

National Health and Medical Research Council

The National Health and Medical Research Council's Dietary Guidelines for Australian Adults and the Dietary Guidelines for Children and Adolescents in Australia incorporating the Infant Feeding Guidelines for Health Workers (2003) recognise breastfeeding as an important contributor to public health. Both Guidelines recommend exclusive breastfeeding of infants for the first six months of life. The Guidelines continue to be disseminated widely throughout the general community and to health professionals to encourage, support and promote breastfeeding. These publications can be obtained from: www.nhmrc.gov.au/publications/synopses/dietsyn.htm

Health Care Professionals

Clause 7 of the MAIF Agreement provides guidance to manufacturers and importers of infant formula on providing scientific and factual information to health care professionals. Health professionals need to be well informed in order to give appropriate and consistent advice to mothers, both to protect and promote breastfeeding and ensure that breast milk substitutes are used appropriately, when necessary.

Members of the Public, Health Professionals and Stakeholder Organisations

Members of the public, health professionals, community and consumer organisations, and infant formula companies can all lodge complaints with the APMAIF about alleged breaches of the MAIF Agreement. The MAIF Agreement is at Appendix A. Information on how to lodge a complaint is at Appendix B.

Chapter 2: Complaints

How Complaints are Processed

In keeping with its terms of reference, the APMAIF receives and investigates complaints regarding the marketing in Australia of infant formula.

The Guidelines for Lodging Complaints of Alleged Breaches of the MAIF Agreement to the APMAIF is at Appendix B.

The APMAIF has tasked its secretariat with responding directly to complaints that are clearly outside the scope of the MAIF Agreement. The considerations applied by the secretariat in screening complaints that are out-of-scope of the MAIF Agreement include whether the complaint involves: a MAIF Agreement signatory, retailer activity, feeding bottles or teats, dummies, toddler milk or other baby food. The secretariat is also guided by whether the same or similar complaints have been previously determined by the APMAIF to be outside the scope of the MAIF Agreement. Some complaints about retail activity may require further information to be sought before it can be determined whether or not they are in scope. For example, the secretariat may send letters to retailers to inform them about the MAIF Agreement signatories' obligations and ascertain whether there has been any involvement from MAIF Agreement signatories in the matter. If a complaint is likely to be out-of-scope but there is room for doubt, it is referred to the APMAIF for consideration. Out-of-scope complaints that concern new or unusual marketing activity may also be drawn to the attention of the APMAIF for information.

Out-of-scope complaints are recorded in the complaints register and statistics which the secretariat provides at each APMAIF meeting but are not otherwise considered by the APMAIF. The secretariat advises complainants in writing if their complaints are outside the scope of the MAIF Agreement.

Complaints requiring consideration by the APMAIF are summarised by the secretariat using a standard format to present the key information relevant to making a decision. This includes how and where the complainant obtained the complaint material, the complainant's concerns about the material, relevant clauses of the MAIF Agreement, results of any inquiries made by the secretariat (e.g. responses from formula companies or health professionals) and any previous consideration of a similar complaint or relevant interpretations by the APMAIF of the MAIF Agreement. The complainants' identities are not included in the summaries to protect against bias in consideration of the complaint and to protect complainants' privacy.

When a decision is made, both the complainant and the subject company are advised of the final outcome of the complaint, including reasons for the decision.

Interpretations of the MAIF Agreement

In considering complaints concerning alleged breaches of the MAIF Agreement, the APMAIF from time to time has made interpretations about the clauses of the agreement.

Interpretations made between 1994 and 2003 were published in the 2003–04 APMAIF annual report which can be accessed from: www.health.gov.au/apmaif

Subsequent to the 2003–04 Annual Report one additional interpretation regarding clause 4(a) of the MAIF Agreement has been made by the APMAIF. The interpretation was made at the 55th meeting (7 December 2004) then revised at the 61st meeting (15 November 2006).

Clause 4(a) of the MAIF Agreement

Manufacturers and importers of infant formulas in Australia agree that informational and educational materials, whether written, audio or visual, dealing with the feeding of infants and intended to reach pregnant women and parents of infants and young children, should always include clear information on all the following points:

- (i) the benefits and superiority of breastfeeding;
- (ii) maternal nutrition, and the preparation for and maintenance of breastfeeding;
- (iii) the negative effect on breastfeeding of introducing partial bottle-feeding;
- (iv) the difficulty of reversing the decision not to breastfeed; and
- (v) where needed, the proper use of infant formula, whether manufactured industrially or home prepared. (WHO Code Article 4.2)

Note: The full MAIF Agreement is reproduced at Appendix A of this report.

Interpretation of Clause 4(a)

Clause 4(a)'s inclusion in the MAIF Agreement needs to be interpreted with the aim of the MAIF Agreement (clause 1) in mind. The panel therefore requires the clause 4(a) statement to stand alone as a separate paragraph in any informational material as a statement emphasising, protecting and promoting breastfeeding.

Standing alone means the clause 4(a) statement is separately headed and any subsequent paragraphs are headed differently, includes the above elements and does not contain any information about infant formula products, its components or its possible use. As previously interpreted in 1993, the clause 4(a) statement:

- should be in the same font/print type etc as surrounding material or at least 10 point; and
- the meaning of the statement must not be de-emphasised as compared to informational material about breast milk substitutes (November 2006).

Complaint Statistics 2004–07

In 2004–05 the APMAIF received 54 complaints. This number more than doubled to 122 in 2005–06.

2006–07 was an exceptional year in terms of the number of complaints received by the APMAIF secretariat. Nine hundred new complaints were received, almost equivalent to the total number of 938 complaints that had been received in the preceding thirteen years. However, the majority of these complaints (700) were assessed as falling outside the scope of the MAIF Agreement. These complaints and their related activities dramatically increased the workload of the secretariat.

The annual number of breaches of the MAIF Agreement has decreased over the fourteen years of the APMAIF's history, reflecting compliance with the MAIF Agreement by participating companies. In the past three years, no breaches have been upheld by the APMAIF. During the 2004–05 reporting period, the APMAIF determined three breaches, however these breaches were appealed by the company concerned and the decisions were overturned by the APMAIF following the provision of additional information.

Out-of-Scope Complaints

The volume of out-of-scope complaints received by the APMAIF secretariat has increased dramatically during the past three years, resulting in the need for additional staffing capacity, which has been supplemented by the Department. The majority of the out-of-scope complaints were related to the infant formula marketing activities of retailers who are not signatories to the MAIF Agreement (eg, supermarkets and pharmacies) and toddler milk products where packaging is similar to that of infant formulas. In practice, the secretariat registers and examines all of the complaints it receives, records the nature of the complaint and determines whether it should be considered by the APMAIF.

Table 1 sets out the numbers of complaints received by the APMAIF secretariat and considered by the APMAIF and the decisions made.

Table 2 provides a breakdown of the number of out-of-scope complaints by category.

Table 1: Distribution of Complaints to APMAIF—July 2004 to June 2007

RECORDED COMPLAINTS	2004–05	2005–06	2006–07
Complaints Received	54	122	900
Complaints carried over from previous year	15	38	82
Appeals carried over from previous year	–	3*	–
Total complaints for this period	69	163	982
APMAIF DECISIONS			
Breach	0	0	0
Not in breach	17	10	123
Outside the scope of the MAIF Agreement (includes complaints classified by the secretariat as outside the scope)	14	71	709
Total complaints finalised for the reporting year	31	81	832
<i>Complaints carried over to next year</i>	38	82	150**

* In 2004–05 three breaches were found then appealed in 2005–06 and overturned.

**In the 2005–06 reporting period not all complaints were finalised due to the resignation of the APMAIF Chair.

Table 2: Categories and numbers of complaints outside the scope of the MAIF Agreement

TYPE OF OUT-OF-SCOPE COMPLAINT	2004–05	2005–06	2006–07
Retail activity (Supermarkets/ Pharmacies/Chemist shops)	10	59	394
Toddler Milk	4	8	156
Bottles, teats and dummies	0	4	78
Baby Foods	0	0	11
Non Signatories to the MAIF Agreement	0	0	70
TOTAL OUT-OF-SCOPE COMPLAINTS	14	71	709

Note: The APMAIF has no authority to deal with out-of-scope complaints that are not covered by the MAIF Agreement.

Chapter 3: APMAIF activities

APMAIF Activities 2004–2005

54th APMAIF Meeting, Melbourne, 30–31 August 2004

New complaints	6
Carried over complaints	12
Total complaints considered	18
DECISIONS	
Not in breach of MAIF Agreement	8
Outside scope of MAIF agreement	7
Complainant to re-submit	1
Carry over to the next meeting	2

The APMAIF agreed that displaying information materials about infant formula at a conference for health professionals would not breach the MAIF Agreement, providing there was no distribution of infant formula samples. Clause 7 of the MAIF Agreement sets out manufacturers and importers obligations in relation to providing information about infant formulas to health care professionals.

55th APMAIF Meeting, Melbourne, 7 December 2004

New complaints	2
Carried over complaints	2
Total complaints considered	4
DECISIONS	
Breach of MAIF Agreement	1
Carry over to the next meeting	3

The APMAIF endorsed the Annual Report for 2003–04.

The APMAIF noted television advertisements for toddler milk are outside the scope of the MAIF Agreement.

The APMAIF suggested that the MAIF Agreement be amended to cover bottles and teats. The APMAIF does not have the authority to review the MAIF Agreement.

In the 2003–04 Annual Report, the APMAIF recorded a split decision on a 2003 diary produced by Wyeth. Wyeth did not produce a diary for 2005 and APMAIF determined that no further action be taken with respect to this complaint.

56th APMAIF Meeting, Melbourne, 2 March 2005

New complaints	1
Carried over complaints	3
Total complaints considered	4
DECISIONS	
Not in breach of MAIF Agreement (includes one complaint finalised out-of-session after the 55th meeting)	2
Outside scope of MAIF agreement	1
Carry over to the next meeting	1

The APMAIF invited the Australian Breastfeeding Association (ABA) to attend part of this meeting.

57th APMAIF Meeting, Melbourne, 18–19 May 2005

New complaints	5
Carried over complaints	4
Total complaints considered	9
DECISIONS	
Breach of MAIF Agreement	3
Not in breach of the MAIF Agreement	3
Outside scope of MAIF agreement	2
Carry over to the next meeting	1

The APMAIF invited the Australian Lactation Consultants Association (ALCA) to attend part of this meeting.

The ALCA representatives expressed concerns about issues that fall outside the scope of the MAIF Agreement and also the need for the MAIF Agreement to be consistent with the current infant formula marketing environment. The ALCA suggested a number of ways that the APMAIF could improve its profile with the community and health professionals.

The APMAIF clarified that the MAIF Agreement does not allow the APMAIF to discuss 'out-of-scope' complaints.

APMAIF Activities 2005–2006

APMAIF Chair handover meeting, 9 February 2006

The incoming APMAIF Chair, Ms Pru Goward, met with the previous APMAIF Chair, Dr Maria Dudycz, for a handover discussion. The departmental observer and secretariat staff also attended this meeting. Dr Dudycz was thanked for her contribution as former Chair of the APMAIF.

Pre-58th APMAIF Meeting, Sydney, 17 February 2006

This was the first meeting chaired by Ms Goward. The meeting focused on reviewing the work of the APMAIF. Proposals for improving its operations were outlined. No complaints were considered at this meeting.

The APMAIF discussed the importance of raising awareness amongst stakeholders of the MAIF Agreement. The APMAIF decided it would be beneficial for key stakeholders and organisations to meet with the APMAIF on a regular basis.

58th APMAIF Meeting, Melbourne, 22 March 2006

New complaints	38
Carried over complaints	1
Appealed complaints	3
Total complaints considered	42
DECISIONS	
Not in breach of MAIF Agreement	4
Outside scope of MAIF agreement	30
Carry over to the next meeting	8

The APMAIF discussed a draft Code of Conduct designed to provide APMAIF members with guidance on liaising with companies, members of the public and other stakeholders.

Meeting between APMAIF Chair, IFMAA and the Department, Sydney, 26 April 2006

An introductory meeting was held between the new APMAIF Chair, Ms Pru Goward and IFMAA. The discussions focused on how IFMAA could work with the APMAIF to address concerns regarding the marketing of infant formula.

59th APMAIF Meeting, Adelaide, 17 May 2006

New complaints	39
Carried over complaints	1
Total complaints considered	40
DECISIONS	
Not in breach of MAIF Agreement	3
Outside scope of MAIF agreement	31
Carry over to the next meeting	6

The APMAIF agreed on the Code of Conduct for APMAIF members.

The then Parliamentary Secretary for Health and Ageing, the Hon Christopher Pyne MP, met with APMAIF members and stakeholder guests after the meeting. He stressed the Government's commitment to the protection and promotion of breastfeeding.

APMAIF Activities 2006–2007

Meeting with the Executive Board of the Pharmacy Guild of Australia, 3 July 2006

Ms Pru Goward, Chair of APMAIF, met with the executive board members of the Pharmacy Guild of Australia. Ms Goward provided an overview of the APMAIF and the MAIF Agreement and requested that the Pharmacy Guild consider adopting a code of practice regarding the promotion of infant formula by pharmacies.

60th APMAIF Meeting, Melbourne 9 August 2006

New complaints	30
Carried over complaints	9
Total complaints considered	39
DECISIONS	
Further Investigation	4
Not in breach of MAIF Agreement	11
Outside scope of MAIF agreement	22
Carry over to the next meeting	2

The panel noted that the APMAIF Code of Conduct had been approved by the Parliamentary Secretary to the Minister for Health and Ageing, the Hon Christopher Pyne MP.

61st APMAIF Meeting, Brisbane, 15 November 2006

New complaints	62
Carried over complaints	11
Total complaints considered	73
DECISIONS	
Further Investigation	6
Not in breach of MAIF Agreement	21
Outside scope of MAIF agreement	36
Carry over to the next meeting	10

The panel discussed the role of the APMAIF Secretariat.

The secretariat is not resourced to undertake active monitoring of infant formula marketing activities and trends. The APMAIF depends on the public providing this information.

The responsibility for enforcing and policing food standards in Australia, including the infant formula standard, rests with state and territory food authorities.

62nd APMAIF Meeting, Sydney, 7 March 2007

New complaints	35
Carried over complaints	12
Total complaints considered	47
DECISIONS	
Not in breach of MAIF Agreement	20
Outside scope of MAIF agreement	9
Carry over to the next meeting	18

This was Mr David Forsythe's last APMAIF meeting due to his retirement as Executive Director of IFMAA. The panel thanked Mr Forsythe for his contributions to the work of the APMAIF since he became the industry representative in 1999.

The APMAIF discussed a draft 2003–04 to 2004–05 APMAIF Annual report.

The APMAIF discussed its draft submission to the House of Representatives Standing Committee on Health and Ageing inquiry into breastfeeding.

The APMAIF noted that IFMAA will be making a submission to the inquiry.

Professor Colin Binns informed members that he would be representing the National Health and Medical Research Council at the 26 March 2007 hearing of the breastfeeding inquiry.

63rd APMAIF Meeting, Canberra, 30 May 2007

New complaints	28
Carried over complaints	20
Total complaints considered	48
DECISIONS	
Not in breach of MAIF Agreement	22
Outside scope of MAIF agreement	17
Carry over to the next meeting	9

It was noted that the House of Representatives Standing Committee on Health and Ageing had invited Mr Kain, in his capacity as Acting APMAIF Chair, to give evidence at a public hearing of the inquiry into breastfeeding on 4 June 2007.

The APMAIF decided to defer further discussion of its work plan until next year, when the recommendations of the House of Representatives Standing Committee on Health and Ageing inquiry into breastfeeding and the Government response should be available.

Member Reports

Dr Jennifer James, Community and Consumer Representative

The importance of breastfeeding to the health and well being of our children is clear, with research increasingly expanding understanding and knowledge of the negative impact of not being breastfed. The breastfeeding initiation rate in Australia is one of the highest in the world, with the majority of new mothers recognising how important breast milk is for their infants. Predominantly, health professionals work hard to support mothers in their decision to breastfeed with a range of community based organisations providing a significant contribution through peer counselling and face to face support.

Why then, with all this knowledge, understanding and support are so few babies being exclusively breastfed for six months and fewer still receiving breast milk to 12 months let alone two years and beyond as recommended by the World Health Organization?

For those of us working with new mothers, it is clear that there are a number of complex factors involved in women's decisions about infant feeding. Contemporary society brings with it a range of contradictory and confusing messages for new mothers. For example;

- the work of mothers is important—however it often seems to be not as important as wage earning work
- it is great that a young infant is breastfed but when mothers feed older babies they are sometimes viewed negatively by many around them
- mothers should be able to breastfeed (and in fact are protected by legislation); wherever and whenever a baby needs to be fed. In reality, our society doesn't want to see it happening when they are out for dinner
- breastfeeding should not interfere with the work of business or interrupt the working day.

These contradictions and double standards can make life for the breastfeeding mother confusing at best. When you add to this, lack of confidence in their ability to successfully breastfeed, together with lack of support and common early breastfeeding issues, premature weaning is an all too common outcome.

The APMAIF works to protect breastfeeding within the confines of the MAIF Agreement. At times this is seen by breastfeeding advocates to be insufficient and some would say ineffective. However, when viewed in the context of the international marketplace, where countries who are full signatories to the WHO Code have some of the worst breach records, the MAIF Agreement appears benign. This is not to say that the agreement could not better address stakeholder concerns.

Over the last three years I have had the opportunity to speak to a range of health professional and community groups about the work of the APMAIF and the agreement. This has occurred at conferences, study days, seminars and workshops and in response to telephone and email enquiries.

The significant rise in the number of out-of-scope complaints from community stakeholders reflects concerns about the limitations of the current agreement. This matter has been highlighted in the recent report coming out of the federal inquiry into breastfeeding *The Best Start Report on the inquiry into the health benefits of breastfeeding* and has been raised at a number of meetings between the panel and stakeholders in the past.

Recording out-of-scope complaints has been the practice of the secretariat to enable appropriate reporting to the Minister on these issues.

Over the last three years the panel has worked towards greater efficiency and transparency in the work we do. Streamlining the handling of complaints has meant that complainants are not kept waiting for many months before they hear of outcomes and panel decisions. The panel no longer hears complaints until all sides have been represented and this has led to greater efficiency and natural justice. Communication with interested community and professional groups is increasing through meetings with the Australian Breastfeeding Association the Australian Lactation Consultants Association and the Pharmacy Guild having occurred over the last three years. Informal gatherings in different states following meetings have increased stakeholders opportunities to meet with panel members. These meetings have increased understanding of the APMAIF and the MAIF Agreement by the groups and they in turn have identified a range of issues as being important to successful and ongoing breastfeeding.

Concerns that have been raised by community groups and health professionals include:

- Rebranding/ Reseller (home brand) marketing and promotion of artificial formulas
- Retail activity in terms of promotion of the range of artificial formulas
- Marketing of bottles, teats and dummies
- Marketing via the internet
- Lack of knowledge in the community of the risks associated with artificial formula use

- Lack of knowledge in the community and health profession of the APMAIF and the MAIF Agreement
- The marketing of toddler milk, particularly in terms of brand recognition
- The use of artificial formula company sponsorship for health professional education.

While all these issues are outside the scope of the current agreement, complaints highlighting community concerns are both noted by the panel and recorded for future directions. It is hoped by breastfeeding advocates that in time there will be appropriate changes to the way infant feeding is promoted and supported both at community, health professional and Government levels.

Dr James would like to thank the following groups for their interest in, and support of the work of the APMAIF:

- Australian Breastfeeding Association
- Australian Lactation Consultants Association
- Network of Australian Lactation Colleges and its member groups
- Nutrition Society of Australia
- Paediatric, Neonatal and Maternity Services
- Pharmacy Guild
- Public Health Association
- Royal Australian College of General Practitioners
- Royal Australian College of Obstetricians and Gynaecologists
- Royal Australasian College of Physicians Division of Paediatrics and Chapter of Community Child Health.

Professor Colin Binns, Public Health and Infant Nutrition Expert

During the past 36 months, I have spoken of the work of the APMAIF at a number of seminars and workshops around Australia and overseas. These meetings have involved public health and nursing professionals, dietitians and nutritionists. On several occasions I spoke at the Strategic Inter-Governmental Nutrition Alliance (SIGNAL) meetings on issues related to infant feeding and APMAIF.

Some of the overseas venues included universities in Japan (Kagawa Nutrition University and University of Hyogo, Himeji) and China (Zhejiang University and the Asia Pacific Academic Consortium for Public Health, Taipei), and at the Korean Nutrition Society Annual Conference.

In Australia my presentations have been at the Australian Breastfeeding Association annual conference in Perth, Western Australia, the Australian Dietetics Association conference in Perth and to hospitals and health department staff in the Northern Territory and Queensland.

During the 2004–07 period the Perth Infant Feeding Study II was completed and the report made available on the Australian Government Department of Health and Ageing

website. The study follows a cohort of 600 mothers in Perth and replicates a previous study undertaken ten years ago to examine changes in infant feeding practices. To date 12 papers have been published in refereed journals from this study.

In the 2004–07 period, I was a member of the National Health and Medical Research Council (NHMRC) working party that reviewed the Nutrient Reference Values. The working party decided to have the nutritional requirements for infants aged 0–6 months based on the nutrient profile and average volume of breast milk from well nourished mothers.

I prepared a submission (and 2 supplementary submissions) to the House of Representatives Standing Committee on Health and Ageing inquiry into the health benefits of breastfeeding. These submissions highlighted the important role played by the APMAIF in promoting breastfeeding, and the importance of maintaining and updating the scientific information about breastfeeding contained in the Infant Feeding Guidelines.

In June 2007 I represented Australia at the WHO/UNICEF Consultation on Breastfeeding Protection, Promotion and Support, Manila, Philippines, 20–22 June 2007. Australia's voluntary system for the regulation of the marketing of infant formula is one of the most successful in the region. A number of other delegations expressed interest in developing similar systems.

During this period I published about 38 articles and papers in national and international journals on breastfeeding. Some of my publications include:

- Li L, Zhang M, Scott JA, Binns CW. Factors Associated with the initiation and duration of breastfeeding of Chinese mothers in Perth, Western Australia. *J Hum Lact* 2004; 20(2):188–195.
- Binns C, Gilchrist D, Gracey M, Chang M, Scott J, Lee A. Factors associated with the initiation of breastfeeding by Aboriginal mothers in Perth. *Public Health Nutrition* 2004; 7:857–61.
- Gilchrist D, Woods B, Binns C, Scott J, Gracey M, Smith H. Aboriginal mothers, breastfeeding and smoking. *ANZ J Public Health* 2004; 28(3):225–228.
- Gilchrist D, Woods B, Binns C, Gracey M, Scott JA, Herod H. Breastfeeding and health promotion: the experience of Aboriginal and non-Aboriginal mothers. *Health Promotion J Australia* 2004; 15:226–230.
- Binns CW. Encourage and support breastfeeding. *Journal of the Home Economics Institute of Australia* 2004; 11(1): 28–38.
- Graham K, Scott JA, Binns CW, Oddy W. National targets for breastfeeding at hospital discharge have been achieved in Perth. *Acta Paediatrica* 2005; 94(3):352–356.
- Scott JA, Binns CW, Graham K, Oddy W. Predicting the duration of breastfeeding: evidence from a cohort study. *Pediatrics* 2006;117:646–655.
- Binns CW, Scott JA, Nwafor N, Graham K, Oddy W, Lee A. Which mothers take folic acid and folate containing foods? *Asia Pacific J Clin Nut* 2006; 15: 335–340.
- Scott JA, Binns CW, Graham K, Oddy W. Temporal changes in the determinants of breastfeeding. *Birth* 2005; 33(1):37–45.

- Oddy WH, Scott JA, Graham KI, Binns CW. Breastfeeding influences on growth and health at one year of age. *Breastfeeding Review* 2006; 14(1):15–23.
- Giglia, R, Binns CW. Alcohol and Lactation: A Systematic Review. *Nutrition and Dietetics* (2006) 63(2) 103–116
- Su D, Zhao Y, Binns CW, Scott JA, Oddy WH. Exercise and breastfeeding. *Public Health Nutrition*. 2007, 10(10), 1089–1093
- Scott JA, Binns CW, Oddy WH Predictors of delayed onset of lactation. *Maternal and Child Nutrition*. (2007) 3:186–193

Mr David Forsythe, Industry Representative

During the current reporting period, the number of complaints involving the in-store promotion of infant and follow-on formulas and retailers' price-off catalogue advertising increased dramatically.

Retailer price discounts and in-store promotions of infant formula products, recommended in the international WHO Code, were specifically excluded from the restrictions in the MAIF Agreement. The then Trade Practices Commission, when authorising the MAIF Agreement in 1992, noted that the voluntary implementation of a self-regulatory marketing agreement, based on the full WHO Code, was not feasible. The WHO Code pricing restrictions would amount to per se breaches of the Trade Practices Act and could not be authorised in any circumstances.

In assessing the increased number of retail complaints and after consultation with stakeholders groups, some panel members shared the view that retailers' price and product promotion involving formula products manufactured by the signatories to the MAIF Agreement may be in breach of Clause 5(a) of the MAIF Agreement. However, this view conflicted with a 1995 legal opinion provided to the APMAIF by the then Federal Bureau of Consumer Affairs who argued, when a similar proposal was mooted by the APMAIF, that applying restrictions on retailer promotions subsidised by formula companies "*could be more trade restrictive and have a greater detrimental effect on competition within industry than was contemplated by the Trade Practices Commission when it authorised the (MAIF) Agreement*".

After assessing the implications of the 1995 legal opinion, the panel acknowledged that retailer in-store and catalogue promotion referring only to price and price savings of infant- and follow-on products would not be investigated as potential breaches of Clause 5(a) of the agreement. (The signatories to the agreement do not provide retailers with any infant- and follow-on formula in-store display material, which may be perceived to be promotional and therefore potentially in breach of Clause 5(a)).

The 2004/05 APMAIF panel also entered into discussions with IFMAA on the options available to ensure retailers have a better understanding of the MAIF Agreement. The IFMAA Executive suggested some minor modifications to the *APMAIF Guidelines for In-Store Promotions of Infant Formula by Manufacturers in Australia through Retailers* to meet the requirements of the Trade Practices Act. The IFMAA Executive also offered to distribute a revised version of the APMAIF Guidelines to all supermarkets and pharmacies

(including retail distributors of own-brand infant formulas) asking for their assistance in displaying and promoting infant formula products in a manner consistent with the recommendations in the guidelines.

The revised guidelines and the final wording in the IFMAA letter to retailers will hopefully be signed-off by the panel during the next APMAIF reporting year.

Ms Janet Carey, Industry Representative

The infant formula industry better than any other, understands the value of good nutrition for infants and the unique and unsurpassed benefits of breast milk. The infant formula manufacturers who are signatories to the MAIF Agreement have voluntarily agreed to abide by the regulatory requirements for providing information about infant formula because they believe that the promotion and protection of breastfeeding is of paramount importance to infant health and well being.

While the role of the MAIF signatories in supporting and promoting breastfeeding in Australia may be viewed with cynicism by some breastfeeding advocates, it is an undeniable fact that when breast milk is unavailable to an infant for whatever reason the only suitable and safe alternative is infant formula. Ensuring that the mothers of formula fed babies receive adequate and appropriate information while protecting the critical role of breastfeeding creates a dilemma for both infant formula manufacturers and breastfeeding advocates.

IFMAA considers that the self-regulation of the marketing of infant formula by industry is working, as there has been very few breaches found against its members in recent times and the number of breaches continues to decrease.

In addition to participating fully in the APMAIF, IFMAA has its own competitive complaints process. The purpose of the competitive complaints process is to support and encourage successful inter company dialogue and to provide a speedy (i.e. within 21 days) and effective process for resolving complaints. The competitive complaints process has been used successfully to ensure that potential breaches of the MAIF Agreement do not occur.

Chapter 4: Funding arrangements and financial reports

Funding Arrangements

The Department administers funding for the operating costs of the APMAIF.

All remuneration and expenses for the industry representative are met by IFMAA.

The Department funds 100% of the expenditure related to the remaining panel members' sitting fees, preparation time, superannuation and travel costs. The Chair and panel members, except for the industry representative, are remunerated in accordance with the applicable Remuneration Tribunal determinations.

There is a special arrangement to cover the APMAIF secretariat expenditure. Agreement was reached in 1998 with the infant formula companies that the industry would fund 70% of the APMAIF secretariat expenses and the Department would fund the remaining 30%. Secretariat expenditure includes salary of secretariat staff, travel costs for secretariat staff, printing, room hire and catering. At the time of this agreement the APMAIF secretariat was staffed by one full time officer.

This arrangement has remained in place; however additional secretariat workload has meant that the department has contributed the services of additional departmental officers to supplement the capacity of the secretariat. The costs of these additional staff have been met by the department. The industry contribution reflects 70% of the cost of a single APS5 officer.

Financial Report 2004–05

CONTRIBUTION		EXPENDITURE	
Industry Contribution	\$41,143	APMAIF Committee	\$31,056
Department Contribution	\$47,564	APMAIF Secretariat	\$81,797
TOTAL CONTRIBUTION	\$88,707	TOTAL EXPENDITURE	\$112,853

Note: The above budget records the APMAIF finances at the close of the financial year on 30 June 2005.

The 2003–04 Annual Report did not include the printing costs for the 2002–03 Annual Report. The printing costs for the 2002–03 Annual Report totalled \$7555.90 and were finalised in the 2003–04 financial period.

The industry contributions received in 2004–05 incorporated a payment against the 2003–04 APMAIF budget and a payment against the 2004–05 APMAIF budget. APMAIF secretariat expenses included 1 staff member. The Department's contribution was the total expenditure less the industry contribution.

Financial Report 2005–06

CONTRIBUTION		EXPENDITURE	
Industry Contribution	Nil	APMAIF Committee	\$15,441
Department Contribution	\$144,190	APMAIF Secretariat	\$128,749
TOTAL CONTRIBUTION	\$144,190	TOTAL EXPENDITURE	\$144,190

Note: The above budget records the APMAIF finances at the close of the financial year on 30 June 2006.

An industry contribution against the 2005–06 APMAIF budget was made in 2006–07. APMAIF secretariat expenses included two staff members.

Financial Report 2006–07

CONTRIBUTION		EXPENDITURE	
Industry Contribution	\$85,554	APMAIF Committee	\$34,047
Department Contribution	\$151,610	APMAIF Secretariat	\$203,117
TOTAL CONTRIBUTION	\$237,164	TOTAL EXPENDITURE	\$237,164

Note: The above budget records the APMAIF finances at the close of the financial year on 30 June 2007.

The industry contribution received in 2006–07 incorporated payments made against the 2004–05 and 2005–06 APMAIF budgets. APMAIF secretariat expenses included three staff members. The Department's contribution was the total expenditure less the industry contribution.

Appendices

Appendix A:

Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement The MAIF Agreement

Preamble

This document sets out the obligations of manufacturers in and importers to, Australia of infant formulas and gives effect in Australia to the principles of the *World Health Organization's International Code of Marketing of Breast Milk Substitutes* (WHO Code)¹.

Clause 1: Aim

The aim is to contribute to the provision of safe and adequate nutrition for infants, by the protection and promotion of breastfeeding and by ensuring the proper use of breast milk substitutes, when they are necessary², on the basis of adequate information and through appropriate marketing and distribution. (WHO Code Article 1)

Clause 2: Scope

This document applies to the marketing in Australia of infant formulas when such products are marketed or otherwise represented to be suitable, with or without modification, for use as a partial or total replacement of breast milk. It also applies to their quality and availability, and to information concerning their use. (WHO Code Article 2)

Clause 3: Definitions

'Breast milk substitute'—any food marketed or otherwise represented as a partial or total replacement for breast milk, whether or not suitable for that purpose.

'Container'—any form of packaging of infant formulas for sale as a normal retail unit, including wrappers.

'Health care system'—governmental, non-governmental or private institutions engaged, directly or indirectly, in health care for mothers, infants and pregnant women and nurseries or child-care institutions. It also includes health workers in private practice. For the purposes of this document, the health care system does not include pharmacies or other retail outlets.

1 Where applicable, clauses in this document are cross-referenced to the relevant articles from the World Health Organization (1981) *International Code of Marketing of Breast-milk Substitutes*, Geneva (WHO Code).

2 For the purposes of the Aim, 'necessary' includes mothers who make an informed choice to use breast milk substitutes.

‘Health care professional’—a professional or other appropriately trained person working in a component of the health care system, including pharmacists and voluntary workers.

‘Infant formula’—any food described or sold as an alternative for human milk for the feeding of infants up to the age of twelve months and formulated in accordance with Australian Food Standard R7—Infant Formula.

‘Label’—any tag, brand, mark, pictorial or other descriptive matter written, printed, stencilled, marked, embossed or impressed on, or attached to, a container of infant formulas.

‘Marketing’—includes the promotion, distribution, selling, advertising, public relations and information services related to infant formulas.

‘Marketing personnel’—any persons whose functions include the marketing of infant formulas.

‘Samples’—single or small quantities of an infant formula provided without cost. (WHO Code Article 3)

Clause 4: Information and Education

- 4(a) Manufacturers and importers of infant formulas in Australia agree that informational and educational materials, whether written, audio or visual, dealing with the feeding of infants and intended to reach pregnant women and parents of infants and young children, should always include clear information on all the following points:
- (i) the benefits and superiority of breastfeeding;
 - (ii) maternal nutrition, and the preparation for and maintenance of breastfeeding;
 - (iii) the negative effect on breastfeeding of introducing partial bottle-feeding;
 - (iv) the difficulty of reversing the decision not to breastfeed; and
 - (v) where needed, the proper use of infant formula, whether manufactured industrially or home prepared. (WHO Code Article 4.2)
- 4(b) When such materials contain information about the use of infant formulas, they should include the social and financial implications of its use, the health hazards of inappropriate foods or feeding methods and, in particular, the health hazards of unnecessary or improper use of infant formulas. Such materials should not use any pictures or text which may idealise the use of infant formulas. (WHO Code Article 4.2)
- 4(c) Manufacturers and importers of infant formulas should not donate informational or educational equipment or materials unless it is at the request of, and with the written approval of, the appropriate government authority or within guidelines given by the Commonwealth, State or Territory Governments for this purpose. Such equipment or materials may bear the donating company’s name or logo, but should not refer to a proprietary infant formula, and should be distributed only through the health care system. (WHO Code Article 4.3)

Clause 5: The general public and mothers

- 5(a) Manufacturers and importers of infant formulas should not advertise or in any other way promote infant formulas to the general public. (WHO Code Article 5.1)
- 5(b) Manufacturers and importers of infant formulas should not provide samples of infant formulas to the general public, pregnant women, parents or members of their families. (WHO Code Article 5.2)
- 5(c) Manufacturers and importers of infant formulas should not distribute to pregnant women, or parents of infants and young children, any gifts of articles or utensils which may promote the use of breast milk substitutes or bottle-feeding. (WHO Code Article 5.4)
- 5(d) Marketing personnel, in their business capacity, should not seek direct or indirect contact with pregnant women or with parents of infants and young children. This does not prevent appropriately qualified personnel from responding to complaints or unsolicited requests for information. For these requests, parents should be referred to a health care professional whenever health advice is required. (WHO Code Article 5.5)

Clause 6: Health care system

- 6(a) Manufacturers and importers of infant formulas should not use any facility of the health care system for the purpose of promoting infant formulas. This does not, however, preclude the dissemination of information to health care professionals as provided in clause 7(a). (WHO Code Article 6.2)
- 6(b) Manufacturers and importers of infant formulas should be aware that facilities of health care systems should not be used for the display of products within the scope of this document, for placards or posters concerning such products, or for the distribution of material provided by a manufacturer or distributor other than that specified in clause 4(c) above. (WHO Code Article 6.3)
- 6(c) The use by the health care system of pharmacies or retail outlets, 'professional service representatives', 'mothercraft nurses', or similar personnel, provided or paid for by manufacturers or importers of infant formulas is not permitted. (WHO Code Article 6.4)
- 6(d) Manufacturers and importers of infant formulas should be aware that feeding with infant formulas, whether manufactured or home prepared, should be demonstrated only by health care professionals. Such demonstrations should be made only to the parents or other persons who need to use it, and the information given should include a clear explanation of the hazards of improper use. (WHO Code Article 6.5)
- 6(e) Manufacturers and importers of infant formulas may make donations, or low-priced sales, of infant formulas to institutions or organisations, whether for use in the institutions or for distribution outside them. Such provisions should only be used or distributed for infants who have to be fed on breast milk substitutes. If these provisions are distributed for use outside the institutions, this should be done only by the institutions or organisations concerned. Manufacturers

- or importers should not use such donations or low-price sales as a sales inducement. (WHO Code Article 6.6)
- 6(f) Manufacturers and importers of infant formulas should note that, where donated infant formulas are distributed outside an institution, the institution or organisation should take steps to ensure that these provisions can be continued as long as the infants concerned need them. Donors, as well as the institutions or organisations concerned should bear in mind this responsibility. (WHO Code Article 6.7)
- 6(g) Equipment and materials, in addition to those referred to in clause 4(c), donated to a health care system may bear a company's name or logo, but should not refer to any proprietary infant formulas. (WHO Code Article 6.8)

Clause 7: Health Care Professionals

- 7(a) Manufacturers and importers of infant formulas providing information about the formulas to health care professionals should restrict the information to scientific and factual matters. Such information should not imply or create a belief that bottle-feeding is equivalent or superior to breastfeeding. It should also include the information specified in clause 4(a) above. (WHO Code Article 7.2)
- 7(b) Manufacturers and importers of infant formulas should provide members of the medical profession and related health care professionals with information about the products, and this information should accurately reflect current knowledge and responsible opinion. Such material should be clearly identified with the name of the manufacturer or importer, the brand names of the infant formulas, and the date of publication.
- 7(c) Manufacturers and importers of infant formulas should not offer any financial or material inducement to health care professionals or members of their families to promote infant formulas, nor should such inducements be accepted by health care professionals or members of their families. (WHO Code Article 7.3)
- 7(d) Manufacturers and importers of infant formulas should not provide samples of infant formulas, or of equipment or utensils for their preparation or use, to health care professionals except when necessary for the purpose of professional evaluation or research at the institutional level. (WHO Code Article 7.4)
- 7(e) Manufacturers and importers of infant formulas should disclose to institutions, to which a recipient health care professional is affiliated, any contribution made to him/her, or on his/her behalf, for fellowships, study tours, research grants, attendance at professional conferences, or the like. (WHO Code Article 7.5)

Clause 8: Persons employed by manufacturers and importers

- 8(a) In systems of sales incentives for marketing personnel, the volume of sales of infant formulas should not be included in the calculation of bonuses, nor should quotas be set specifically for sales of these products. This should not be understood to prevent the payment of bonuses based on the overall sales by a company of other products marketed by it. (WHO Code Article 8.1)

- 8(b) Personnel employed in marketing infant formulas should not, as part of their job responsibilities, perform educational functions in relation to pregnant women or parents of infants and young children. This does not prevent such personnel from being used for other functions by the health care system. (WHO Code Article 8.2)

Clause 9: Quality and Labelling

- 9(a) Manufacturers and importers of infant formulas must ensure that infant formulas sold in Australia conform to Australian Food Standard R7—Infant Formula. (WHO Code Articles 9.2, 9.4, 10.1 and 10.2)
- 9(b) Manufacturers and importers of infant formulas must ensure that labels provide the information required to be provided by the Australian Food Standard A1—Labelling and Advertising and Standard R7—Infant Formula, and also provide the necessary information about the appropriate use of infant formula and should not discourage breastfeeding. (WHO Code Article 9.1)

Clause 10: Implementation and monitoring

- 10(a) Independently of any other measures taken to implement their obligations under this document, each manufacturer and importer of infant formulas should regard itself as responsible for monitoring its marketing practices according to the principles and aim of this document, and for taking steps to ensure that its conduct at every level conforms to those principles and aims. (WHO Code Article 11.3)
- 10(b) Manufacturers and importers of infant formulas agree to be represented on APMAIF and to participate fully in the work of the Advisory Panel.
- 10(c) Each manufacturer and importer of infant formulas should apprise its personnel of the existence of this document and of their responsibilities under it. (WHO Code Article 11.5)

Appendix B: Guidelines for Lodging Complaints of Alleged Breaches of the MAIF Agreement

The following Guidelines are for lodging complaints of alleged breaches of the MAIF Agreement and are intended to assist both complainants and subject companies to ensure that a fair and full review is conducted. Complaints should be lodged in writing.

What you should do before lodging a complaint with APMAIF

Whenever possible, complainants should contact the subject company prior to lodging a complaint with the APMAIF as a satisfactory explanation or solution may be immediately available.

Who can lodge a complaint?

Individuals and members of industry, community and consumer groups are able to lodge a complaint with the APMAIF on alleged breaches of the MAIF Agreement. However, inter-company complaints should not be used as a competitive tool. Before a complaint is lodged, companies should seek to have the issue resolved directly with the subject company.

What you should include in the complaint

Where possible, complaints should include the following information:

1. A summary page containing:
 - details of the product/activity and the companies involved
 - if relevant, the title of promotional piece and date of publication (if available)
 - date when alleged breach was identified
 - where and how the material was obtained
 - a brief description of the complaint, itemising specific claims and issues
 - section/s of the MAIF Agreement alleged to be breached (if known)
 - details of any attempts to resolve the matter with the companies involved (if relevant).
2. If relevant, any supporting, data cross-referenced to specific claims for medical, scientific and marketing based complaints.
3. A photocopy or original of the relevant promotional material.
4. Your contact details and signature.

If these criteria are not met, then the APMAIF may return the complaint to the complainant for further information.

Sending the complaint to the subject company for further information or comment

The secretariat will forward the complaint to the relevant manufacturer or importer for further information or comment.

In seeking a response from the subject company, the secretariat will forward only the relevant extract/s of the complainant's letter and if available, a photocopy of the complaint material/s. Where the complainant is an individual (i.e. not an organisation or a company), the complainant's identity will not be revealed to the subject company.

Response to APMAIF by the subject company

When the subject company has received a request for further information about a complaint, the subject company should state whether or not the information supporting the complaint is correct and provide the following:

- details of any attempts to resolve the matter with the complainant
- a brief summary of the response to each alleged breach
- substantiation of the specific claims at issue with full supporting data
- the signature of the Chief Executive or delegate of the company.

The subject company's response should be received by the secretariat within 20 working days. If this is not possible, the subject company should notify the secretariat and provide an indication of when the response will be sent.

Where to send complaints

APMAIF Secretariat
Australian Government Department of Health and Ageing
MDP 15 GPO Box 9848
CANBERRA ACT 2601 AUSTRALIA

Email: apmaif@health.gov.au

Secretariat telephone: (02) 6289 7358

Complaint forms and other APMAIF information can be obtained at:
www.health.gov.au/apmaif