



# **PART 1: KEY DOCUMENTS**

## **1.1 WHO Code**

The *International Code of Marketing of Breast-milk Substitutes* (WHO Code) was adopted in 1981 by the World Health Assembly as a recommendation for member countries to take action appropriate to their social, legal and developmental situations.

The aim of the WHO Code 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 breastmilk substitutes, when these are necessary, on the basis of adequate information and through appropriate marketing and distribution (WHO Code Article 1).

The WHO Code applies to the marketing and related practices of the following products: breast milk substitutes, including infant formula; other milk products, foods and beverages, including bottle-fed complementary foods, when marketed or otherwise represented to be suitable, with or without modification, for use as a partial or total replacement of breast milk; feeding bottles and teats. It also applies to their quality and availability and to information concerning their use (WHO Code Article 2). The WHO Code has no direct authority in Australia.

Australia was one of the first countries to sign the WHO Code. Successive Australian Governments have signalled their commitment to the adoption of the principles of the WHO Code within the requirements of Australian law and in particular, the law as set out in the *Trade Practices Act 1974* (TPA).

## **1.2 MAIF Agreement**

In response to Australia becoming a signatory to the WHO Code, the Australian Government has legislated the testing, manufacture and content of infant formula. The Australian Government chose to implement those aspects of the WHO Code that apply to the marketing of infant formula through a voluntary agreement.

This agreement is the *Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement 1992* (MAIF Agreement). It was made between the Australian Government, member companies of the Infant Formula Manufacturers' Association of Australia (IFMAA) and other manufacturers and importers of infant formula. It was authorised under the *Trade Practices Act 1974* (TPA) by the then Trade Practices Commission (TPC) (now the Australian Competition and Consumer Commission (ACCC)) in 1992. Authorisation of the MAIF Agreement was required as it contains marketing restrictions limiting competition and was granted on the basis that public benefit outweighed any anti-competitive effect.





The aim of the MAIF Agreement 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 these are necessary\*, on the basis of adequate information and through appropriate marketing and distribution.

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

The MAIF Agreement 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.

The MAIF Agreement is a voluntary agreement between the Australian Government, manufacturers, and importers of infant formula. The MAIF Agreement is not legally binding. The signatories can legally follow the provisions of the authorised MAIF Agreement, but could be in breach of the TPA if they agree to any further marketing restriction which is not covered in the Agreement – even if it is recommended in the WHO Code. Similarly, for aspects of the WHO Code for which there is no authorised agreement, agreements by companies to restrict marketing practices may result in penalties for breaching the TPA.

