

Review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement)

Terms of Reference

Background

The Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement) is one way the Australian Government gives effect to the World Health Organization's International Code of Marketing of Breast-milk Substitutes 1981 (WHO Code)¹.

The MAIF Agreement aligns with the WHO Code 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.”

The review purpose

The purpose of the review is to examine whether the MAIF Agreement remains effective in its aim. Consideration will be given to whether Australia has in place sufficient regulatory practices to ensure breast-milk substitutes are not promoted to the public and take into consideration contemporary policy issues relevant to this matter and whether alternate regulatory practices need to be considered.

Terms of reference

The review will include, but not be limited to, assessing, and making recommendations in relation to:

1. The effectiveness of the MAIF Agreement in achieving its aims:
 - a. protecting and promoting breastfeeding and restricting inappropriate marketing of breastmilk substitutes
 - b. ensuring proper use of breastmilk substitutes when they are necessary
 - c. ensuring the provision of adequate information about infant formula products for carers of formula fed infants through appropriate marketing and distribution.
2. The scope of the MAIF Agreement including but not limited to:
 - a. range of products captured and how they are defined (including age range for products) and issues concerning cross-promotion of products
 - b. range of industry stakeholders captured including the possibility of expanding the agreement to retailers and capturing all manufacturers, importers and exporters and retailers
 - c. the ability of the MAIF Agreement to respond to all forms of modern marketing techniques including use of all forms of digital marketing (including, but not limited to internet and social media).
3. The MAIF Agreement processes including:
 - a. the complaints process, transparency and timeliness of decision-making and reporting

¹ World Health Organization 1981, International Code of Marketing of Breast-Milk Substitutes, Geneva.



- b. the operation of the MAIF Complaints Committee and secretariat
 - c. the composition of the committee, including appropriate membership and appointments process
 - d. types of complaints and levels of compliance.
4. Whether the voluntary, self-regulatory approach remains fit for purpose or if alternative regulatory models should be considered i.e. government regulation, legislation or alternative co-regulatory approaches. This should include consideration of imposing penalties for non-compliance.
5. The benefits, costs and any limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes. This will include but is not limited to:
 - a. the impact that the MAIF Agreement has on the infant formula industry, including costs to industry and the extent to which the MAIF Agreement sets a clear operating environment.
 - b. the extent to which the MAIF Agreement provides an adequate basis for Australia to implement its international commitments including the World Health Organization International Code of Marketing of Breast-milk Substitutes and subsequent resolutions and guidance.
6. Any other related matters as deemed appropriate.

Review process

- The Australian Government Department of Health and Aged Care will manage the review through an independent consultant. Standard Government procurement and management processes will apply.
- Extensive consultation will be undertaken as part of the review, including with public health, consumers, industry, government, and other relevant stakeholders.
- The review will consider findings and recommendations outlined in relevant bodies of work, including, but not limited to:
 - a. previous reviews of the MAIF Agreement and the MAIF complaints process
 - b. the *Australian National Breastfeeding Strategy 2019 and Beyond* and related consultation report (2019)
 - c. the Australian Competition and Consumer Commission (ACCC) re-authorisation of the MAIF Agreement (2021)²
 - d. published literature on breastfeeding, formula feeding, marketing of breastmilk substitutes, and related research.

² [Final Determination and Interim Authorisation Decision - 27.07.21 - PR - AA1000534 INC.pdf \(accc.gov.au\)](#)