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

Consultation Report

1 September 2023

ALLEN + CLARKE CONSULTING

Use of quotations

Quotations used in this report have been deidentified. They have not been validated with the relevant stakeholders.

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TABLE OF CONTENTS

Contents

GLOSSARY AND ACRONYMS

Term	Definition
ACCC	Australian Competition and Consumer Commission
FSANZ	Food Standards Australia New Zealand
INC	Infant Nutrition Council
Infant	A person under the age of 12 months
Infant formula	Any food described or sold as an alternative for human milk for the feeding of infants up to the age of 12 months and formulated in accordance with all relevant clauses of the Australia New Zealand Food Standards Code, including Infant Formula Products Standard 2.9.1
KRQ	Key Review Question
MAIF Agreement	Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement. A voluntary, self-regulatory code of conduct between manufacturers and importers of infant formula products in Australia
NHMRC	National Health and Medical Research Council
Signatories	Infant formula companies who have signed the MAIF Agreement
Toddler	A child between the ages of 1 to 3 years
Toddler milk products	Toddler milk products are targeted at infants and young children from 1 to 3 years old. They can also be known by other names including growing-up milk, growing-up formula, or formulated milk.
UNICEF	United Nations Children's Fund
WHA	World Health Assembly
WHO	World Health Organization
WHO Code	World Health Organization's International Code of Marketing of Breastmilk Substitutes

1.0 BACKGROUND

1.1 What is the MAIF Agreement?

The MAIF Agreement is a voluntary, self-regulatory code of conduct between manufacturers and importers of infant formula products in Australia. The MAIF Agreement was first implemented in 1992. The MAIF Agreement is the primary mechanism through which Australia implements the World Health Organization's International Code of Marketing of Breastmilk Substitutes (WHO Code), which was adopted in 1981 by the World Health Assembly (WHA).

The MAIF Agreement's objectives are to:

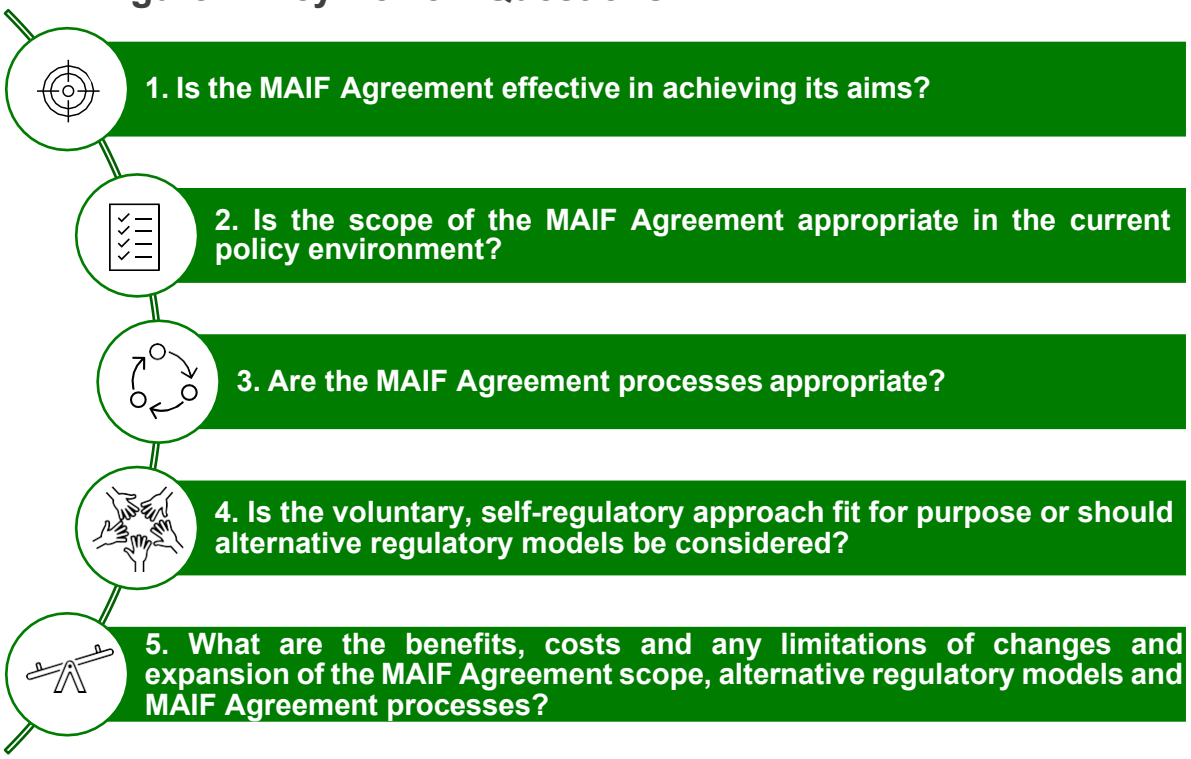
- ensure safe and adequate nutrition for babies
- encourage breastfeeding as the first option for babies
- protect parents from advertising that could affect their judgement, and
- ensure the proper use of breast milk substitutes (Department of Health and Aged Care, 2023).

1.2 Purpose of this report

Allen + Clarke Consulting (*Allen + Clarke*) has been commissioned by the Department of Health and Aged Care to conduct an independent Review of the **Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement** (MAIF Agreement).

The Review seeks to answer the following Key Review Questions (KRQs):

Figure 1: Key Review Questions



This report presents key findings from the consultation process undertaken during the independent Review of the MAIF Agreement.

The final report from this Review will be provided to the Department of Health and Aged Care in September 2023.

2.0 CONSULTATION APPROACH

The Review team undertook public and targeted consultation to inform the Review. This included a public survey, interviews and focus groups with key stakeholders, and analysis of written submissions provided by interested parties (see **Figure 2**).

Figure 2: Data sources informing the Review

Information sources	
	**Desktop Analysis:** • 150 documents were reviewed including: the MAIF Agreement and MAIF Complaints Committee guidance materials, the WHO Code, academic literature and relevant material developed by the WHO, United Nations Children's Fund (UNICEF), the Department of Health and Aged Care, the Australian Competition and Consumer Commission (ACCC), health research organisations and other agencies relevant to the marketing of breastmilk substitutes in Australia and internationally. Submissions and materials provided by stakeholders during the course of the Review were also analysed.
	**Stakeholder Consultation:** • 28 focus groups and interviews with government representatives, MAIF signatories and other industry bodies, the public health and breastfeeding research and advocacy sectors, consumers and the WHO. • 11 written submissions from interested parties.
	**Online Survey** • 443 responses to an online survey that was available on the Department of Health and Aged Care's Consultation Hub.

2.1 Consultation participation by sector

A total of 524 individuals and organisations participated in the stakeholder consultation for this Review by completing the survey or participating in an interview or focus group. This included consumers and members of the public, infant formula companies (signatories and non-signatories), industry representatives, State and Territory government representatives, health sector representatives, breastfeeding and public health advocates, and academics. **Figure 3** shows the breakdown of participants by sector.

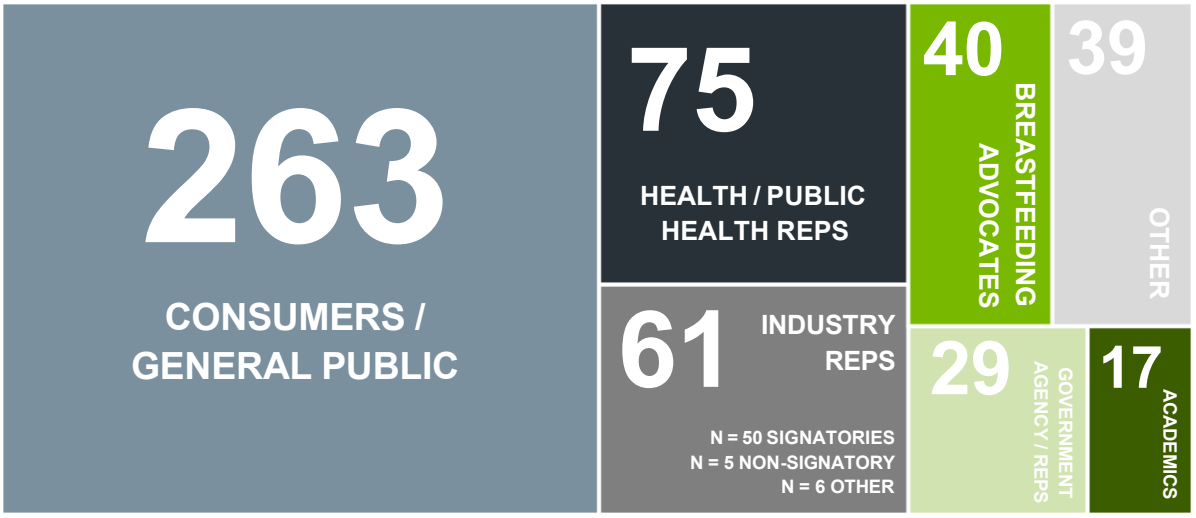


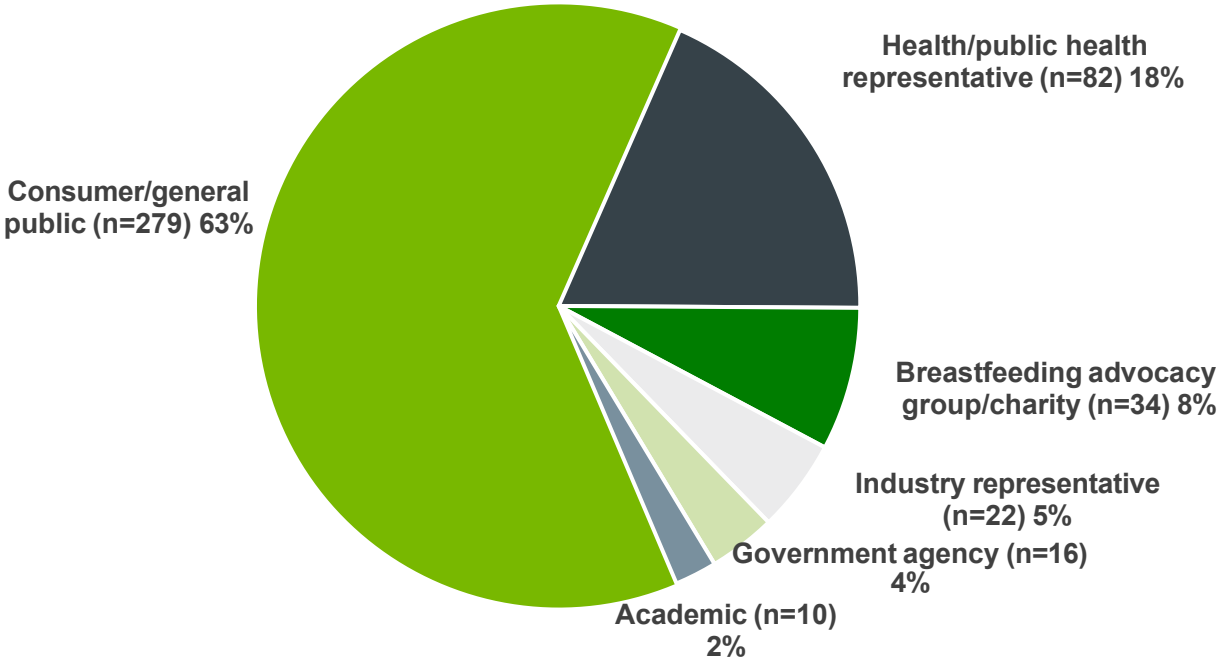
Figure 3: Stakeholder participation in the Review by sector

2.2 Online survey

An online public consultation survey was launched on the Department of Health and Aged Care's Consultation Hub on 31 March 2023 and remained open for responses until 12 May 2023. Many key stakeholders were notified by email of the commencement of the Review and received subsequent correspondence inviting them to participate in the survey. Stakeholders were encouraged to share the survey link with interested parties in their networks. The survey was also advertised through the Department of Health and Aged Care's social media channels. The survey sought responses aligned with the five KRQs in relation to the effectiveness, appropriateness, and currency of the MAIF Agreement, as well as any costs, benefits, and limitations of any changes to the MAIF Agreement.

The survey received 443 responses, mainly from consumers and the general public (n=279, 63%). Other respondents to the survey included health and public health representatives and organisations, breastfeeding advocates, industry (including signatories and non-signatories to the MAIF Agreement, and other industry representatives), government agencies, and academics. **Figure 4** provides a breakdown of survey respondents by stakeholder group. Full survey results are provided at Appendix B.

Figure 4: Proportion of survey respondents by stakeholder group



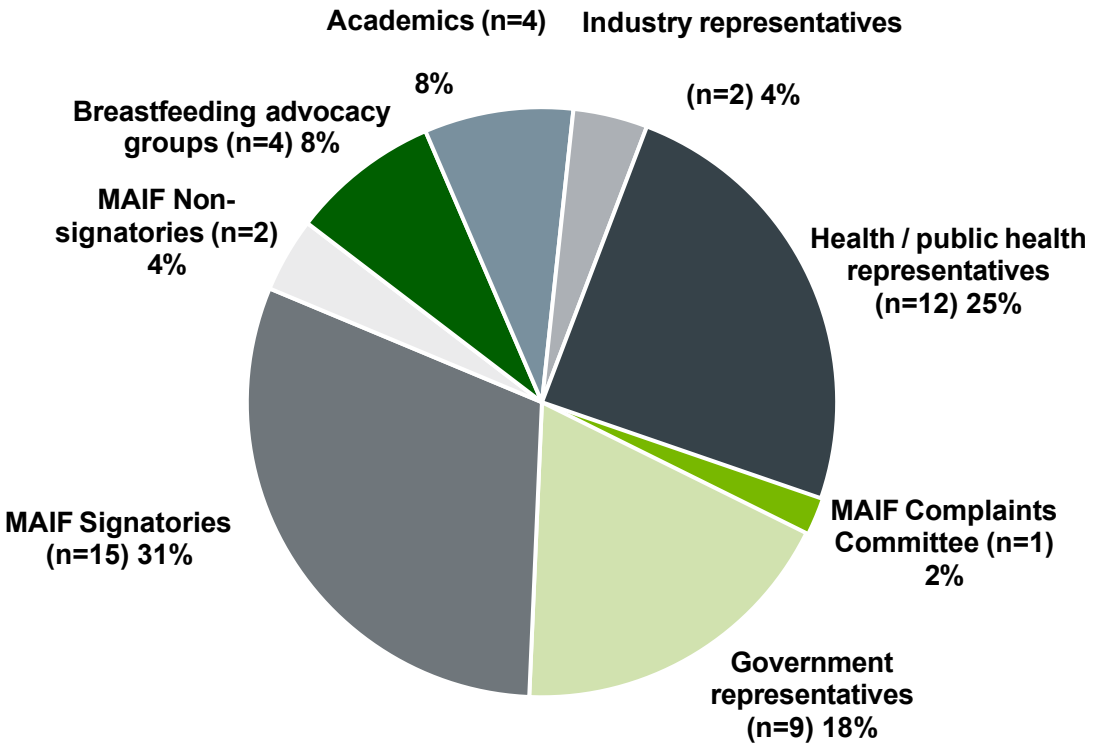
2.3 Stakeholder interviews and focus groups

The interviews and focus groups followed a semi-structured format. A base interview script was developed with interview questions that were broadly in line with questions in the survey, but adapted to each stakeholder group. Interviews and focus groups were adjusted based on the direction of the discussions.

The Review team conducted 28 interviews and focus groups with 84 individual participants from 49 organisations, including:

- Government representatives, including State and Territory Health Departments
- MAIF Agreement signatories
- infant formula companies who have not signed the MAIF Agreement (non-signatories)
- industry representatives
- MAIF Complaints Committee members
- health / public health representatives
- breastfeeding advocates
- academics.

Figure 5: Proportion of stakeholders consulted in interviews and focus groups by agency / organisation



2.4 Review of written materials

The Review Team undertook an initial review of over 60 documents. Documents were reviewed in order to provide context to the Review, to research identified data gaps, and to inform areas that required further investigation during stakeholder consultation. The review of written materials informed the development of documents that were used to undertake the consultation process, including the **Consultation Paper**, the public survey, and questions that were used in focus groups and interviews.

Stakeholders were invited during interviews and focus groups to submit further resources or materials for consideration. A total of 80 additional documents were received. These were initially reviewed by the Review team for relevance and duplication with materials already received, resulting in the exclusion of 13 documents. A final total of 67 discrete documents were then analysed. The Review team undertook an analysis of 150 documents in total, comprising documents reviewed during the desktop and literature review, materials provided by stakeholders, and additional documents reviewed following the consultation process. A full list of documents informing this Review can be found at **Appendix A**.

The Review also received 11 written submissions from stakeholder groups, including health representatives, breastfeeding advocacy groups, and industry. Written submissions were received directly via the Review email address, and were uploaded as attachments to survey responses.

2.5 Limitations

2.5.1 Possible duplication of interview and survey responses

Stakeholders were provided with several opportunities to contribute to the Review: including through survey responses, written submissions, and participation in focus groups/interviews. As intended, the semi-structured interviews/focus groups added depth and explanation to the survey results. However, due to the nature of interviews/focus groups which involve more open-ended questioning and a narrative style, it is not statistically valid to add interview responses to similar responses from the survey. Nevertheless, the various data sources reinforce the strength of the findings and provide greater depth and richness to the conclusions drawn from the survey. Where multiple inputs were received from the same stakeholder in surveys or it was clear that the survey responses were duplicates, these data were excluded from the synthesis. In addition, the extent to which participants were representative of their cohort cannot always be gauged.

2.5.2 Limited consumer perspectives in the targeted consultation (interviews/focus groups)

While interviews and focus groups were attended by several breastfeeding advocacy groups, despite attempts, a specific consumer organisation could not be engaged to represent the voices of consumers of infant formula. However, several industry stakeholders provided the Review team with data (anecdotal and survey-based) in relation to the views and experiences of their consumers. Consultation with consumers (both breastfeeding parents, and consumers of infant formula) was achieved primarily through the public survey – the majority of survey respondents (63%, n=279) identified as consumers / members of the general public. This allowed the Review to assess views among consumers and the general public in relation to the MAIF Agreement. Overall, the Review team considers that consumer voice has been adequately captured and reflected in this Review.

2.5.3 Quotations from interviews / focus groups

While audio and written recordings were made of most interviews and focus groups, quotes have not been cross-checked with relevant stakeholders prior to inclusion in this Review. Accordingly, they may not always be verbatim quotes as they have not been validated with the stakeholders interviewed.

3.0 CONSULTATION KEY THEMES AND FINDINGS

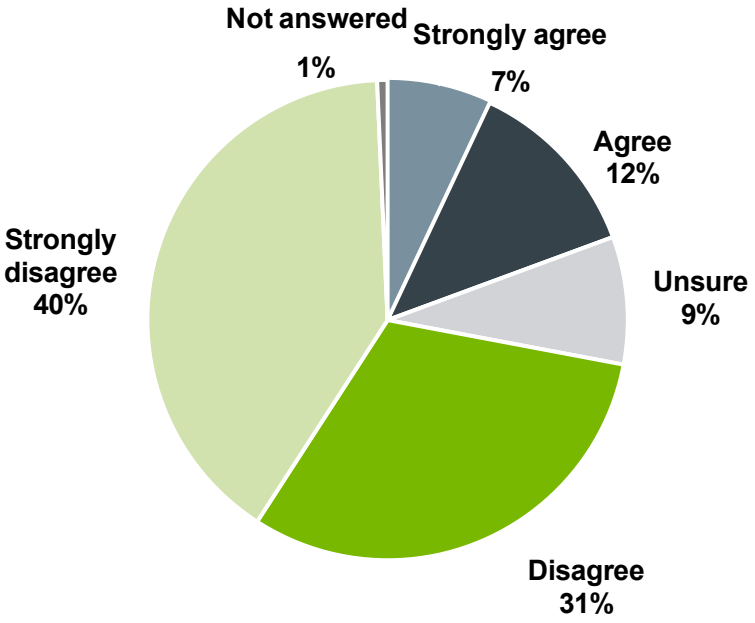
3.1 KRQ 1: Is the MAIF Agreement effective in achieving its aims?

This section of the report considers perspectives among stakeholders in relation to whether the MAIF Agreement is effective in achieving its aims.

3.1.1 Findings from stakeholder consultation

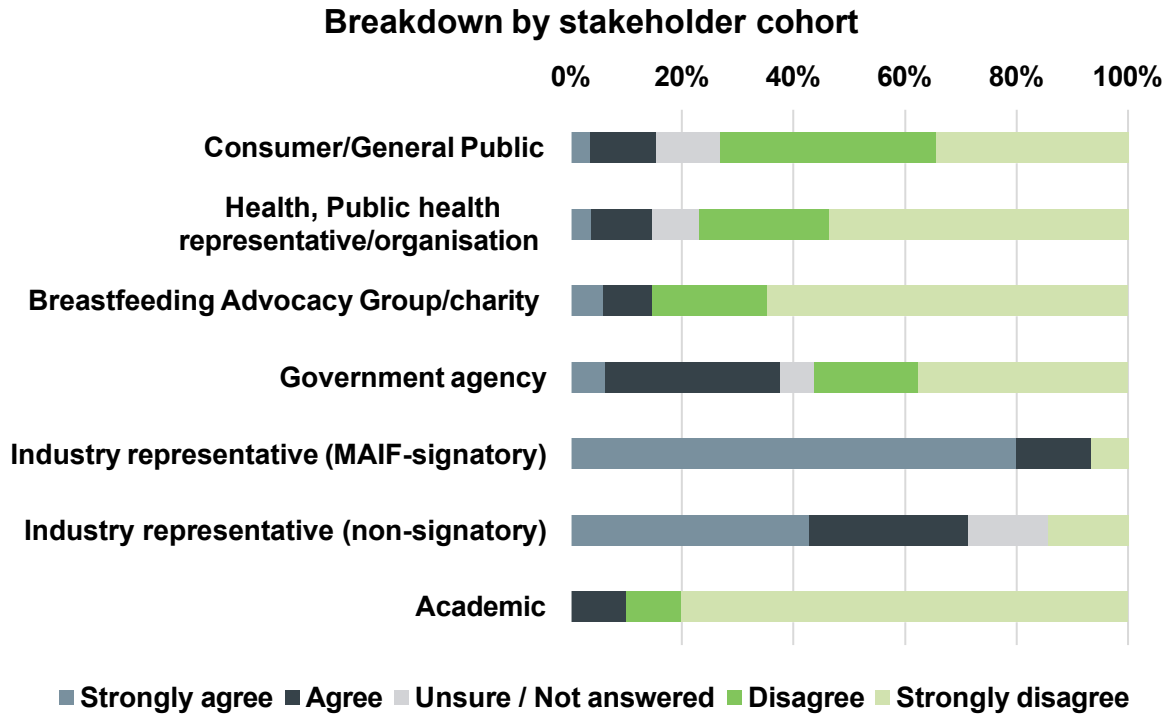
Almost three-quarters (71.4%) of survey respondents disagreed that the MAIF Agreement is effective in achieving its aims, with 31.2% disagreeing and 40.2% strongly disagreeing that it is effective. Less than 20% of survey respondents agreed (12.4%) or strongly agreed (7%) that the MAIF Agreement is effective in achieving its aims (**see Figure 6**).

Figure 6: Survey responses to the question 'To what extent do you agree the MAIF Agreement is effective in achieving its aims?'



A breakdown of survey responses by stakeholder cohort showed industry views contrasted with those held by most other stakeholders. Industry stakeholders considered the MAIF Agreement to be fit-for-purpose and highly effective in achieving its aims, while most other stakeholders (consumers, public health and health representatives, government agencies, breastfeeding advocates, and academics) disagreed that it was effective (see **Figure 7**).

Figure 7: Breakdown of survey responses to the question 'To what extent do you agree the MAIF Agreement is effective in achieving its aims?' by stakeholder cohort



3.1.2 Reasons for MAIF Agreement effectiveness

As outlined above, the general consensus amongst consumers, public health and health representatives, government agencies, breastfeeding advocates, and academics was that the MAIF Agreement is not effective. This is discussed further at section 3.1.3 below.

However, the consensus among industry representatives is that the MAIF Agreement is a robust and cost-effective framework that is fit-for-purpose and highly effective in achieving its aims. The Review heard that breastfeeding rates have remained relatively consistent since the establishment of the MAIF Agreement. Broadly, industry representatives were of the view that there are a range of other processes and norms in place which complement the aims of the MAIF Agreement and that as a result, there have been relatively low numbers of breaches of the MAIF Agreement since its implementation.

Industry stakeholders highlighted the following:

- Individual companies have their own compliance obligations and mechanisms that support the aims of the MAIF Agreement.
- There are guidance documents for interpreting the MAIF Agreement that help ensure the MAIF Agreement remains fit-for-purpose.
- Signatories are committed to complying with the MAIF Agreement and take their obligations and the risk of reputational damage very seriously. Accordingly, public reporting of breaches provides sufficient deterrence for non-compliance. This is a stronger motivator than financial penalties would be if implemented.

- The INC has processes for managing allegations against other members and educates its members on MAIF Agreement obligations to support the MAIF Agreement's aims.
- There are regular industry forums where MAIF obligations are discussed.
- Signatories engage with retailers to highlight obligations under the MAIF Agreement.
- The Food Standards Code contains obligations that support and supplement the MAIF Agreement.

> *Breastfeeding rates have been more or less constant since implementation of MAIF in 1992 – a sign it is working and is protecting and promoting breastfeeding. Adequate information is provided on labels about the use of breast milk substitutes… Compliance has been very high among all MAIF signatories. Without passing on the burden to government, industry self-regulates and we are very attentive to any deviation amongst companies and we call it out immediately when anything against MAIF reaches the market. We also have our own internal policies and MAIF policies are very similar to our internal policies so we follow everything to the letter.*
>
> - MAIF signatory, interview participant

> *The MAIF Agreement is a robust industry code. It has broad industry acceptance and coverage and there are mechanisms in place to monitor and support compliance. These include interpretation guidance documents and the MAIF Complaint process managed through the Department. [We are] a long-standing signatory to the MAIF Agreement and we take our compliance obligations very seriously. [We] and other major market participants have demonstrated high levels of compliance with the MAIF Agreement. In addition to the MAIF Complaints processes, [we have our] own monitoring and sanctions processes supporting compliance.*
>
> - MAIF signatory, survey respondent

3.1.3 Reasons for MAIF Agreement ineffectiveness

Themes that emerged from the survey and focus groups / interviews relating to the ineffectiveness of the MAIF Agreement included:

- The MAIF Agreement does not reflect international best practice on infant feeding and fails to fully deliver on international agreements (for example, the WHO Code and subsequent WHA resolutions).
- The MAIF Agreement is voluntary and not all manufacturers / suppliers are signatories.
- Monitoring of compliance is inadequate and there are insufficient deterrents and penalties for breaches.
- Widespread and pervasive marketing of infant formula may still occur, particularly via social media platforms, through cross promotion (via similar packaging / design and line extension), and retail product promotions and price discounting.

- There is a conflict of interest in relation to industry representation on the MAIF Complaints Committee.

Among stakeholders that considered the MAIF Agreement to be ineffective, it was commonly stated that the MAIF Agreement leaves significant 'loopholes,' particularly in relation to targeted digital advertising, and cross-promotion through marketing of similarly packaged toddler milk drinks and complementary foods.

There was a strong view from non-industry stakeholders that the MAIF Agreement needs to be mandatory and should be replaced by full implementation of the WHO Code and subsequent WHA resolutions. An academic stakeholder suggested that:

> *Whether the MAIF is achieving its aims should be considered in relation to whether it is upholding the intentions, provisions, and subsequent resolutions of the WHO Code. It is entirely inadequate on that basis.*
>
> - Academic, focus group participant

One government representative stated that:

> *The voluntary self-regulatory nature isn't working and hasn't for 30 years. Something needs to be put in place to make it align with the WHO Code on marketing of infant formulas and World Health Assembly Resolutions.*
>
> - State/Territory Health Department representative, focus group participant

Several non-industry stakeholders highlighted that many complaints are considered out of scope because they relate to non-signatories or retailers. In this regard, the narrow scope of parties currently captured by the MAIF agreement, was considered to enable inappropriate marketing. Further, non-industry stakeholders held the view that penalties are insufficient and need to be proportionate to company size and financial turnover.

3.1.3.1 Unintended negative outcomes

Some consumers and industry stakeholders were of the view that the MAIF Agreement has led to several negative outcomes which go beyond the aims of the MAIF Agreement itself. Stakeholders were of the view that these include detrimental impacts on infant nutrition and the health and wellbeing of mothers and caregivers.

Stigma and mental health impacts

Some consumers and industry stakeholders expressed a sentiment that the MAIF Agreement stigmatises the use of infant formula and prevents parents from accessing sufficient information and education about infant formula to support informed decision-making. A view expressed by some mothers was that the MAIF Agreement marginalises parents and caregivers and compounds feelings of guilt, shame, and stress that mothers already feel at being unable to breastfeed their children. Stakeholders described the lack of available support and advice on the proper use of infant formula from health professionals, with some mothers stating that they felt 'judged,' 'abandoned,' and 'isolated.'

No other health education campaign would decide that not giving a consumer all the options available to them is ethical, but that is what the breastfeeding groups have done. I would have appreciated somebody suggesting formula to me earlier, and maybe I wouldn't have gone through a period of postnatal depression, feeling like a complete failure for using formula. Give women all the options available to them without emotion or judgement.

- Consumer/general public, survey respondent

The Agreement puts breast milk above other important needs such as a parents' mental health and body autonomy, so in turn produces mothers who are suffering poor mental health, adding to the weight and shame around their decision to use formula.

- Consumer/general public, survey respondent

>90% of mothers try to breastfeed… the fact that we have low ongoing rates has nothing to do with marketing, there are other health and social issues like terrible parental leave policies, not enough maternal health or breastfeeding support, and we don't encourage or market combination feeding well enough. No funding goes into breast pumping support/ cost to help mothers who are working, single or having difficulty feeding to find a balance. Breastfeeding can easily cost more than formula when you add in pumping, medication, dietary supplements etc.

- Consumer/general public, survey respondent

Prohibition on donations in disaster and emergency contexts

Several MAIF signatories and industry representatives raised concerns about the MAIF Agreement presenting a barrier to the provision of infant formula to families during natural disasters. The Review team heard that donations of infant formula, which had been requested by communities during Victoria's Black Summer bushfires in 2019-2020 and then during COVID-19-related tower lockdowns in 2020, had been refused by the Department of Health and Aged Care as the donations were considered a breach of the MAIF Agreement.

Several stakeholders suggested there is an urgent need for the development of a policy or guidance to ensure infant formula can be provided to 'vulnerable cohorts' in emergencies, and that enabling donations to reputable charities is an appropriate mechanism. Several stakeholders suggested that donations of infant formula in an emergency, when managed responsibly, have an important role for formula-fed babies and in reducing their family's stress when supplies of breast milk are inadequate due to external stressors.

Reduced education and information sharing

A range of industry and non-industry stakeholders suggested that the MAIF Agreement is ineffective as it reduces the ability of caregivers to receive evidence-based information to support informed decision-making both about breastfeeding and the use of infant formula. Views particularly focused on the appropriateness of engagement by members of the infant

formula industry with healthcare professionals, and the role healthcare professionals should play in providing balanced and accurate information to parents and caregivers about breastfeeding and the use of infant formula.

A widely held view during consultations was that health professionals do not receive sufficient training to support mothers to breastfeed and may provide inaccurate or insufficient information to parents about infant feeding. Resources should be developed so that healthcare professionals can access objective, unemotive information. It was suggested that information regarding the safe preparation, storage, and use of infant formula products should be provided to every mother using infant formula, and this information should be provided through health professionals to avoid risks associated with commercial influence. There was a broad view from many stakeholders that industry should be restricted from providing guidance around the use of infant formula to health professionals. A range of activities to increase awareness of appropriate use of breast milk substitutes is discussed further at **section 3.1.3.2** below.

Many consumers highlighted their frustrations at being unable to access evidence-based and accurate information, including from healthcare providers:

> *Mothers should be readily provided with information that allows them to make an informed choice to use formula when breast milk is not an option. By gagging health professionals from providing info[rmation] on breast milk alternatives it leaves already vulnerable mothers feeling isolated and leads to increase in anxiety and depression stemming from the shame of being unable to feed their child in an 'approved' manner.*
>
> - Consumer/general public, survey respondent

Several MAIF signatories and consumers highlighted the need for industry to provide education and unbiased up-to-date information to healthcare professionals. A MAIF signatory indicated that their consumer data showed that carers often struggle to get information from healthcare professionals, who may incorrectly interpret the MAIF Agreement as prohibiting them from talking about infant formula. Several industry stakeholders indicated that general practitioners and nurses are considered to be credible sources of information, and so information and education must be provided to these professionals to ensure that the most accurate and scientifically credible information is passed on to parents and carers.

> *You can't uncouple discussing breast milk substitutes when discussing feeding challenges or diseases or clinical conditions. So, it's critical that healthcare professionals are educated and that we have the chance to work with them to provide scientific and factual information… they are the [segue] to provide that information to parents and carers to ensure infants are fed appropriately and in best way possible.*
>
> - MAIF signatory, interview participant

Several industry stakeholders highlighted that it was important to acknowledge that consumers have the right to make their own decision, and the MAIF Agreement in its current form does not enable consumers to be fully informed. A non-signatory emphasised that there is a lack of information and support for women who are unable to successfully breastfeed,

> *Fair and equitable information should be made available to women. It should be about how we work together better to make better solutions for women who want to breastfeed.*
>
> - Industry representative (non-signatory), interview participant

Concerns raised during consultation about engagement by industry with healthcare professionals are outlined under **Section 3.2.3.1.**

3.1.3.2 Activities to increase awareness of appropriate use of breast milk substitutes

Suggestions for increasing awareness about the appropriate use of breast milk substitutes, and supporting more informed decision-making include:

- Utilising an independent body/agency to provide a comparison guide of products, their ingredients, and indications for use to ensure that any information targeted at health professionals is scientifically factual and devoid of marketing content.
- Creating publicly available government-supported guidance documents on the appropriate use of infant formula, which are regularly reviewed and updated and serve as a single source of truth through which information about infant formula is disseminated.
- Embedding appropriate information on best practice infant formula feeding advice into pre-service training for health professionals, particularly general practitioners and nurses, alongside professional development in the workforce including evidence-based educational resources and fact sheets.
- Supporting information sessions, educational workshops, and forums for consumers and healthcare professionals on the appropriate use of breast milk substitutes free from commercial influences.

3.1.3.3 Integration with other policies and strategies

Several stakeholders noted that the MAIF Agreement should not be considered as a standalone response and should be integrated with other policy measures to protect infant nutrition and support breastfeeding, including the National Health and Medical Research Council (NHMRC) Infant Feeding Guidelines, the Australian National Breastfeeding Strategy, the Food Standards Code, and coordination groups which have broad oversight. A breastfeeding advocacy group emphasised that the MAIF Agreement should refer to and support initiatives such as the Baby Friendly Health Initiative and Breastfeeding Friendly Childcare Program. In this regard, the Early Years Strategy provides one approach to connect the MAIF Agreement to other strategies.

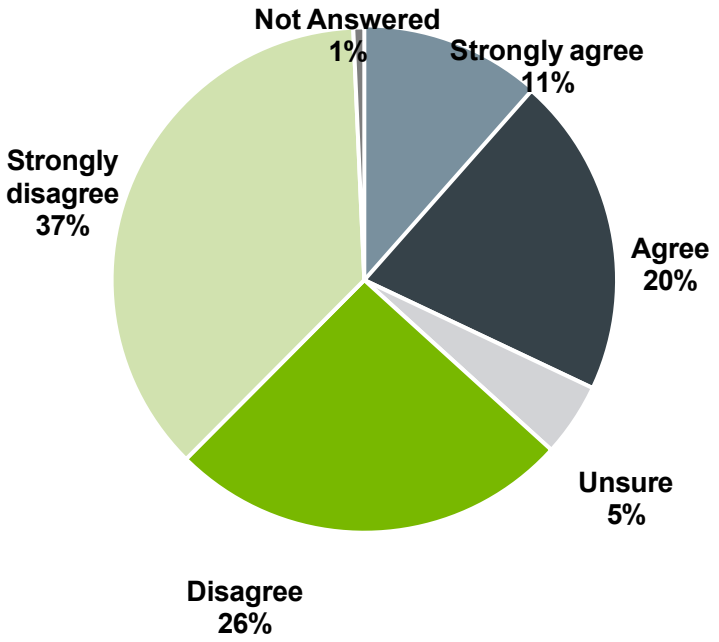
3.2 KRQ 2: Is the scope of the MAIF Agreement appropriate in the current policy environment?

This section details consultation findings concerning the perceived appropriateness of the scope of the MAIF Agreement within the current policy environment. Key considerations include the products that are within scope, parties subject to the MAIF Agreement, and whether the MAIF Agreement sufficiently addresses modern marketing practices.

3.2.1 Findings from stakeholder consultation

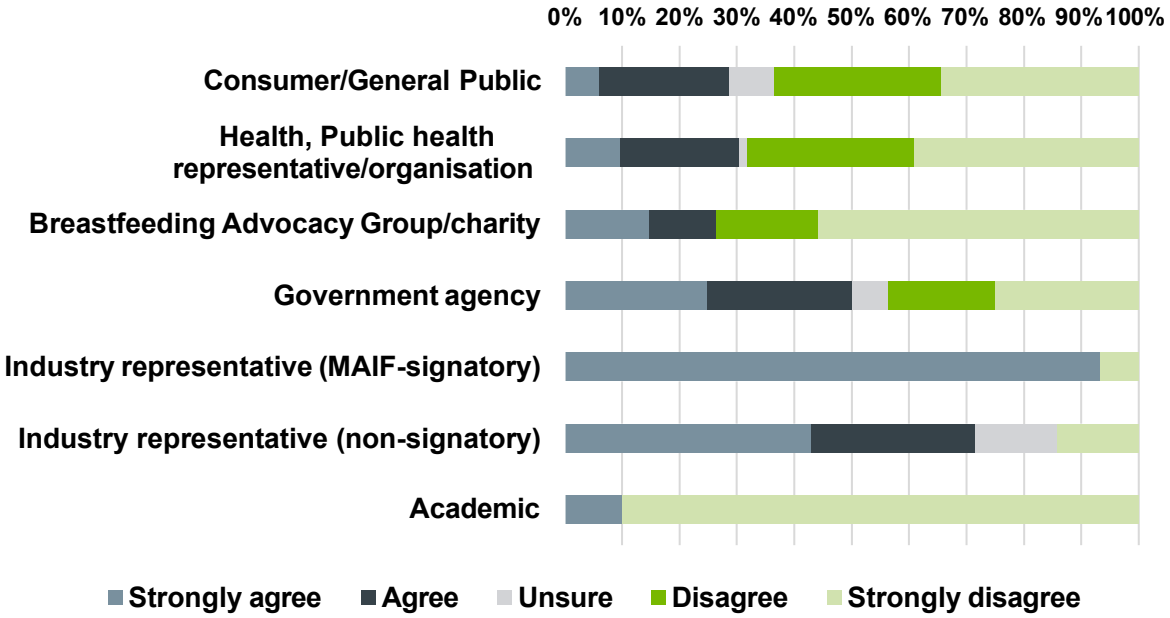
Views on the appropriateness of the MAIF Agreement's scope were highly divergent. Broadly, industry stakeholders considered the scope of the MAIF Agreement appropriate, while other stakeholders perceived that the current scope was inappropriate. As shown in **Figure 8**, nearly two-thirds of survey respondents did not consider the overall scope of the MAIF Agreement to be appropriate, with 25.7% disagreeing and 36.8% strongly disagreeing with the question 'To what extent do you agree the MAIF Agreement scope is appropriate?'. Approximately one-third of survey respondents either agreed (20.5%) or strongly agreed (11.5%) that the scope of the MAIF Agreement is appropriate.

Figure 8: Survey responses to the question 'To what extent do you agree the MAIF Agreement scope is appropriate?'



Industry representatives considered the scope of the MAIF Agreement to be appropriate. In contrast, other stakeholder groups largely perceived that the scope of the MAIF Agreement was not appropriate, as shown in **Figure 9** below. Almost two-thirds of consumers disagreed (29.0%) or strongly disagreed (34.4%) that the scope of the MAIF Agreement was appropriate, while 28.6% of consumers agreed (22.6%) or strongly agreed (6.0%) that the current scope was appropriate.

Figure 9: Breakdown of survey responses to the question 'To what extent do you agree the MAIF Agreement scope is appropriate?' by stakeholder cohort



Among respondents who considered that the scope is inappropriate, common views were that the MAIF Agreement should be:

- replaced by legislation that implements the full WHO Code and subsequent WHA resolutions to expand the scope of products to include toddler milk drinks for children aged 12-36 months, bottles, teats, and pacifiers
- expanded to include retailers (supermarkets and pharmacies)
- expanded to enhance its capacity to restrict social media / digital marketing practices
- expanded to more effectively and transparently monitor marketing alongside the enforcement of stronger penalties.

These themes are explored in more detail in the following sections.

3.2.2 Appropriateness of the scope of products

Just over half of survey respondents (55.7%) did not consider the scope of products covered by the MAIF Agreement to be appropriate. About a third of respondents agreed (24.8%) or strongly agreed (7.5%) that the scope of products was appropriate.

Among stakeholders who considered the scope of products inappropriate, there was a common view that the scope should be extended to align with the entirety of the WHO Code and subsequent WHA resolutions. This would include '*any milks (or products that could be used to replace milk, such as fortified soy milk), in either liquid or powdered form, that are specifically marketed for feeding infants and young children up to the age of 3 years (including follow-up formula and growing-up milks)*' (WHO, 2017), as well as feeding bottles, teats, and pacifiers.

> *It's spurious to say that [the] scope of this issue must be kept narrowly on breast milk substitutes. To not consider commercial complementary foods is thinking as we did in [the] 1980s. We have moved on considerably from there.*
>
> - Academic, focus group participant

In relation to toddler milk drinks, the current NHMRC Infant Feeding Guidelines (National Health and Medical Research Council, 2012) state:

- *'Solid foods should provide an increasing proportion of energy intake after 12 months. Offering a variety of nutritious foods is likely to meet most nutrient needs and provides a basis for healthy eating habits.'*
- *'Special complementary foods or milks for toddlers are not required for healthy children*.'

Several stakeholders suggested that the number of complaints made about products determined to be out of scope to the MAIF Complaints Committee[1] highlights community concern about the marketing of a wider range of products perceived as breastmilk substitutes. Many stakeholders raised concerns about cross-promotion and line extension as a form of indirect marketing.

A government agency representative elaborated on the role of toddler milk product advertising. For example, with stage labelling, infant formula can have a '1' and follow-on formula '2', as this provides a low-literacy way for consumers to distinguish between the products. Toddler milk would then be labelled '3' but this product would not be covered by MAIF despite the '1' and '2' items in the same line being in scope. In this regard, stakeholders indicated that toddler milks which are 'formulated supplementary foods for young children' (falling under the Food Standards Code 2.9.3) may be difficult for consumers to differentiate. Consumers that considered the scope of products covered by the MAIF Agreement inappropriate were also of the strong view that toddler milks should be included in the MAIF Agreement.

Several non-industry stakeholders suggested that the packaging of infant formula and toddler milk products are similar and that parents and caregivers believe claims about toddler milk products are also applicable to infant formula products. However, an industry representative cited data from a survey undertaken among 947 families in Australia on a proposed ban on the marketing of toddler milk drinks (Infant Nutrition Council, 2022). Based on the survey results, only 8% of parents reported they might confuse toddler milk drinks with infant formula when they saw an advertisement for toddler milk drinks and only 6% thought that marketing of toddler milk might discourage breastfeeding.[2]

Industry stakeholders considered the scope of products to be appropriate. Commonly expressed views among industry stakeholders included:

[1] 14 of the 48 of complaints ruled out of scope for the period 2018-2020, according to Complaints Committee Annual Report data - (Department of Health and Aged Care, 2022)
[2] The Review team notes that research was funded by the Infant Nutrition Council.

- Toddler milks are not breast milk substitutes (under the Food Standards Code) and therefore should not be included in the MAIF Agreement.
- Toddler milk drinks can play an important role in addressing nutrient deficiencies (particularly for iron and vitamin D) and industry provides significant investment for product research and innovation.
- Expanding the scope of regulation to include toddler milks would negatively impact the competitive landscape and reduce incentives for innovation.

3.2.3 Appropriateness of the scope of parties

More than half of survey respondents (56.2%) did not consider the scope of parties covered by the MAIF Agreement to be appropriate. Just over a quarter of respondents agreed (23.9%) or strongly agreed (4.7%) that the scope of parties was appropriate and should not be extended.

There was a widespread view that the scope of parties should be significantly expanded, with one consumer/member of the public suggesting that:

> *Any place selling, manufacturing, advertising, distributing formula or infant and child feeding related items should be regulated and monitored. Especially pharmacies, GP clinics, supermarkets, charities, food banks.*
>
> - Consumer/general public, survey respondent

Among survey respondents who considered the scope of parties to be inappropriate, there was a broad view that the scope should be expanded to include retailers (supermarkets and pharmacies). It was suggested that retailers engage in regular product marketing and advertising via price discounting. A breastfeeding advocacy group advised that, in a recent survey they had undertaken, 35% of breaches of the WHO Code were by supermarket and pharmacy retailers. An academic stakeholder suggested that increasing the scope of parties would:

> *Improve the system of governance and address the multiple strategies used for marketing. Marketing is much more complex than direct advertisements to mothers. Marketing includes […] policy interference in addition to product positioning, placement, promotion and price, for example through labelling, supermarket aisle banners, discounts, gifts and online/social media push advertisements and influencers.*
>
> - Academic, survey respondent

Broadly, signatories, representatives of the infant formula and retail industries, and some consumers did not support the view that the scope of parties should be extended to include retailers. Signatories suggested that they held their retailers responsible for complying with the MAIF Agreement by ensuring retailers are aware of their commitments. One survey respondent outlined the following concerns:

> *I do not believe that this should include pharmacies and supermarkets. We are talking about the only alternative to breastmilk and so many families need these products. Further restricting information and making it 'banned' like cigarettes is dangerous and harmful to the mental health of women. Women should NOT feel bad for accessing these products. In the absence of any marketing whatsoever how do we know what we are buying? How do we access information?*
>
> - Consumer/general public, survey respondent

3.2.3.1 Healthcare providers

Non-industry stakeholders expressed the view that the MAIF Agreement should be broadened to provide further restrictions on engagement by infant formula companies with healthcare providers. The MAIF Agreement stipulates that '*Manufacturers and importers of infant formulas providing information about the formulas to health care professionals should restrict the information to scientific and factual matters*.' The MAIF Complaints Committee's **Guidance document for the interpretation of the MAIF Agreement – Scientific and factual information provided to healthcare professionals (clause 7a)** provides further guidance in this area (MAIF Complaints Committee, 2022).

> *Health professionals are overtly and covertly targeted with the marketing of breastmilk substitutes because they are seen as an important way to influence infant feeding decisions. As a health professional, I have been invited to industry-sponsored professional education webinars and offered meals, gifts and opportunities to win prizes. This is clearly marketing and these activities are designed to influence our practices and recommendations*.
>
> - Healthcare professional, survey respondent

Industry stakeholders highlighted the risks associated with expanding the scope of the MAIF Agreement to include a full prohibition on engagement with healthcare providers. One consumer/member of the public suggested that:

> *All advertising should be allowed, but particularly advertising to healthcare professionals. These parties should be able to have a comprehensive understanding of which products exist as an alternative to breastfeeding.*
>
> - Consumer/general public, survey respondent

3.2.4 Appropriateness of marketing provisions

Just under two-thirds of survey respondents (64.3%) did not consider the scope of advertising and marketing provisions covered by the MAIF Agreement to be appropriate. A quarter of survey respondents agreed (16.9%) or strongly agreed (8.4%) that the scope of marketing was appropriate. The general perception among non-industry stakeholders was that the MAIF Agreement has not kept pace with the rapid evolution of marketing practices.

3.2.4.1 Digital marketing

Many stakeholders raised concerns about the emergence of digital marketing of infant formula. One stakeholder cited a WHO report which indicated that women are being targeted through machine-learning algorithms that collect and analyse data by interacting with social media users. Users generate these data both actively — by filling in forms, posting, and sharing content — and passively, as they interact with content on social media, in apps or online environments. In this regard, users are unable to avoid leaving a data footprint that can be used to target them with advertising on social media and other online platforms (WHO, 2022).

> *…the people who are getting it [targeted advertising] are not in a position to understand why it's inappropriate.*
>
> - Public health representative, interview participant

Concern was raised regarding the rise of 'digital influencers' with large social media followings and the power to influence choices, who make regular posts about infant formula. Stakeholders raised concerns that these influencers for infant formula include celebrities, paediatricians, and 'mum influencers' who use 'guerrilla marketing tactics' and harness infant formula as a means of self-promotion. Concerns were also raised about the presence of 'mummy blogs' that often advertise toddler milk and bottle companies.

> *… a lot of young women are influenced by those [they] follow on Instagram and TikTok etc and the normalisation again of influencers advertising breastmilk substitutes or bottles once again creates a normalisation or formula milk and 'if it's alright for her kid then it will be alright for mine' with no disclaimers, risk explanation or reasons for their informed decision e.g. medical needs or lack of supply.*
>
> - Consumer/member of the public, survey respondent

Stakeholders suggested that provisions for marketing should be upgraded in the MAIF Agreement to ensure parity with other marketing provisions and be robust enough to encapsulate all digital media, including small companies that manufacture and sell directly to the public online, as well as online promotions and influencer stories. It was suggested that advertising and marketing provisions should be reviewed and updated annually to keep up with the ever-changing media landscape.

> *The scope of the MAIF agreement should absolutely be changed to include modern marketing techniques such as targeted advertising or advertising through social media platforms, including social media influencers who may or may not disclose renumeration or rewards received from formula companies…as marketing techniques are only likely to continue to develop and change, particularly through increased digitalisation and global connectivity, the MAIF Agreement should continue to be updated to match these changes and developments, as well as including adequate future-proofing for marketing techniques which may arise.*
>
> - Consumer/member of the public, survey respondent

Many stakeholders acknowledged that monitoring advertising in this space is difficult and advised that passive monitoring is inappropriate, given the challenges with tracking targeted marketing and capturing information when it is only posted on a 24-hour feed. Further, it can be challenging to determine how much control a company has over the behaviour of online influencers.

In contrast, some consumers/members of the public stated that they should be able to seek out information on social media and advocated for the 'normalisation' of formula feeding. Some consumers suggested that access to more product information online would assist them with making informed decisions about nutrition, help reduce the stigma associated with infant formula, and lead to improvements in mental health and wellbeing.

> *Infant formula is ultimately a source of nutrition and as such should be treated the same as all other foods. With regards to modern marketing techniques, targeted advertising on social media platforms is somewhat useful however the information contained needs to be accurate and not embellished. Like all ads on social media, influencers should be held accountable to disclose when something [they] are using is an advertisement, when they have partnered with the brand and when they are getting paid.*
>
> - Consumer/member of the public, survey respondent

> *It needs to be promoted somewhere. Maybe not for the general public but somewhere it can [be] monitored and checked by healthcare professionals but easily accessed by sleep deprived parents trying to understand it all. Unbiased information needs to be advertised - ingredients, instructions etc. so parents don't have to stand in the supermarket reading tins while their hungry babies cry.*
>
> - Consumer/member of the public, survey respondent

Industry representatives broadly felt that the marketing provisions are appropriate, and the scope does not need to be expanded. While it was noted that digital and social media marketing has evolved since the MAIF Agreement's inception, several MAIF signatories emphasised that the core provisions of the MAIF Agreement are clear and sufficiently broad to cover a wide range of advertising and marketing formats and encompass future industry developments. Signatories and industry representatives also suggested that the MAIF Complaints Committee's **guidance document for interpretation of the MAIF Agreement in relation to electronic media** marketing activity is comprehensive and helps guard against inappropriate marketing in this space.

Several MAIF signatories emphasised that to ensure compliance, companies invest in upskilling, education, and ongoing monitoring to ensure that anyone involved in the marketing ecosystem is highly trained.

> *We have rigorous internal sign off processes and social media monitoring that is always on from our point of view. We have a very clear mandate that we do not step into any conversation outside the boundaries of our own*

platforms/channels unless there is a direct request for info[rmation] from us as a manufacturer.

- MAIF signatory, interview participant

3.2.4.2 Suggestions for changes to marketing and advertising provisions and methods for implementation

Several suggestions were made to address inappropriate digital marketing. A health sector stakeholder highlighted the Corporate Accountability Tool & Communications Hub developed by the organisation FHI Solutions (FHI Solutions, 2022), which has demonstrated success in monitoring breaches of the WHO Code on digital platforms. The stakeholder described that this tool can systematically document WHO Code breaches and if implemented in Australia, would support rapid and cost-effective monitoring and enforcement.

An example was raised regarding the successful monitoring of digital marketing in Vietnam. This effort involved a partnership between FHI Solutions with Alive and Thrive and the government of Vietnam to create the Virtual Violations Detector (VIVID) (FHI Solutions, 2022), which uses automated artificial intelligence and supervised machine learning to detect advertising violations of the WHO Code on digital platforms. VIVID is a digital assistant that scans websites, social media channels, and shopping platforms to identify advertisements that violate the WHO Code. Using key text and image recognition, the platform can identify posts that may be violations and match those to specific provisions of the WHO Code. The platform gathers all potential violations with an auto-detect function, and violations are confirmed by a human advisor who shares all information with the Vietnamese Government (FHI Solutions, 2022).

Other suggestions made by stakeholders of measures to monitor the marketing of breastmilk substitutes include the NetCode toolkit (WHO, 2017), which provides protocols for an ongoing monitoring system for enforcement of the WHO Code (and other related agreements and regulations). The purpose of the NetCode toolkit is to reinvigorate and reinforce ongoing monitoring of the Code and national laws by providing protocols, guidance, and tools. The toolkit includes an ongoing monitoring system protocol and a periodic system protocol. Each protocol is accompanied by a set of guidelines and tools to support implementation. Protocol selection will depend on the specific national context, resources, and need for information.

3.3 KRQ 3: Are the MAIF Agreement processes appropriate?

This section presents findings from the stakeholder consultation process concerning the appropriateness of MAIF Agreement processes, including the complaints process, operation of the Complaints Committee and its membership, guidance documents to support the interpretation of the MAIF Agreement, and enforcement mechanisms. This section details concerns raised by stakeholders about MAIF Agreement processes and outlines their suggestions for improvement.

3.3.1 Appropriateness of the complaints process

As shown in **Figures 10** and **11**, divergent views were expressed during stakeholder consultation about whether the current MAIF Agreement complaints processes are appropriate.

34% of survey respondents disagreed (12.9%) or strongly disagreed (21%) that the MAIF Agreement complaints processes are appropriate. This is compared to 20.4% of respondents who felt they were appropriate. Almost half of all survey respondents (43.3%) indicated they were unsure if the MAIF Agreement complaints processes are appropriate, suggesting a lack of engagement with these processes by a large portion of survey respondents.

Figure 10: Survey responses to the question 'To what extent do you agree the MAIF Agreement complaints processes are appropriate?'

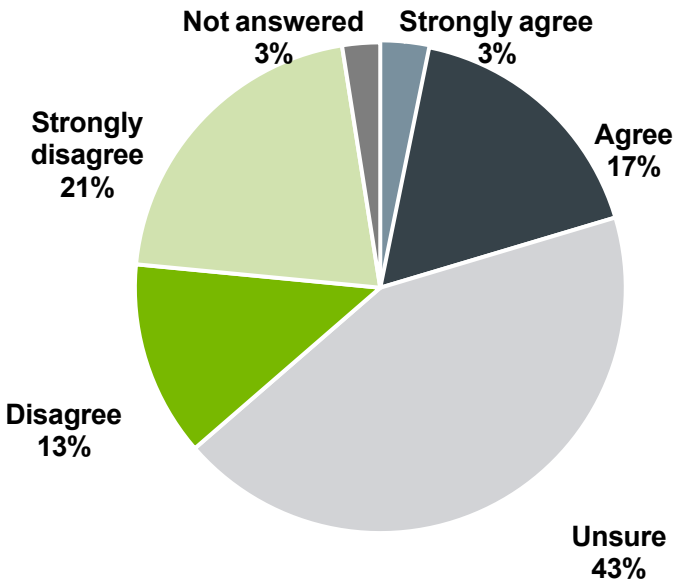
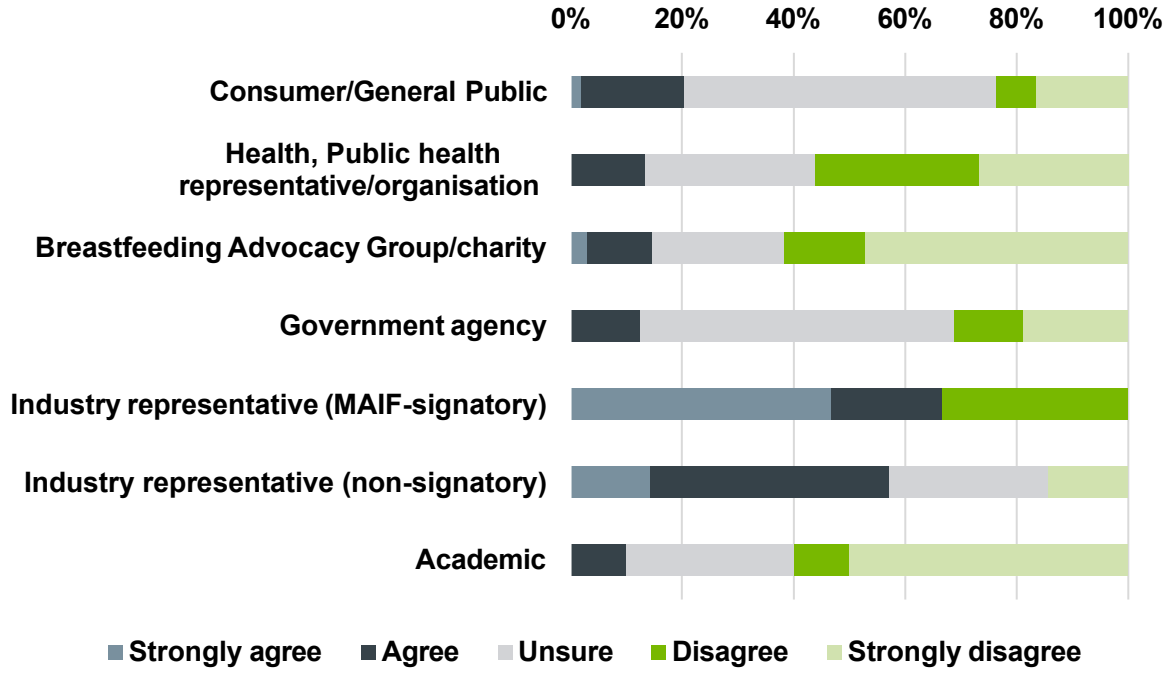


Figure 11: Breakdown of survey responses to the question 'To what extent do you agree the MAIF Agreement complaints processes are appropriate?' by stakeholder cohort



Among non-industry stakeholders who responded to the survey, over a third (34.2%) disagreed or strongly disagreed that the MAIF Agreement complaints processes are appropriate. 148 non-industry respondents provided comments regarding the appropriateness of the MAIF Agreement complaints processes. The key reasons that respondents felt that the MAIF Agreement complaints process was inappropriate, include:

- it lacks enforcement mechanisms and consequences
- processes and findings are not transparent
- there is a lack of independence and adequate representation of expertise on the MAIF Complaints Committee
- many of the complaints are considered out of scope
- it is too complex and onerous
- it is too slow.

In contrast, of the 23 industry stakeholders who completed the survey, 60% agreed or strongly agreed that the MAIF Agreement complaints procedure is appropriate. In their supporting comments, a major theme was that there is a high level of compliance amongst signatories, which demonstrates the overall effectiveness of the MAIF Agreement and its processes. There was a general view among industry stakeholders that there is room for improvement concerning timeliness, transparency of processes and decision-making, and communication of outcomes.

Among the stakeholders who participated in interviews and focus groups, views were predominantly negative, with a widespread perception that the current processes require improvement. Many stakeholders raised concerns about the independence of the MAIF

Complaints Committee, and inadequate enforcement mechanisms and consequences for those in breach.

3.3.2 Experience of lodging a complaint

In total, approximately 10% of survey respondents had experience of lodging a complaint with the MAIF Complaints Committee. 39 non-industry respondents elaborated on their experience of lodging a complaint with the MAIF Complaints Committee. Of these, only a small number of respondents who had submitted a complaint found the process to be 'easy', 'simple', 'straightforward', or 'efficient'. More than half described their experience in negative terms, including criticising the accessibility, efficiency, appropriateness, and complexity of the process, and describing frustrations with the amount of time required to lodge a complaint.

In terms of the quality of outcomes, 14 respondents reported that they received a response that their complaint was outside the scope of the MAIF Agreement and therefore dismissed, 12 respondents reported that they never received a response or that there was no apparent outcome to their complaint, and a further nine respondents reported that they received unsatisfactory responses containing a lack of transparency of the decision-making process.

3.3.3 Timeliness

Among survey respondents, 23% disagreed (9.5%) or strongly disagreed (10.8%) that the complaints process is administered in a timely manner, while less than 10% of respondents agreed (7.7%) or strongly agreed (1.6%) that the process is timely.

Of the 113 non-industry stakeholders who expressed their views on the timeliness of the process, the majority felt that it is inadequate and unacceptable. Some suggested that there is a lack of transparency about timeframes in general and that there should be clearer standards associated with this.

Among the 23 industry stakeholders who responded to the survey, many expressed that the current complaints process is 'protracted and slow', and improving the timeliness of the process would increase compliance, while others agreed that the complaints process is administered in a timely manner.

> *From a signatory's perspective, the current process for notifying a complaint works well and the time allocated to respond is fair. It is essential that signatories continue to be provided an opportunity to respond to 'in scope' complaints.*
>
> - MAIF signatory, survey respondent

There was general consensus among stakeholders who participated in interviews and focus groups that the timeliness of decision-making and reporting of the MAIF Complaints Committee is far from satisfactory.

Stakeholders described to the Review team that it took between four-six months from when a complaint is made to when they are notified about it, and another four-six months (or up to a year in some cases) to receive a determination. Once a complaint is made, the MAIF Complaints Committee may take several months in the initial vetting process to determine

whether the complaint is within scope. It also takes 'a long time' to produce minutes of meetings – sometimes up to three months following a meeting. Finally, there is a delay in the publication of decisions and the annual report.

Factors identified by stakeholders as contributing to these delays included that the MAIF Complaints Committee only meets once every three months. There was also a view amongst stakeholders that delays are contributed to by the perceived turnover of staff in the secretariat at the Department of Health and Aged Care. Stakeholders outlined challenges arising from the lack of timeliness in the complaints decision-making and reporting process, including:

- People 'may not bother' submitting complaints anymore because it takes too long, and it's not actioned or considered.
- Companies might receive a complaint, address that complaint, change their conduct to remedy the behaviour that was the subject of the complaint, and then 6 months later receive and need to respond to a complaint about the same conduct that they have already remedied.

3.3.4 Transparency

Of respondents, 22% disagreed (10.4%) or strongly disagreed (12.2%) that the complaints process is transparent, while 13.8% agreed (9.3%) or strongly agreed (4.5%) that it is transparent.

A total of 65 non-industry survey respondents commented on the transparency of the complaints process. Of these, only a very small number expressed that they felt the process is adequately transparent. Key issues raised by stakeholders around the lack of transparency include:

- Absence of information about how decisions are made, and who is involved
- Absence of information in reporting complaints outcomes and any actions taken
- The process is too industry-focused and not accessible to the general public
- There is insufficient information communicated to complainants and the organisations against whom a complaint is made.

In contrast, over half of industry respondents strongly agreed that the complaints process is transparent, stating that all necessary information is made available on the Department of Health and Aged Care's website. Others expressed that the transparency of the process could be improved by providing greater access to information regarding the types and frequency of complaints made to the MAIF Complaints Committee, as better industry understanding of the nature of complaints could be used as an opportunity to learn from these so that they are not repeated and would enable greater compliance with the MAIF Agreement.

Suggestions for improvement included greater transparency in relation to:

- The nature of complaints submitted to the MAIF Complaints Committee, and who is making the complaints.

- The process for how the interpretation of complaints is decided, and reasons for why some complaints are progressed while others are not.
- Information on complaints that were received but determined to be out of scope.
- Determinations made by the panel, whereby reports should detail when decisions are made, the rationale behind the decision, and the role of expert advice in making determinations.
- Names of the MAIF Complaints Committee members on responses to complaints made.
- Clear information accessible to the public about which companies are compliant and not compliant with the MAIF Agreement, the nature of the breaches and any conflicts of interest, and the penalties for breaches.

3.3.5 Independence

Over 20% of respondents disagreed (7.4%) or strongly disagreed (14.2%) that the complaints process is independent, while 15.1% agreed or strongly agreed that it is an independent process.

Most industry respondents agreed or strongly agreed that the complaints process is sufficiently independent. However, many also suggested that broader representation of stakeholder groups and expertise on the MAIF Complaints Committee would enhance its independence and effectiveness.

Many non-industry respondents elaborated on their views regarding independence, with key themes raised by stakeholders including:

- The conflict of interest that arises from having an industry representative on the MAIF Complaints Committee, and the perception that industry has too much involvement and influence for the process to be truly independent.
- The size and make-up of the MAIF Complaints Committee, as well as the lack of transparency of the MAIF Complaints Committee and processes limits the degree to which independence is possible.

A small number of non-industry respondents provided further comments in support of the view that the MAIF complaints process is adequately independent. Reasons for this view included that:

- There are three representatives on the MAIF Complaints Committee.
- The Department of Health and Aged Care's website includes declarations of MAIF Complaints Committee member conflicts of interest and sufficient information about the complaints process and outcomes.

3.3.6 Composition and operation of the MAIF Complaints Committee and Secretariat

Feedback from interview and focus group participants on the composition of the MAIF Complaints Committee, including its members and their appointment process, was mixed. In general, industry representatives and MAIF signatories felt that the current structure of three independent MAIF Complaints Committee members representing different voices is well-balanced and appropriate.

> *The Committee must remain fair, unbiased, and reflect the views of a reasonable person. We believe that it is currently, but want it to remain that way*
>
> - MAIF signatory, interview/focus group participant

However, the general view of other stakeholder groups, including State and Territory Health Department representatives, breastfeeding advocates, and academics, was that the MAIF Complaints Committee is not appropriately independent or representative. Concerns raised included the potential conflicts of interest of having an industry representative on the MAIF Complaints Committee, and the lack of transparency around the process of appointment. Some stakeholders expressed the view that the MAIF Complaints Committee should be expanded to include additional members who would represent all groups (including for example: industry, public health, advocacy groups, and consumers) or bring particular expertise to the committee (including for example: legal, marketing, and communications expertise). Several stakeholders suggested that the MAIF Complaints Committee membership be expanded to five members.

Some industry and non-industry interview and focus group participants indicated that the operation of the MAIF Complaints Committee and secretariat is deeply flawed. Stakeholders raised concerns about:

- The costs and benefits of the Committee and its processes
- The need for evaluation, monitoring, and performance measures
- The need for greater clarity on terms of reference and up-to-date MAIF Agreement guidance documents.

3.3.7 Guidance documents

Just over a quarter (26.9%) of respondents agreed or strongly agreed that the guidance documents are appropriate, while 21% disagreed or strongly disagreed with this point.

In total, 66 non-industry respondents commented on the appropriateness of the guidance documents to support interpretation of the MAIF Agreement. Over half of these respondents expressed that the guidance documents require improvement to:

- Increase accessibility and understanding for the general public.
- Reduce misunderstandings and close loopholes.
- Better align with the WHO Code.

There was also a view that everything should be made clear in the MAIF Agreement itself to remove the need for any separate documents to guide interpretation. Only a small number of non-industry respondents expressed that the current guidance documents are adequate.

In contrast, over three quarters of industry respondents agreed or strongly agreed that the guidance documents are appropriate to support interpretation of the MAIF Agreement.

> *The MAIF Agreement guidance documents are very much welcomed by our company. These written interpretations help guide our activities and ensure compliance. The MAIF Agreement is quite nuanced and the guidance documents support an aligned approach and common understanding for all stakeholders, including signatories, complainants and the Department of Health.*
>
> - MAIF signatory, survey respondent

Stakeholders who participated in the interviews and focus groups felt that the guidance documents are important (especially in relation to electronic/digital media marketing) and useful (particularly for new signatories) but could be improved. Areas for improvement included having clearer definitions; simplifying the interpretation of Clause 5a that companies should not advertise or promote infant formula; providing more detail on what can and can't be done around supplying information about products to consumers; undertaking continuous review and updating with regard to new innovations, technologies, and social media platforms; and engaging in greater consultation with industry.

3.3.8 Types of complaints and levels of compliance

According to both industry and non-industry stakeholders who participated in interviews and focus groups, most complaints submitted to the MAIF Complaints Committee are out of scope. Often, complainants are misinformed about what the MAIF Agreement covers, or the complaint relates to the conduct of a non-signatory organisation. It was reported that most other complaints related to:

- Digital advertising, which is often beyond the direct control of the company involved.
- Retail in-store advertising.
- Product information, including stock availability and pricing.
- Duplicated complaints, often including multiple complaints/complainants over the same incident.

MAIF signatories and industry representatives expressed a view that signatories are generally highly compliant with the MAIF Agreement, and that it is newer or smaller organisations and those who are not members of the INC who demonstrate more frequent non-compliance. It was suggested that there is a need for more education and guidance for newer entrants.

Industry stakeholders reported that compliance with the MAIF Agreement is often achieved through other mechanisms, including internal risk assessment, audits, sanctions, and self-regulation, as well as internal processes of the INC and signatories.

3.3.9 Enforcement mechanisms

Just over one-third of respondents (35%) disagreed (11.5%) or strongly disagreed (23.5%) that the publication of breaches of the MAIF Agreement is an appropriate enforcement mechanism. A quarter of respondents (25.7%) agreed (15.3%) or strongly agreed (10.4%) that the publication of breaches is an appropriate enforcement mechanism.

Among interviews and focus group participants, there was also a clear divide between industry stakeholders (manufacturers and importers of infant formula) and other interested parties on whether the publication of breaches of the MAIF Agreement remains an appropriate enforcement mechanism, or whether stronger penalties are needed.

A broad group of stakeholders including State and Territory Health Department representatives, health sector agencies, and breastfeeding advocates called for stronger penalties to be introduced. Stakeholders from these groups advised that the public reporting of breaches on the website did not sufficiently deter non-compliance, since there appeared to be limited evidence of consumer awareness of the complaints register.

Industry representatives considered the voluntary approach of the MAIF Agreement had been effective and provided sufficient incentives to promote compliance across industry. One industry representative stated that:

> *key signatories have [a] vested interest in ensuring that [they] operate[..] with a high level of integrity. I think it works very well. I don't see that additional government regulation for those already signatories to MAIF would be anything other than unhelpful.*

Industry advised that reputational impacts would have flow on impacts, including negative media attention and an impact on customer base and sales.

3.4 KRQ 4: Is the voluntary, self-regulatory approach fit for purpose or are there alternative regulatory models?

This section of the report considers consultation findings in relation to whether the voluntary, self-regulatory approach of the MAIF Agreement remains fit-for-purpose, or whether alternative regulatory models should be considered.

3.4.1 The effectiveness of the voluntary model

The majority of survey respondents considered that the voluntary regulatory model reduced the effectiveness of the MAIF Agreement. Of respondents, 53% disagreed or strongly disagreed about the MAIF Agreement's effectiveness, while 39% agreed or strongly agreed it was effective (**Figure 12**).

In general, public health officials and breastfeeding advocates considered that the regulatory model underpinning the MAIF Agreement was not fit for purpose. In contrast, industry representatives thought it was effective in achieving its stated objectives (**Figure 13**).

Figure 12: Survey responses to the question 'To what extent do you agree the voluntary, self-regulatory approach does not reduce the MAIF Agreement's effectiveness?'

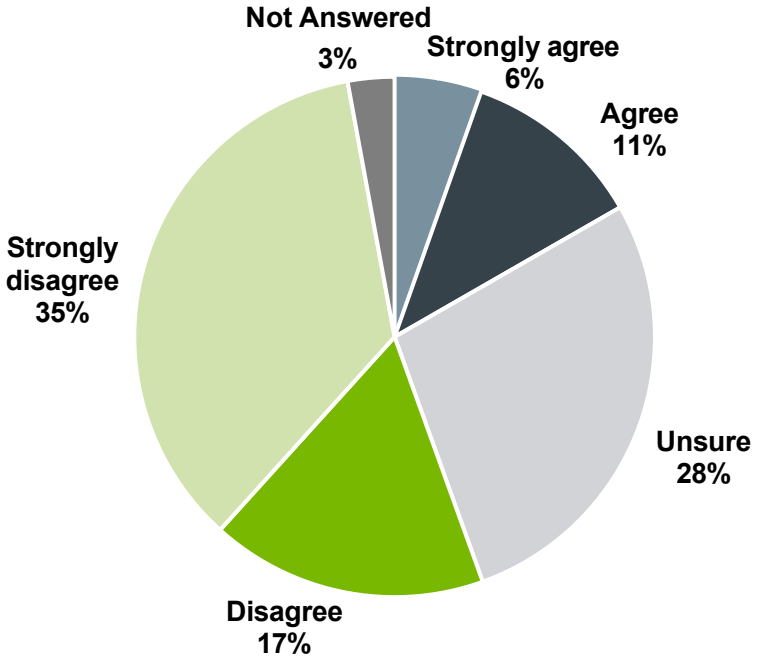
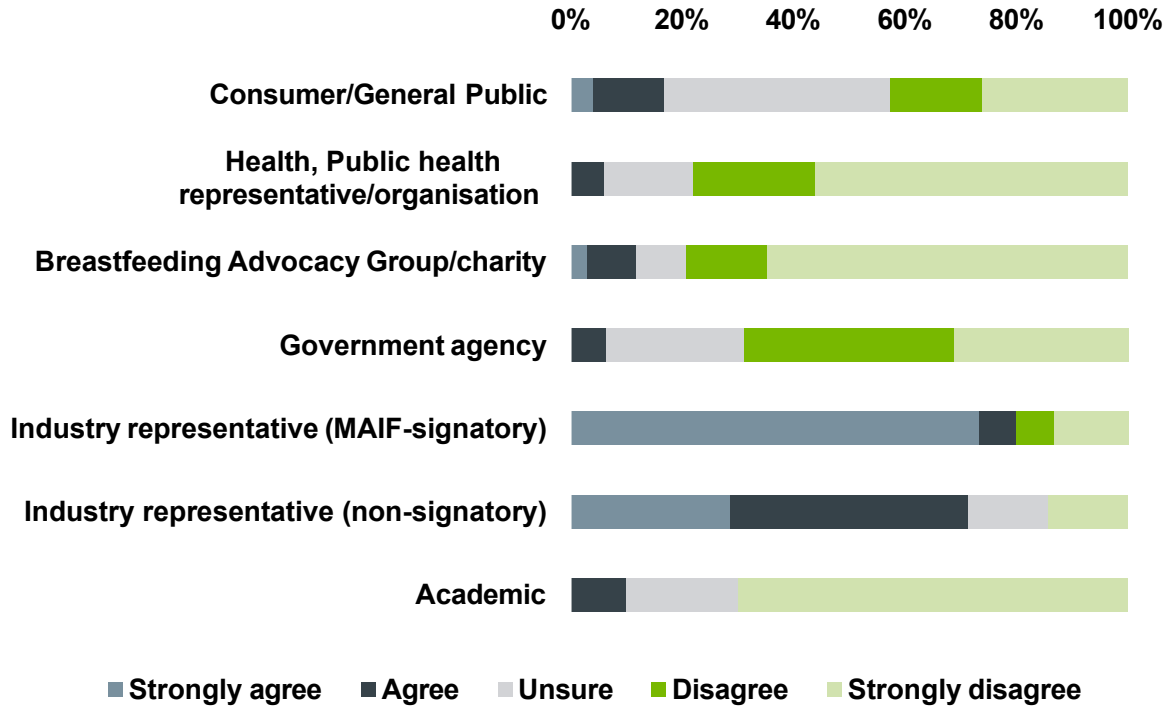


Figure 13: Breakdown of survey responses to the question 'To what extent do you agree the voluntary, self-regulatory approach does not reduce the MAIF Agreement's effectiveness?' by stakeholder cohort



The interviews similarly reflected a contrasting view between industry and non-industry stakeholders regarding the regulation of marketing of infant formula. Public health officials and breastfeeding advocates believed the MAIF Agreement had failed because of its lack of industry coverage, insufficient deterrence for non-compliance, and inconsistency with intergovernmental agreements. Industry representatives considered the voluntary model to have been effective in achieving the objectives of the MAIF Agreement, noting the reputational incentives which drive compliance with the MAIF Agreement.

Several public health officials and breastfeeding advocates suggested that because not all suppliers were signatories, alleged non-compliant conduct by non-signatories was going unchecked. This was evidenced by some complaints being considered out of scope by the MAIF Complaints Committee because they related to a non-signatory.

Despite noting the effectiveness of the voluntary approach, some MAIF signatories considered the MAIF Agreement's lack of universal coverage created an uneven playing field. One MAIF signatory noted that

> *If there is an opportunity within the MAIF and INC realm to implement a form or process that actually connects smaller companies that aren't part of MAIF to be actually involved - that would make a level playing field for self-regulation, as fundamentally self-regulation only works if everyone is in the same ballpark*.

Transitioning to a mandatory regulatory model, underpinned by legislation, was consistently suggested by public health officials and breastfeeding advocates. One government agency stated:

> *Some kind of legislative regulatory environment is the only way it can become mandatory. I don't know if we can hold companies to account without having that in place*.

Some non-industry stakeholders also called for the inclusion of retailers of infant formula in a mandatory model. For example, one government representative stated:

> *Everyone must be in, and it must be mandatory. It must include retailers as well.*

As detailed further in **Section 3.3.9**, there was a widespread view among non-industry stakeholders that the absence of financial penalties was a significant weakness of the voluntary self-regulatory approach that should be remedied.

3.5 KRQ 5: What are the benefits, costs and any limitations of changes and expansion of the MAIF Agreement scope, alternative regulatory models and MAIF Agreement processes?

This section of the report considers consultation findings in relation to KRQ 5: What are the benefits, costs and any limitations of changes and expansion of the MAIF Agreement scope, alternative regulatory models and MAIF agreement processes? The consultation heard diverse views on these considerations.

3.5.1 Benefits

Many non-industry stakeholders expressed the view that changes to the MAIF Agreement's scope, processes, and regulatory model would result in increased levels of breastfeeding, and that a broad range of other benefits would follow.

3.5.1.1 Public health benefits

Stakeholders suggested that increased rates of breastfeeding would have a broad range of public health benefits across the lifespan. One survey respondent who identified as being a consumer/member of the public stated that '*Protection and promotion of breastfeeding is crucial to the long-term health of our population and one of the most important preventative health measures we can support.*' A breastfeeding advocate identified that changes would result in '*more children getting the healthiest start to life'*. Some survey respondents identified short-, medium-, and long-term health benefits, and detailed a range of health conditions that changes to the MAIF Agreement would directly address.

Stakeholders, particularly breastfeeding advocates, and researchers, commented on the important role of breastfeeding in '*the food security of infants and young children in the face of natural disasters, emergencies and global climate change*.' They highlighted that climate change is increasing the frequency and severity of natural disasters, and that it is the infants who are formula-fed that are the most vulnerable to disease and death in these crises.

> *Infant formula cannot be safely prepared in emergency settings. It requires boiling water, clean water to wash hands, sterilizing equipment, clean space to prepare. Breastfeeding is food security, safe and easily transportable, with no supply chain shortages as occurs with infant formula*.
>
> - Breastfeeding advocate, survey respondent

This theme is further explored in **Section 3.1.3.1.**

3.5.1.2 Economic and financial benefits

Non-industry stakeholders highlighted a range of economic and financial benefits that would arise from strengthening the regulation of infant formula. Several stakeholders cited the 2023 Lancet Series on Breastfeeding, which estimated that $US 341.3 billion is lost globally per year from unrealised benefits to health and human development because of inadequate investment in protecting, promoting, and supporting breastfeeding (Pérez-Escamilla, et al., 2023). Stakeholders highlighted the benefits that would arise from reduced burden on

Australia's health system. An academic survey respondent also cited the benefits that would accrue to the economic wellbeing of women, and the '*unmeasured costs of…the burden on women of caring for sick infants and young children as they are usually the ones who take time off and work flexibly to accommodate children's needs*.'

Stakeholders described the monitoring and enforcement costs currently borne by non-government organisations and members of the public and described that these costs sit overwhelmingly with women, noting that '*the cost burden of monitoring is highly gendered'*. One academic stakeholder stated that:

> *If public regulation were put in place, it would massively reduce the monitoring and enforcement costs of NGOs and members of the public, and put these costs where they belong, on industry and on government*.

Some non-industry stakeholders outlined the benefit families would receive from purchasing less infant formula, with one breastfeeding advocate highlighting the benefit of '*parents not wasting money on all the different formulas*.'

3.5.1.3 Support achievement of Australian Government priorities

Stakeholders stated that strengthening the regulation of marketing of infant formula would support delivery of key national policies and strategies, including the National Obesity Strategy (2022-2032), the Australian Dietary Guidelines and Infant Feeding Guidelines, the Australian National Breastfeeding Strategy: 2019 and beyond, the Food Standards Code, and the Early Years Strategy.

3.5.1.4 Rights of women and children

Over 20 survey respondents highlighted that by strengthening the MAIF Agreement, Australia would more effectively protect the rights of women and children and uphold obligations under international law. Stakeholders highlighted Australia's obligations as a signatory to the United Nations Convention on the Rights of the Child. This includes the Australian Government's obligation to '*ensure that all segments of society, in particular parents… are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition*.'

Stakeholders also raised Australia's obligation to '*take all necessary measures to protect, promote, and support breastfeeding, and end the inappropriate promotion of breast-milk substitutes and other foods intended for infants and young children up to the age of 3 years'* (WHO, 2016).

3.5.1.5 Improved industry-wide compliance

Non-industry stakeholders and several MAIF signatories suggested that a key benefit of strengthening regulation would be the creation of a 'level playing field' among infant formula manufacturers. A state/territory health department representative outlined that the MAIF Agreement '*is not signed up to by all manufacturers and importers of breastmilk substitutes which limits its impact creating an uneven playing field for industry and adding to consumer confusion.*' Some MAIF Agreement signatories suggested they did not oppose making the

MAIF Agreement mandatory for all infant formula manufacturers. They expressed support for the MAIF Agreement and that they have effective internal monitoring and compliance measures and would welcome a more level playing field in relation to marketing restrictions. A MAIF Agreement signatory survey respondent described that making the MAIF Agreement mandatory would '*assist in new/smaller company signatory adherence – where most of the compliance breaches have occurred in recent years*.'

One signatory did not see benefit in establishing a 'level playing field', suggesting that:

> *If some form of regulatory response was implemented by Government, there would be no benefit, or little difference to the signatories of the MAIF Agreement as existing signatories are committed to supporting the agreement in its current form, and compliance.*
>
> - MAIF signatory, focus group participant

3.5.1.6 Environmental benefits

Stakeholders described the impacts that the manufacture of infant formula has on the environment and described the environmental benefits that would be achieved through reducing the use of infant formula in Australia through further restrictions on marketing. Benefits cited included reduced electricity use, water use, carbon dioxide emissions, and waste associated with packaging.

3.5.1.7 Consumer benefits arising from achieving a more balanced regulatory environment

There was a strong view among some survey respondents that labelling and marketing requirements should allow for a more nuanced view around the role of infant formula and recognise the important role the product can play for some families and infants. Such an approach would provide benefit to consumers including reducing anxiety around breastfeeding and infant formula use and reducing perceived social stigma for families who rely on infant formula.

One consumer/member of the general public described the benefit in *'mothers having access and support to choose an alternative to breast milk without fear, shame and anxiety.'* Another consumer/member of the public highlighted the benefit in '*remov(ing) alienating comments from formula tins. These are completely unhelpful for parents*,' while another commented on the benefit of *'less mum shaming over formula use and the improved mental health of mums who formula feed.'* A signatory suggested there would be benefits associated with reducing mental health and stigma associated with use of infant formula and posed the question *'I wonder what the national cost is for that situation – being pressured. That would be a really interesting statistic.'*

Survey respondents also highlighted the benefits for consumers in being able to access more information about product formulation and health benefits, particularly from health professionals, and being able to make more informed decisions.

> *So many women and their babies have been impacted by the lack of support for mothers who cannot breast feed. It is not good enough and plain*

> *dangerous to just say 'keep trying' and allow babies to become ill…Formula feeding is not easy, it is costly, complicated and exhausting, but it is a damn better alternative than a child being under nourished and dying*.
>
> - Consumer/member of the public, survey respondent

> *Reduce stigma around formula feeding, and support parents to use infant formula as appropriate for their child, with guidance of medical professionals. In my experience this support of medical professionals is vital.*
>
> - Consumer/member of the public, survey respondent

3.5.1.8 Benefits of changes for multiple birth families

Several survey respondents highlighted challenges experienced by multiple birth families, and potential benefits they would experience if changes were made to the MAIF Agreement. It was highlighted that multiple birth families can experience challenges with breastfeeding multiple infants, and the need for infant formula to supplement or take the place of breastfeeding. Survey respondents also highlighted the burden of increased costs associated with having multiple children, and that better access to information about price discounting and donations of infant formula products would be beneficial for multiple birth families.

> *Multiple birth parents have a suite of unique needs and challenges, including extra financial responsibilities and health challenges that impact on breastfeeding. These challenges and needs are often misunderstood by the general public and are overlooked by the current Agreement*.
>
> - Consumer/member of the public, survey respondent

Another stakeholder suggested that:

> *The Agreement is currently too restrictive in allowing access to formula discount information for our community. Formula manufacturers have been deterred from providing benefits from our community due to the potential for non-compliance with the Agreement. Manufacturers should be able to support vulnerable cohorts through discounts and, in very limited circumstances, donations*.
>
> - Consumer/member of the public, survey respondent

3.5.2 Costs

A diverse range of views were heard during consultation around costs that would be associated with changes to the MAIF Agreement's scope, processes, and regulatory model. Costs would generally be incurred by the Australian Government, by the infant formula industry, and by consumers.

3.5.2.1 Costs to government

Stakeholders consistently cited the costs to government that would be associated with changes to the MAIF Agreement or development of a new regulatory model. Stakeholders

also stated that changes to the MAIF Agreement or regulatory environment would also generate monitoring and costs for government.

Several non-industry stakeholders suggested that the benefits would significantly outweigh the cost of changes. At a focus group, one academic suggested that the costs would be '*cheap as chips! That pays for a couple of midwives over a few years. It is just a drop in the ocean.*' On the other hand, one state/territory health department representative described the costs as '*probably too much for a government to support*.'

Stakeholders highlighted that the Australian Government should consider cost recovery mechanisms for costs associated with changes to the MAIF Agreement.

> *We need mechanisms for it to pay for itself. Whether that is increasing fines or licensing fees or something. How can we make this a cost-effective strategy?*
>
> - State/Territory Health Department representative, focus group participant

3.5.2.2 Costs to industry

The consultation process heard a range of views about the costs to industry of changes to the MAIF Agreement or the regulatory model. Several signatories suggested there would be minimal cost to them if the MAIF Agreement was made mandatory, but there was no change to scope of products. Industry representatives discussed existing compliance costs:

> *There are internal compliance costs but those would exist either way – whether internal or government-regulated. Those internal costs would be on par.*
>
> - Industry representative, Interview participant

> *Many of the companies are large multinational companies. They have their own internal policies that go above and beyond MAIF.*
>
> - Industry representative, interview participant

> *We do not expect the potential compliance costs…to change as a result of the changes outlined above. MAIF compliance is already, and will continue to be, embedded in our business processes and (name withheld) has extensive management structures and processes in place to meet our commitments to compliance with the MAIF Agreement*.
>
> - MAIF signatory, focus group participant

A non-signatory suggested that the burden of regulatory compliance falls more strongly on smaller companies: *'It's easier for bigger companies that can employ bigger resources to navigate that. But for well-intentioned smaller companies – it is difficult at best.'*

Others suggested that if changes needed to be made to product labelling, there would be significant costs associated. One signatory suggested that if there were changes to labelling

'that would be a nightmare. There needs to be a grace period. The impact on cost of packaging etc.' Another suggested that *'any label change is expensive. Lead times, running out existing products etc is expensive.'*

3.5.2.3 Costs to consumers

A number of industry stakeholders suggested that extra costs borne by manufacturers arising from regulatory changes would lead to increased costs being passed on to infant formula consumers. One signatory suggested that '*Formulas also have complex ingredients and are getting more expensive anyway so to add costs to that would impact families'* while another indicated that increased regulation *'will drive costs into these products. It won't deter people from using them*. *Adding on a layer of cost to this category has a wide impact on families.'*

Several industry stakeholders expressed concerns that changes to the scope or processes of the MAIF Agreement would result in reduced research, innovation, and competition within the infant formula industry, and that this would be detrimental to consumers. This was particularly the case in relation to the potential inclusion of toddler milk drinks within the scope of the MAIF Agreement and to including communication with healthcare practitioners in the MAIF Agreement. A signatory described that '*we cannot communicate…about toddler milks, there will be reduction in investment we do in research and education, as a consequence, innovation will be very limited.'* A signatory also suggested that '*there would be limitations to the right to good nutrition for infants and carers who cannot use breast milk as their sole source of nutrition.'*

Several industry stakeholders and consumers/members of the public highlighted costs associated with further reducing available information about infant formula products, including the importance of consumers being able to make an informed choice and the potential '*influx of misinformation.'*

3.5.2.4 Costs versus benefits

Many non-industry stakeholders expressed the view that the benefits (and particularly the public health benefits) of changes to the MAIF Agreement or the regulatory framework would far outweigh the costs involved. One academic stakeholder suggested that the costs of implementing stronger regulation would be outweighed by the benefits such changes would generate, and that '*In considering costs of regulation, the lifetime health costs of not regulating must be considered.'*

On the other hand, several stakeholders suggested that the costs of changes would be better spent on other investments to support improvements in breastfeeding rates.

> *Just a final comment on the time and money spent on further restricting toddler milk and MAIF – there needs to be a pivot – this needs to be spent on resources and support. Putting your resources into that space is a win-win.*
>
> - Industry representative (non-signatory), interview participant

Another industry non-signatory who also identified as a consumer of infant formula stated that:

> *I would strongly argue that the taxpayer dollars that would be required to operate a statutory body would surely be better spent on parental mental health support / parenting education / awareness around healthy lifestyle.*
>
> - Industry representative (non-signatory), survey respondent

3.5.3 Limitations

Stakeholders raised a number of potential limitations with changes to the MAIF Agreement and the regulation of infant formula.

3.5.3.1 Lack of impact of financial penalties

As outlined in **Section 3.3.9**, a consistent theme during the Review was that penalties for breaching regulation of infant formula should move beyond reputational damage and include more tangible penalties, including financial penalties. Industry stakeholders however indicated that this approach would have significant limitations, since reputational risk is taken seriously under the existing Agreement, and that introducing financial penalties would not represent a disincentive above and beyond current regulation.

3.5.3.2 Industry concerns and potential drop out of voluntary Agreement

Many non-industry stakeholders indicated that some industry members are unlikely to agree to changes to the MAIF Agreement, particularly if it is expanded to include other products. A consumer/member of the public stated that '*pushback from the industry will be the main perceived limitation'.*

Several MAIF signatories indicated that expanding the scope of the existing voluntary MAIF Agreement to include toddler milk drinks may lead to participants withdrawing from the MAIF Agreement. One signatory suggested that:

> *When you have signatories dropping out of a system that's working well and the government…is then in a position where they have to regulate, there's a massive lag between the time a signatory drops out to the time the regulation comes in. What happens during that time is something that needs to be considered.*
>
> - MAIF signatory, focus group participant

A government agency advised the Review that a 5-year transition period would be required for a new standard to be implemented for composition and labelling, and up to 6 years for a new standard to be in place on every product. Moreover, it was noted that products have a shelf-life of up to 2 years, and consideration should be given to the potential impacts of sudden product price increases and product waste.

3.5.3.3 Changes to the MAIF Agreement are necessary but not sufficient

Academics, advocates, and health professionals broadly indicated that while changes to the MAIF Agreement are necessary, in isolation these changes may have only limited impact and other investments are required.

> *This is only one part of the picture - the government needs to fully implement and fund the policies and procedures outlined in the world breastfeeding trends initiative report and its own National Breastfeeding Strategy.*
>
> - Consumer/general public, survey respondent

3.5.3.4 Appropriate resourcing for revised regulatory arrangements

The importance of resourcing to underscore any amendments made to the MAIF Agreement was highlighted by a range of stakeholders. Stakeholders, particularly representatives from public health organisations and State/Territory Health Departments, raised concerns about a perception that changes to the regulation may not be accompanied by a commensurate increase in resourcing for implementation. One public health representative suggested that '*the health budget is overstretched providing current medical care, I think there is not much funding available for preventative health care practices - sadly*!'

Several stakeholders raised the difficulties associated with developing and implementing an appropriate mechanism for monitoring of electronic marketing and indicated that such a monitoring function would need to be appropriately resourced. A consumer/member of the public survey respondent highlighted that '*it is difficult to monitor the different social media platforms and the ones yet be developed*.' A signatory also raised concern about the challenges of monitoring and enforcing electronic marketing, suggesting that '*the way in which digital platforms are set up cannot restrict individuals providing their view of products…the internet being, in all aspects, an open forum.'*

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Appendix B: Survey results

Figure B1: To what extent do you agree that the products covered by the MAIF Agreement are appropriate?

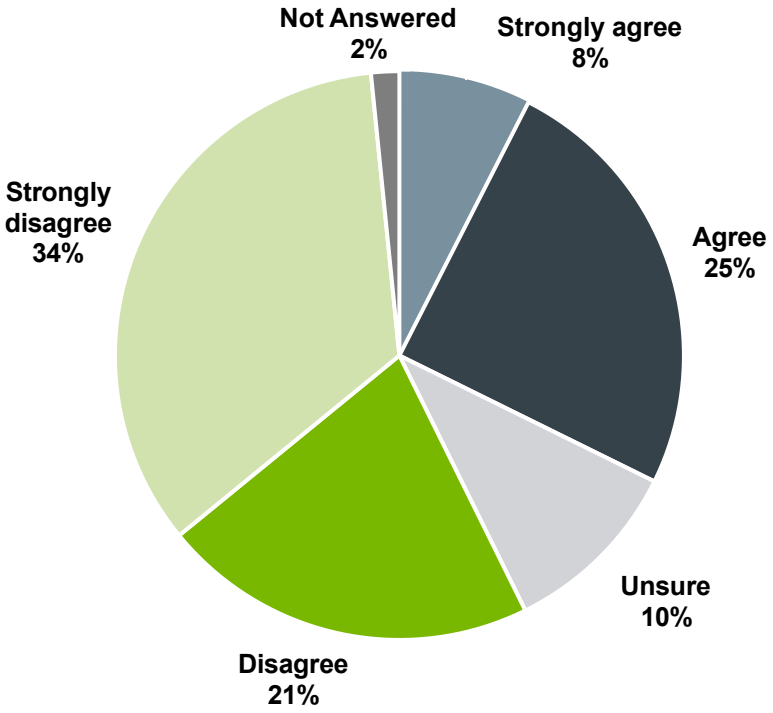


Figure B2: To what extent do you agree that the parties covered by the MAIF Agreement are appropriate?

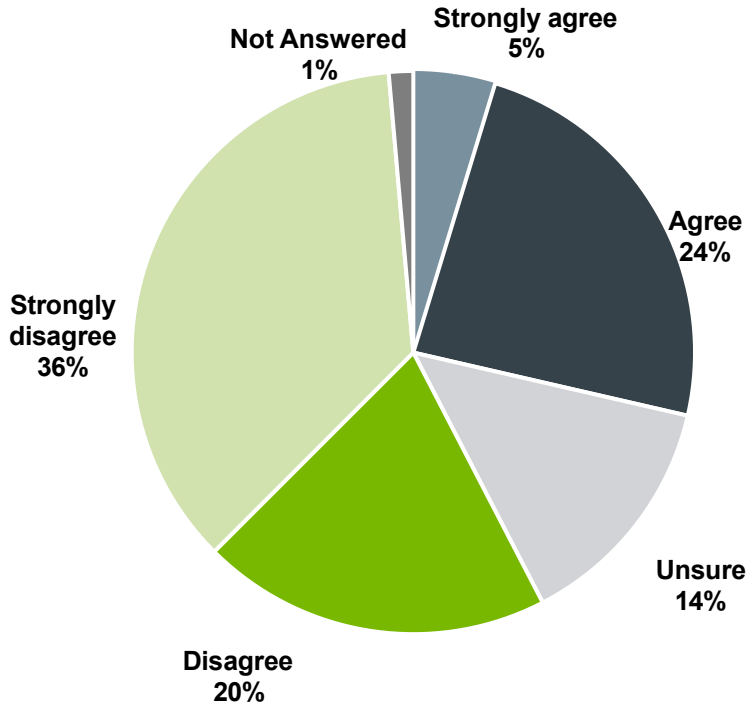


Figure B3: To what extent do you agree that the advertising and marketing provisions covered by the MAIF Agreement are appropriate?

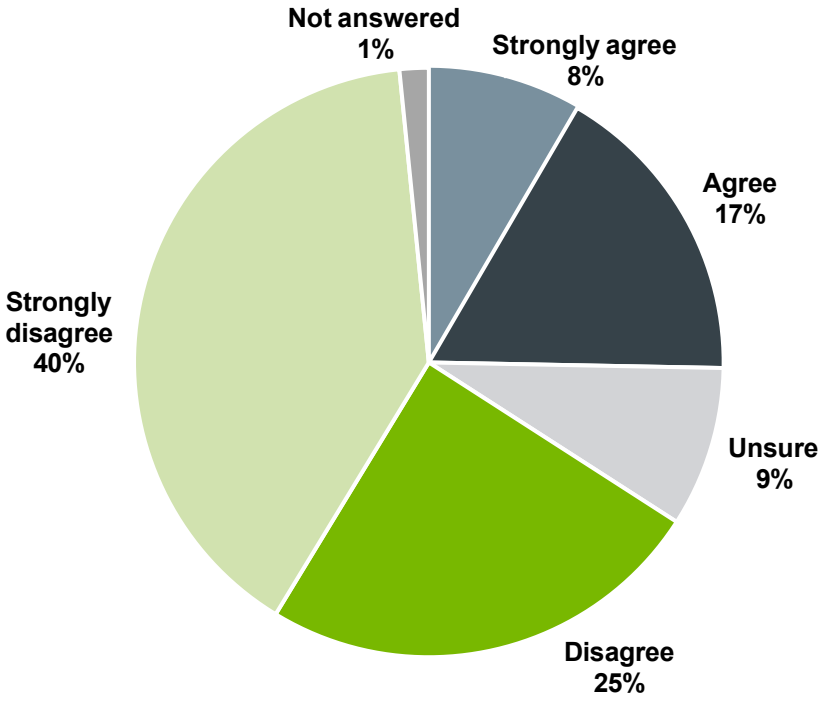


Figure B4: To what extent do you agree that the MAIF Agreement complaints process is administered in a timely manner?

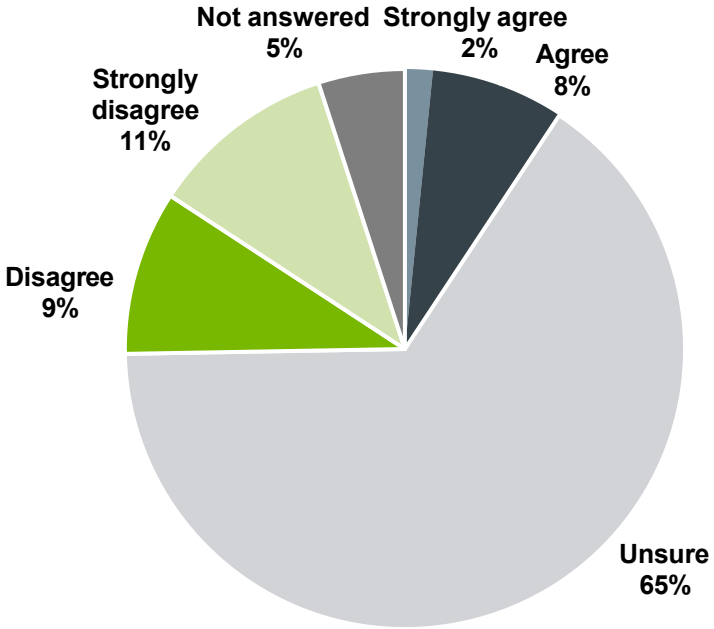


Figure B5: To what extent do you agree that the MAIF Agreement complaints process is transparent?

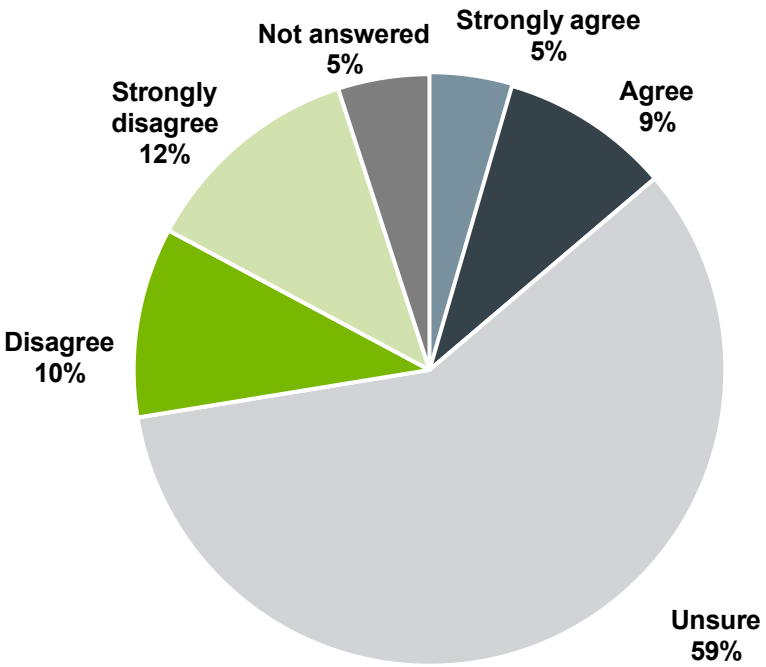


Figure B6: To what extent do you agree that the MAIF Agreement complaints process is independent?

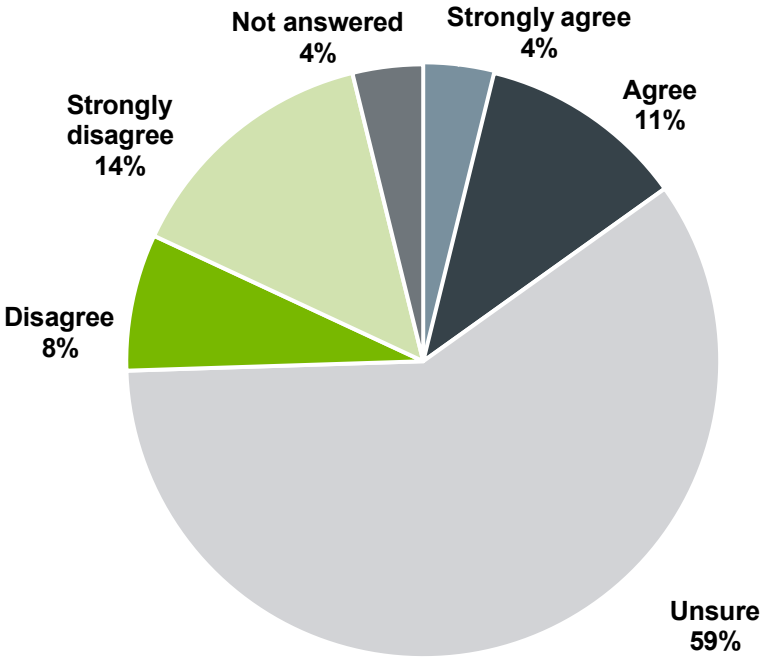


Figure B7: To what extent do you agree that the MAIF Agreement guidance documents are appropriate to support interpretation?

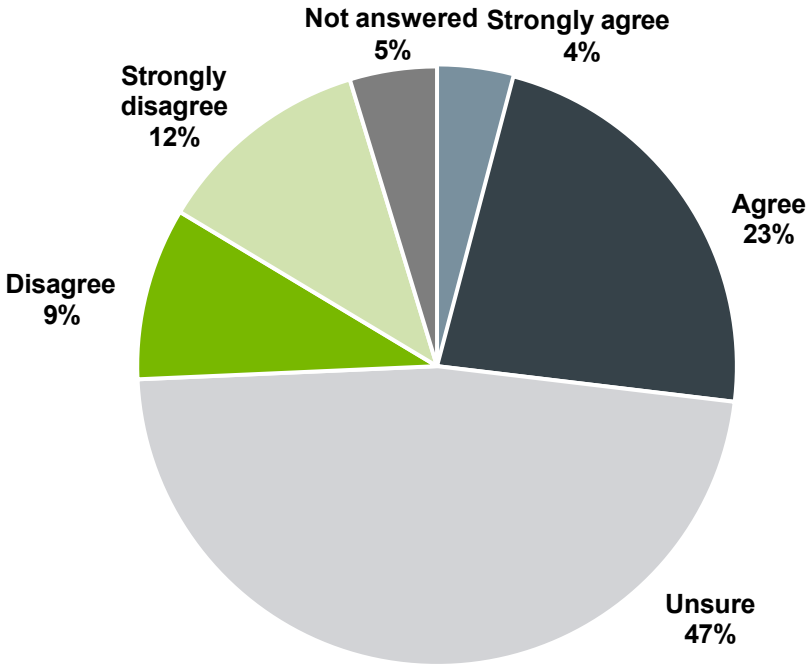
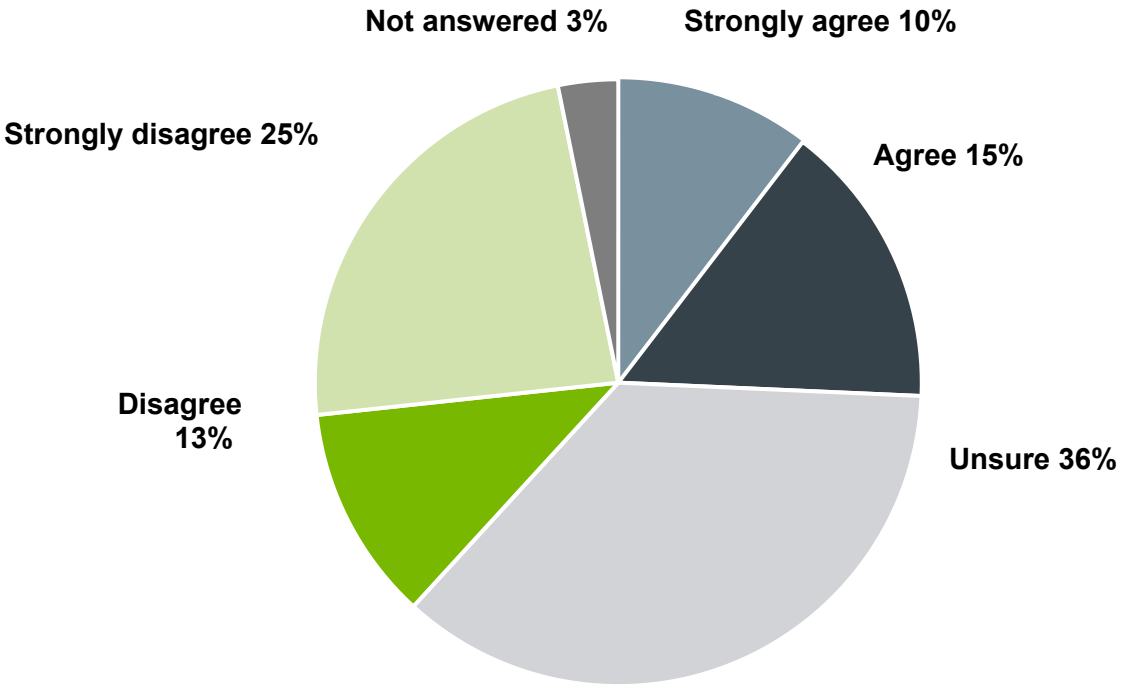


Figure B8: To what extent do you agree that the publication of breaches of the MAIF Agreement is an appropriate enforcement mechanism?



Appendix C: MAIF Review Consultation Paper

FOREWORD

In 2019, the Australian Government launched the **Australian National Breastfeeding Strategy 2019 and Beyond** (the Strategy). The Strategy 'provides an enduring policy framework for all Australian governments to provide a supportive and enabling environment for breastfeeding.' One of the Strategy's key principles is to 'ensure that governments and health care and education institutions protect the community from false and misleading marketing and advertising of breast milk substitutes' (COAG, 2019).

As the Strategy states, 'the first 1,000 days (from conception to the end of the child's second year) is the period with the greatest potential to affect health and wellbeing over the life course' (COAG, 2019). Nutrition is one of the greatest influences on child health, and breastfeeding is one of the most effective measures a mother can take to protect the health of her infant and herself.

In Australia, the **Infant Feeding Guidelines** recommend exclusive breastfeeding until around six months and continued breastfeeding to 12 months and beyond (The Australian Department of Health and Aging, 2012). The World Health Organization (WHO) recommends exclusively breastfeeding for the first six months of life, and continued breastfeeding to two years of age and beyond after the introduction of solid food (WHO, 2001).

In 1981, the WHO created the **International Code of Marketing of Breastmilk Substitutes** (WHO Code) which 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* (WHO, 1981).

The **Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement** (MAIF Agreement) is the primary way that Australia implements the WHO Code. The MAIF Agreement is a voluntary, self-regulatory code of conduct between manufacturers and importers of infant formula products in Australia and has the same aim as the WHO Code. The MAIF Agreement's key objectives are to ensure safe and adequate nutrition for babies, encourage breastfeeding as the first option for babies, ensure parents make informed decisions and ensure the proper use of breast milk substitutes (Department of Health and Aged Care, Marketing infant formula in Australia, 2022).

INDEPENDENT REVIEW OF THE MAIF AGREEMENT

Under Priority Area 1.2 of the Strategy, the Department of Health and Aged Care has committed to commissioning a review of regulatory arrangements for restricting the marketing of breast milk substitutes (COAG, 2019), and in particular the effectiveness and scope of the MAIF Agreement. Allen + Clarke Consulting (*Allen + Clarke*) has been commissioned by the Department of Health and Aged Care to conduct an independent review of the MAIF Agreement (the Review).

Allen + Clarke's Review of the MAIF Agreement has the following objectives:

	Consider contemporary policy issues for infant formula and toddler milk
	Assess the effectiveness of the MAIF Agreement in achieving its aims
	Determine whether the voluntary, self-regulatory approach remains fit for purpose or if alternative regulatory models should be considered
	Assess the benefits, costs and any limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes
	Any other related matters deemed appropriate

The Review will examine and respond to the Key Review Questions (KRQs) outlined in Section 3.

This Consultation Paper provides context about the MAIF Agreement and the Review and sets out key questions that the Review is seeking to answer.

INTRODUCTION

The Strategy identifies the review of regulatory arrangements for restricting the marketing of breastmilk substitutes as a key action area for the Australian government. The Strategy commits to undertaking a review in order to determine:

- the effectiveness of the MAIF Agreement in restricting inappropriate marketing of breastmilk substitutes and ensuring caregivers are adequately informed
- the feasibility of including all manufacturers of infant and follow-up formula and all retailers (for example supermarkets and pharmacies) in the scope of the agreement
- the transparency of the complaints process and outcomes from MAIF Complaints Committee meetings (COAG, 2019).

The Department of Health and Aged Care (the Department) has commissioned *Allen + Clarke* to undertake a review of the MAIF Agreement in order to progress this key action area.

The sources informing the Review are outlined in **Figure 1** below. Consultation is being undertaken to support the Review of the MAIF Agreement and will form part of the evidence used to draw conclusions and provide recommendations.

Figure 1: Sources informing the Review

Review information sources	
	**Desktop Analysis and Literature Review:** • The WHO Code, journal articles, grey literature, published reports from the WHO, UNICEF, the Department of Health and Aged Care, the Australian Competition and Consumer Commission, health research organisations, and other relevant literature.
	**Stakeholder Consultation:** • Focus groups and interviews with representatives from Government, MAIF signatories and other industry bodies, the public health and breastfeeding research and advocacy sectors, consumers and relevant international organisations.
	**Online Survey** • Responses received as part of an online survey from interested parties who may include parties subject to the MAIF Agreement, public health and breastfeeding advocates, commercial bodies who sell infant formula like supermarkets and pharmacies, members of the public or other interested parties.

We expect consultation responses will identify opportunities to continue to improve the design, implementation, effectiveness and efficiency of the MAIF Agreement, and its alignment with the objectives outlined in the WHO Code.

HOW TO PARTICIPATE IN THE REVIEW

An online survey has also been developed in order to facilitate engagement with the Review by interested parties. The survey invites responses aligned with the KRQs and is administered through the **Department's Consultation Hub**. In addition, the Review Team will undertake targeted consultation with key stakeholders.

Participation in the Review is voluntary.

How will consultation data be stored and managed?

Department of Health and Aged Care

Survey responses for this review, where consent has been received, will be published on the Department's website **www.health.gov.au** after the consultation closes. The views expressed in the survey responses are those of the individuals or organisations who submit them, and their publication does not imply any acceptance of, or agreement with, these views by the Department. A summary of the key themes from the targeted consultation will also be made available on the Department's website.

The Department publishes survey responses on the website to encourage discussion and inform the community and stakeholders. However, the Department retains the right not to publish survey responses, and will not place on the website, or make available to the public, submissions that contain offensive or defamatory comments or which are outside the scope of the consultation.

Before publication, the Department will remove any personally identifying information from survey responses, such as personal email addresses, telephone numbers and home addresses. Whole or parts of survey responses which contain information which is requested to be treated as confidential will not be released, unless consent is subsequently received.

Any request for access to a confidential survey response will be determined in accordance with the *Freedom of Information Act 1982 (Cth)*, which has provisions designed to protect personal information and information given in confidence.

Please note the Department will be unable to accept:

- comments which, in the opinion of the Department, are inappropriate, including those not in scope of the Review's Terms of Reference; and
- comments received after the consultation deadline, 30 April 2023.

Allen + Clarke

Survey responses received by the Department will be shared with *Allen + Clarke* to inform the Review's final report.

Allen + Clarke's Information Handling policy adheres to the *Privacy Act 1988 (Cth)* and the associated Privacy Principles and sets out how information should be collected, managed,

stored and disposed. This includes handling of information off-site (including when working from home). *Allen + Clarke* maintains appropriate computer security, including virus software and firewalls, and all devices have two-factor authentication. Review material and data will be stored on *Allen + Clarke's* secure server.

Further information or questions

Questions about the Review can be directed to: **MAIFreview@allenandclarke.com.au**

CONTEXT

To focus stakeholder engagement, consultation questions have been grouped under each of the KRQs, presented in **Figure 2** below.

Figure 2: Key Review Questions

1	Is the MAIF Agreement effective in achieving its aims?
2	Is the scope of the MAIF Agreement appropriate in the current policy environment?
3	Are the MAIF Agreement processes appropriate?
4	Is the voluntary, self-regulatory approach fit for purpose or are there alternative regulatory models?
5	What are the benefits, costs and any limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes?

The following section provides background information in relation to the Key Review Questions.

Effectiveness in achieving the aims of the Agreement

This Review seeks to understand whether the MAIF Agreement is effective in achieving its aims.

The MAIF Agreement and WHO Code share the same aim, which 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 necessary, on the basis of adequate information and through appropriate marketing and distribution* (WHO, 1981) (MAIF Agreement, 1992).

The MAIF Agreement is a voluntary code of conduct between manufacturers and importers which governs the marketing of infant formula in Australia for infants up to 12 months. Key requirements of the MAIF Agreement are that:

1. the advertisement or promotion of infant formulas (up to 12 months of age) to the public are prohibited
2. samples of infant formulas cannot be provided to the general public, and gifts of articles or utensils which promote the use of breastmilk substitutes or bottle-feeding are prohibited
3. marketers must not seek contact with pregnant people or parents of infants and young children

4. infant formulas must conform to the Food Standards Australia New Zealand Code, provide information about the 'appropriate use' of infant formula and not discourage breastfeeding.

While the MAIF Agreement establishes responsibilities for its signatories, there is no penalty for breaching the MAIF Agreement, other than the breaches being recorded on the Department of Health and Aged Care website. The only mechanisms to support compliance with the MAIF Agreement are public pressure or adverse publicity from the publication of alleged breaches by the MAIF Agreement Complaints Committee.

Other considerations in relation to effectiveness of the MAIF Agreement include whether the MAIF Agreement is effective in restricting inappropriate marketing of breastmilk substitutes, whether it protects and promotes breastfeeding and the provision of adequate information to caregivers to ensure safe use. The Review Team also welcomes evidence on whether breastfeeding rates are influenced by marketing (both appropriate and inappropriate) of infant formula impacts in Australia.

Appropriateness of the MAIF Agreement in the current policy environment

The Review seeks to understand whether the scope of the MAIF Agreement is appropriate in the current policy environment. Considerations include whether the parties and products in scope remain appropriate, and whether the Agreement is appropriate in the context of changes to the marketing environment since 1992.

The MAIF Agreement outlines obligations for companies making and selling infant formula to ensure that formula is used properly, and parents can make informed decisions. The MAIF Agreement was first implemented in 1992, and it is important to consider how reflective it is of the current policy, regulatory and marketing environment. The WHO has provided guidance and recommended that the restrictions to marketing of breast milk substitutes should be expanded to:

> *to include any milks (or products that could be used to replace milk) that are specifically marketed for feeding infants and young children up to the age of 3 years, including follow-up formula and growing-up milks* (WHO, 2017).

Australia has several other mechanisms to implement the WHO Code. These include the Food Standards Australia and New Zealand (FSANZ) Code which contains mandatory labelling and composition provisions for infant formula products; and the National Health and Medical Research Council's Infant Feeding Guidelines which review evidence and provide recommendations on infant feeding to assist health workers to provide consistent advice.

Products

In Australia all infant formula products must comply with the composition, safety, and labelling requirements in the FSANZ Code, Standard 2.9.1 – Infant Formula Products. The three types of products are defined as (Food Standards Australia and New Zealand, 2015):

1. Infant formula (suitable for infants aged 0 - <12 months)

2. Follow-on formula (suitable for infants aged from 6 - <12 months)
3. Infant formula products for special dietary use. The Food Standards Code imposes some restrictions on the types of claims and statements that can be included on labels for these products.

Standard 2.9.1 specifies the mandatory nutrient content for infant formula and follow-on formula to ensure that the nutrition requirements of infants aged up to 12 months are met. This is particularly important for the period up to the introduction of complementary feeding (Food Standards Australia and New Zealand, 2015).

Products covered under the MAIF Agreement are narrower in scope than those included in the WHO guidance on the International Code. The MAIF Agreement prohibits manufacturers and importers from advertising 'infant formula', which it defines as human milk alternatives 'for the feeding of infants up to the age of 12 months' (The MAIF Agreement, 1992, p. cl. 3(e)). It also restricts the promotion of 'breast milk substitutes' which includes 'any food marketed or otherwise represented as a partial or total replacement for breast milk, whether or not suitable for that purpose' (The MAIF Agreement, 1992, p. cl. 3(e)).

Under the MAIF Agreement, manufacturers and importers are able to advertise toddler formula, baby food and products such as bottles and teats. Availability of these products is in line with Infant Feeding Guidelines which recommend that infants start to receive complementary foods from around 6 months (The Australian Department of Health and Aging, 2012). Products must meet FSANZ labelling requirements – for example, they must indicate the age range and suitability of products. As consumer goods they must also meet consumer law provisions relating to issues such as unsolicited supply and misleading consumers.

Entities which are not signatories to the MAIF Agreement, such as retailers, are also not subject to marketing restrictions. Many signatories to the MAIF Agreement also produce other baby products such as toddler milks, infant foods and feeding bottles and teats.

Marketing practices

With the rise of the internet and social media, marketing practices have evolved considerably since the MAIF Agreement was established. Marketing is becoming increasingly targeted beyond traditional settings such as retail outlets. The rise in, and popularity of, social media channels, as well as internet sites for pregnant women and mothers, has provided manufacturers and distributors with new and often unregulated channels to market their products (WHO, 2017), (UNICEF, 2020).

Social networking sites and online communities have also changed the landscape for the promotion, protection, and support of breastfeeding (Abrahams SW, 2012), (UNICEF, 2020). New products such as home-made baby formula and brew recipes are increasingly advertised online and on social media (Thatcher, 2022) (Food Standards Australia and New Zealand, 2015).

Appropriateness of MAIF Agreement processes

The Review seeks to understand whether the MAIF Agreement's processes, including the complaints handling processes, are appropriate. Considerations include whether the complaints handling process is appropriately independent and transparent, whether complaints are administered in a timely manner, and whether appropriate enforcement mechanisms are in place.

The MAIF Agreement Complaints Committee (the Committee) was established in 2018 following an independent review of the MAIF complaints handling process. It is responsible for receiving and investigating complaints made against organisations who have signed the MAIF Agreement (Department of Health and Aged Care). Previously, complaints were processed by the Department of Health and Aged Care's Advisory Panel on the Marketing in Australia of Infant Formula, and then overseen by an independent body, the Ethics Centre, between 2014 – 2017.

The Committee consists of three members, appointed by the Department: an independent representative; a public health representative; and a representative of the infant formula industry. Complaints can be made by members of the public through the online complaint form and submitted by email or post to the Secretariat. All complaints are then sent to the Committee for review. If a complaint is in scope, the relevant company is advised of the complaint and invited to submit a response within four weeks. The Committee then reach a decision about whether the complaint is in breach of the MAIF Agreement, and the company is advised in writing of the outcome.

Complaint outcomes are published on the Department's **website**. In 2020 – 2021, 66 complaints were considered. Of these, 55 complaints were resolved (18 in scope, 37 out of scope). Of the 18 in scope, the Committee found 10 breaches by signatories to the MAIF agreement including on social media platforms, Google search advertising and email marketing campaigns. The majority of complaints were dismissed because they related to companies which had not signed the Code, or the promotion of toddler milks or retailers' marketing activities, which are not in scope of the Agreement (Department of Health and Aged Care, 2022), (Daniel, D, 2022).

The Department of Health and Aged Care also provides **guidance** on the application and interpretation of the MAIF Agreement. These guidance documents assist with interpreting specific clauses of the MAIF Agreement.

Regulatory models, and whether the voluntary self-regulatory approach is fit-for-purpose

The Review seeks to understand whether the voluntary, self-regulatory approach of the MAIF Agreement is fit for purpose, and whether alternative approaches should be considered.

The WHO has stated that full application of the Code 'is essential to ensuring that parents and other caregivers are protected from inappropriate and misleading information' (WHO, 2022). As of March 2022, 144 of the 194 (74%) WHO Members States have adopted legal measures

to implement at least some of the provisions in the WHO Code. Of these, 32 countries have measures in place that substantially align with the WHO Code (WHO, 2022, p. 12).

The Australian Government's **regulatory reform agenda** 'aims to achieve effective and fit-for-purpose regulation while minimising the administrative burden on businesses, community organisations and individuals' (Department of Health and Aged Care, 2022). The Government 'is looking at ways to boost productivity through reducing unnecessary or duplicative regulatory costs'. The Department's approach to regulation is set out in its Health Regulatory Policy Framework. The Framework outlines that 'when considering options to address a public policy issue, policy makers must always ask themselves if there are alternatives to regulation'. The Framework notes that 'sometimes the solution may lie in better enforcement of existing regulation' and suggests that 'doing nothing could be the best option in some circumstances.'

Regulation can take many forms including self-regulation, compliance with industry codes or practice, through to an enforcement-based approach. There is a broad diversity of views in the literature regarding whether the current regulatory model that the MAIF Agreement sits within is fit for purpose, and about the applicability of other regulatory models (including potential establishment of a legislated statutory framework) in the Australian context.

Benefits, costs and limitations of changes and expansion of scope, models and processes

The Review seeks to understand the benefits, costs and any limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes. Potential costs, benefits and limitations of changes to, and expansion of, the Agreement can be considered in two ways: those generic impacts that would arise as a consequence of the changes (for instance, those associated with moving to a legislative or more highly regulated model), and those that would be a product of particular policy decisions made through changes to the MAIF Agreement (for instance, in parties or products covered).

Changes to the expansion of the MAIF Agreement scope, model or processes would be intended to enhance the MAIF Agreement's ability to satisfy its primary aims. Any changes to the MAIF Agreement or model would be undertaken with the intention of restricting marketing of breastmilk substitutes to promote and protect breastfeeding rates in Australia. Such changes could consist of changes to the parties to the MAIF Agreement, changes to the products that are in scope, changes to or a greater level of specification about the marketing practices that are in scope, and changes to administrative arrangements like the complaints process. The Review will also consider changes to the level of regulatory burden (potential regulatory costs imposed on businesses, community organisations and individuals) that would arise through changes to the MAIF Agreement or regulatory model.

Other costs and limitations associated with the MAIF Agreement and potential changes to the Agreement or regulatory model could include increased anti-competitiveness including market entry barriers arising from companies not being able to market their products, increased costs of products, and impacts on product innovation/improvement (ACCC, 2021, p. 28). A consideration in potential changes to the MAIF Agreement or adoption of other regulatory models will be the extent to which the changes exacerbate these existing costs.

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Appendix D: MAIF Review Survey

MAIF Review Survey

LANDING PAGE INFORMATION

Welcome to the Survey for the Review of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement.

The survey will close on 12 May 2023. Late submissions or requests for extension will not be accepted.

The Department of Health and Aged Care (the Department) has contracted consultancy firm Allen + Clarke Consulting (Allen + Clarke) to undertake an independent review (the Review) of the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement).

The MAIF Agreement is a voluntary and self-regulated code. Signatories to the Agreement are manufacturers and importers of infant formula in Australia. The MAIF Agreement's key objectives are to ensure safe and adequate nutrition for babies, encourage breastfeeding as the first option for babies, ensure caregivers make informed decisions and ensure the proper use of breast milk substitutes.

The Review is seeking to:

- consider contemporary policy issues for infant formula and toddler milk
- assess the effectiveness of the MAIF Agreement in achieving its aims
- determine whether the voluntary, self-regulatory approach remains fit for purpose or if alternative regulatory models should be considered
- assess the benefits, costs and any limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes consider any other related matters as deemed appropriate.

Further details about the MAIF Agreement and the Review can be found in the Consultation Paper.

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Survey

This survey provides an opportunity for industry, consumers, and other interested parties to provide feedback on the MAIF Agreement. Findings from the survey will be used to help inform the Review of the MAIF Agreement.

Please note that:

- Your participation is voluntary.
- The survey may take up to 20 minutes to complete.
- Questions marked 'Required' need to be answered before you can continue to the next page of the survey. All other questions are optional and can be skipped. Survey responses for this Review, where consent has been received, will be published on the Department of Health and Aged Care's website after the consultation closes.

For more information on how your submission will be used please read the Consultation Paper. If you have any further questions, please contact Allen + Clarke at: maifreview@allenandclarke.com.au

Thank you for taking the time to complete this survey.

PART 1 | INTRODUCTION AND DEMOGRAPHIC INFORMATION

By completing this survey you acknowledge that your information will be used to help inform the Review of the MAIF Agreement.

1. What is your name or organisation name?
2. What is your email address?
3. Please select the option that best describes you or your organisation? (*Required*)
    a. Government agency
    b. MAIF Signatory
    c. Industry Representative that is not a MAIF signatory
    d. Health, Public Health Representative/Organisation
    e. Breastfeeding Advocacy Group
    f. Overseas-based Organisation
    g. Consumer/General Public
    h. Other

If 'Other' is selected, please specify:

If 'Overseas-based Organisation' is selected, please name the country in which your central office is located:

4. Please answer questions i and ii:
    i. Have you ever purchased infant formula products for your child or a child under your care (under 12 months of age)? Y/N

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

    ii. Have you ever purchased ‘toddler milk’ for your child or a child under your care (aged 12 – 36 months)? Y/N

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

PART 1 | DEMOGRAPHIC INFORMATION CONTINUED - Industry representative that is not a MAIF Signatory

5. What products is your organisation involved in selling, manufacturing or marketing?

a. Infant formula products

b. 'Toddler milk' formula

c. Infant foods

d. Other formulated supplementary foods for young children

e. Infant and young child feeding equipment such as feeding bottles and teats

f. Other

If 'Infant formula products' is selected. Please select from the drop down list your annual infant formula related gross revenue in Australia:

- Less than AUD $1million
- AUD $1million - $10million
- AUD $10million - $50million
- AUD $50million - $100million
- Over AUD $100million

If 'Other' is selected, please specify:

6. In which region does your organisation sell products?

a. New South Wales

b. Victoria

c. Queensland

d. South Australia

e. Western Australia

f. Tasmania

g. Northern Territory

h. Australia Capital Territory

i. Nationally

j. Internationally

If 'Internationally' is selected, please name the country or countries of operation/distribution:

PART 1 | DEMOGRAPHIC INFORMATION CONTINUED - MAIF Signatory

Please answer the questions applicable to you and/or your organisation.

7. What products is your organisation involved in selling, manufacturing or marketing?

a. Infant formula products

b. 'Toddler milk' formula

c. Infant foods

d. Other formulated supplementary foods for young children

e. Infant and young child feeding equipment such as feeding bottles and teats

f. Other

If 'Infant formula products' is selected. Please select from the drop down list your annual infant formula related gross revenue in Australia:

- Less than AUD $1million
- AUD $1million - $10million
- AUD $10million - $50million

- AUD $50million - $100million
- Over AUD $100million

If 'Other' is selected, please specify:

8. In which region does your organisation sell products?
    a. New South Wales
    b. Victoria
    c. Queensland
    d. South Australia
    e. Western Australia
    f. Tasmania
    g. Northern Territory
    h. Australia Capital Territory
    i. Nationally
    j. Internationally

If 'Internationally' is selected, please name the country or countries of operation/distribution:

9. What year and month did your organisation become a MAIF Agreement signatory?
   Year and month:

10. What level of resource [full time employment (FTE)] does your organisation devote to complying and monitoring MAIF activities per year?
    a. Less than 0.5 FTE
    b. 1 FTE
    c. 1 – 5 FTE
    d. 5 – 10 FTE
    e. Over 10 FTE

Please provide more detail about your response. You may wish to include examples of compliance/monitoring activities your organisation does and whether these compliance activities have changed over the years (suggested word count 250 words):

11. In which region are you or your country's central office located?

a. New South Wales
b. Victoria
c. Queensland
d. South Australia
e. Western Australia
f. Tasmania
g. Northern Territory
h. Australian Capital Territory
i. Nationally
j. Internationally

If 'Internationally' is selected, please name the country of operation:

PART 2 | Is the MAIF Agreement effective in achieving its aims?

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, where they are necessary, on the basis of adequate information and through appropriate marketing and distribution.

Please state the extent to which you agree with the following statement.

12. The MAIF Agreement is effective in achieving its aims.

a. Strongly disagree
b. Disagree
c. Agree
d. Strongly agree
e. Unsure

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

PART 3 | Is the Scope of the MAIF Agreement appropriate: is it still meeting the objectives?

The MAIF Agreement outlines obligations for companies making and selling infant formula to ensure that formula is used properly, and caregivers can make informed decisions.

Participating companies must not:

- advertise or promote infant formula (defined as human milk alternatives for the feeding of infants up to the age of 12 months).

- imply that formula is better than breastfeeding

- advertise formula to caregivers through the healthcare system

- hand out free formula to caregivers

- give financial incentives to sales staff or health workers for selling or promoting formula

The MAIF Agreement also seeks to ensure the proper use of breast milk substitutes which includes any food marketed or otherwise represented as a partial or total replacement for breastmilk, whether or not suitable for that purpose.

Please state the extent to which you agree with the following statements.

13. The scope of the MAIF Agreement is appropriate.

a. Strongly disagree
b. Disagree
c. Agree
d. Strongly agree
e. Unsure

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

14. The scope of products covered by the MAIF Agreement are appropriate.

More information on the scope of products: The **MAIF Agreement** applies only to infant formula. It also restricts the promotion of 'breast milk substitutes' which includes 'any food marketed or otherwise represented as a partial or total replacement for breast milk, whether or not suitable for that purpose.

Products aimed at toddlers over 12 months of age, including toddler milks, baby food, feeding bottles, teats and dummies are not within the scope of the MAIF Agreement.

a. Strongly disagree
b. Disagree
c. Agree
d. Strongly agree
e. Unsure

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

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

More information on scope of parties: The MAIF Agreement applies only to its signatories, which are manufacturers and importers of infant milk products. It does not apply to distributors, other manufacturers and importers who have not signed. Other parties it does not apply to include retailers, such as supermarkets and pharmacies. Further information can be found on the **Department's MAIF website**.

a. Strongly disagree
b. Disagree
c. Agree
d. Strongly agree
e. Unsure

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

16. The MAIF Agreement (under Clause 7) restricts the type of information that can be provided to health care professionals on infant formula products. What activities can

be done to increase the awareness of the appropriate use of breast milk substitutes amongst health care professionals? Please provide more detail about your response (suggested word count 250 words).

Under the MAIF agreement, manufacturers and importers of infant formula should not advertise or in any other way promote infant formula products to the general public. The MAIF agreement defines marketing as "the promotion, distribution, selling, advertising, public relations and information services related to infant formula".

Internet and social media have changed the face of modern marketing. Marketing is becoming increasingly targeted beyond the traditional retail outlet setting and now includes social media influencers, promotion through sponsored support groups, targeted advertising and more.

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

a. Strongly disagree
b. Disagree
c. Agree
d. Strongly agree
e. Unsure

Should the scope be changed to include modern marketing techniques, such as targeting advertising on social media platforms? (suggested word count 250 words):

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

You are now half-way through the survey.

PART 4 | Are the MAIF Agreement processes appropriate?

The MAIF Agreement Complaints Committee is responsible for receiving and investigating complaints made against organisations who have signed the MAIF Agreement.

Complaint outcomes are published on the Department's website.

Please indicate the extent to which you agree with the following statements.

18. The MAIF Agreement complaints processes are appropriate.

a. Strongly disagree
b. Disagree
c. Agree
d. Strongly agree
e. Unsure

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

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

More information on the MAIF Agreement guidance documents: The MAIF Agreement guidance documents help interpret specific clauses of the Agreement and can be found on the **MAIF Agreement guidance documents page**.

a. Strongly disagree
b. Disagree
c. Agree
d. Strongly agree
e. Unsure

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

20. Have you lodged a complaint with the MAIF Agreement Complaints Committee? Y/N

If you select 'No', please proceed to question 22.

21. If you selected 'Yes' to lodging a complaint with the MAIF Agreement Complaints Committee. Please answer the sub-questions below.

i. How many complaints have you lodged in the last five years?

ii. When did you lodge your most recent complaint?

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

iv. How did you find the process for lodging your complaint including completing the form and communicating with the MAIF Secretariat? (suggested word count 250 words):

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

22. The MAIF Agreement complaints process is independent.

a. Strongly disagree

b. Disagree

c. Agree

d. Strongly agree

e. Unsure

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

23. The MAIF Agreement complaints process is transparent.

a. Strongly disagree

b. Disagree

c. Agree

d. Strongly agree

e. Unsure

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

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

a. Strongly disagree

b. Disagree

c. Agree

d. Strongly agree

e. Unsure

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

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

a. Strongly disagree

b. Disagree

c. Agree

d. Strongly agree

e. Unsure

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

PART 4 | continued - Is the voluntary, self-regulatory approach fit for purpose or are there alternative regulatory models?

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

a. Strongly disagree

b. Disagree

c. Agree

d. Strongly agree

e. Unsure

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

27. What are alternative approaches for regulating infant formula in Australia? In your response, please include how your suggested alternative approach improves outcomes and what would be the impacts of your suggested alternatives on relevant stakeholders? How could negative impacts be managed? (suggested word count 500 words):

PART 5 | What are the benefits, costs and any limitations of changes and expansion of the agreement scope, alternative regulatory models and MAIF Agreement processes?

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

a. (suggested word count 250 words):

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

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

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

29. To support your responses under Part 5 - the benefits, cost and any limitations of changes and expansion of the agreement scope, alternative regulatory models and

MAIF Agreement processes. Please attach supporting evidence (data or literature) here.

Please attach a copy of any documents you wish to include to this printout.

Upload (word or PDF) document

PART 6 | FINAL COMMENTS

30. Do you have anything further to add? (suggested word count 250 words):

Thank you for taking the time to complete this survey. You are about to submit your response. By clicking 'submit response' you give us permission to analyse and include your response in our results. After you click 'submit response', you will no longer be able to go back and change any of your answers.

If you have any further questions regarding the survey, please contact *Allen + Clarke* at: **maifreview@allenandclarke.com.au**

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