

Submission by the Australian Nursing and Midwifery Federation

ANMF Submission to the Infant Formula Stakeholder Forum

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**Australian
Nursing &
Midwifery
Federation**



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Introduction

1. The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 345,000 nurses, midwives and carers across the country.
2. Our members work in the public and private health, aged care and disability sectors across a wide variety of urban, rural and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.
3. Our strong and growing membership and integrated role as both a professional and industrial organisation provide us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.
4. Through our work with members, we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.
5. Midwives and nurses work with families to promote optimal nutrition in the early years for lifelong health and wellbeing as a long-term public health strategy. Promoting and protecting breastfeeding is a fundamental public health strategy that underpins this work impacting the short- and long-term physical and mental health outcomes for infants, children, women and people breastfeeding. The ANMF welcomes the development of mandatory controls on infant formula marketing and the opportunity to participate in this consultation.



Consultation Questions

- ***What does success look like in 3- and 10-years' time?***

6. The ANMF agrees that the removal of references regarding a condition for 'not in clinical practice' and Successful mandatory controls on breastmilk substitute marketing will protect the public from predatory marketing systems as evidenced by:

- Adoption of the WHO Code, in full in legislation.
- Absence of marketing of any "breast-milk substitute... any milks..., 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)" as per the World Health Assembly resolution of 2016.¹
- The development of independent regulatory authorities to monitor the advertising of milk substitutes. This includes a three-yearly independent evaluation of infant health reporting, breastfeeding rates, market compliance, and stakeholder satisfaction.
- Retail, media, and online monitoring strategy for breaches of the WHO Code, including substantive mechanisms to deter breaches.
- Information regarding formula to be evidence based, free from industry bias, and clearly written in plain language on formula packaging. This includes safe formula preparation in large and clear lettering.
- Independent research available on breastmilk substitutes to enable health practitioners and consumers to access unbiased, evidence-based information.
- Absence of marketing of infant formula in health facilities and to health practitioners, including via education.
- Reinstatement of the Australian Infant Feeding Survey.
- Increased adoption of breastfeeding-friendly practices by workplaces in Australia.
- Increased exclusive breastfeeding rates in Australia.
- Increased duration of breastfeeding in Australia.

¹ World Health Organisation (2016). World Health Assembly resolution WHA69.9
<https://www.who.int/teams/nutrition-and-food-safety/food-and-nutrition-actions-in-health-systems/code-and-subsequent-resolutions>.



- **Which restriction (media/setting) do you believe will have the greatest public health impact?**
7. The ANMF recognises the risk of unregulated and unchecked advertising of infant formula following the expiration of the Marketing in Australia of Infant Formula (MAIF) Agreement. An enforceable legislative agreement, which includes an ongoing exploration of loopholes which are not currently covered but which are discussed in the WHO Code will have the greatest public health impact.
 8. Permitted advertising of toddler milks enables the formula industry to position their product as having a key role in optimal nutrition for children over 12 months of age. This does not support the continuation of breastfeeding beyond 12 months of age, while also undermining the Australian healthy eating guidelines. This practice also misleads the public of the purported health benefits of toddler milks for growth, development, and immunity. Families often report confusion to nurses and midwives about following infant and child feeding recommendations when faced with the marketing and advertising tactics used by formula companies.
 9. Restricting the marketing of any breastmilk substitute and associated devices (e.g. bottles and teats) for feeding infants and young children (intended for use up to 3 years of age) will contribute to a positive breastfeeding culture in Australia.
 10. Restrictions may include, but are not limited to:
 - The marketing and sale of toddler milks advertised for use until 3 years.
 - Digital marketing techniques (e.g. use of AI, influencers, etc).
 - Advertising through retailers such as pharmacies or supermarkets.
 - Indirect or “native” advertising disguised as journalism.
 - Marketing in health facilities and to health practitioners.
 - The marketing and sale of breastmilk substitute preparation devices.
 - Policy on use of breastmilk substitutes in low-resource areas and emergency situations.
 - Regulation of for-profit freeze-dried breastmilk products.
 - Absent idealising or predatory language and imagery.
 - Transparent ingredients and nutritional comparison to breastmilk.



- **Are there other aspects of the WHO Code that were not included in the MAIF Agreement that should be prioritised for adoption in Australia?**

11. While the MAIF agreement focuses on manufacturer responsibility, the WHO Code places responsibility for jurisdictional monitoring on government. Giving the Australian Competition and Consumer Commission (ACCC) and Food Standards Australia New Zealand (FSANZ) carriage of the document is questionable – they are responsible for competition, consumer affairs, and fair trading. Issues around breastfeeding and the safety of the public in advertising of medical substitutes are a public health concern. The ANMF advocates for greater government responsibility over this legislation and for lasting breastfeeding protections to be developed and managed by the Department of Health, Disability and Aging.
12. According to the Australian National Breastfeeding Strategy², health practitioners, including nurses and midwives need to “*protect the community from false and misleading marketing and advertising of breastmilk substitutes that fall within the WHO Code and subsequent WHA resolutions.*” (p 29). As a result of the MAIF Agreement, health practitioners have been left in limbo with either inadequate information or research on breast milk substitutes or submit to receiving industry biased messages to perform this role. The education of health practitioners in this area should not be the domain of industry. Mandatory controls to restrict the marketing of breastmilk substitutes must restrict the dissemination of industry biased research to health practitioners in line with the Code. An implementation plan will need to include independent, transparent education in this area to support National Health Targets.
13. Lastly, the labelling stipulated by the WHO Code is more prescriptive, detailing a clearer concept of what must be included in formula labels. Transparent labelling and nutritional information on all formula tins provides the chance to educate those buying the product at the point of sale.

² COAG. (2019). The Australian National Breastfeeding Strategy: 2019 and Beyond. In C. H. Council. Australia: COAG Health Council, accessed 11 April, 2024 from <https://www.health.gov.au/topics/pregnancy-birth-and-baby/breastfeeding-infant-nutrition/australian-national-breastfeeding-strategy>



- **What monitoring, evaluation and enforcement tools and processes do we need to consider?**

14. Monitoring for marketing activities that are in breach will need to be comprehensive and far-reaching, including social media and other electronic platforms, retailers, and health service providers. The ANMF recommends the use of an electronic monitoring tool to collect data on marketing activities and track trends for areas of concern.
15. A consumer reporting mechanism must be in place. There must be a clear and transparent complaints process for the public to register and report breaches.
16. All manufacturers must share their clinical data, and prior to market approval the data must be independently tested. Manufacturers must also report their sales and marketing expenditure to assess for trends and auditing of all marketing. This must be monitored by an independent, government body.
17. There must be substantive penalties for initial breaches, with cumulative penalties for subsequent breaches, to deter non-compliance. This also includes public reports of all offences, including information such as which company has been penalised, for which offences, and how many times.

- **How important is separation of personnel involved in development and enforcement of any regulation?**

18. Separating the personnel involved in developing and enforcing regulations is crucial for maintaining objectivity and accountability. Those developing regulations are less likely to be swayed by their own interests and experiences and decreases the potential risk of bias. This also acts as a driver towards fair and impartial regulations, fostering greater public trust and safety.

- **Are there any unintended consequences we should be considering?**

19. The ANMF cannot anticipate any negative unintended consequences of introducing stronger legislative controls to restrict the marketing of breastmilk substitutes. There is risk, however, that through this process ineffectual measures will be adopted due to significant industry influence, resulting in no substantive change in public breastfeeding policy for people living in Australia.



20. Breastfeeding culture in Australia can only be changed with the support of nurses and midwives who are adequately remunerated and provided adequate time to assist parents in their breastfeeding journey. Limited postnatal support and accessible breastmilk replacements make formula feeding a viable and simple solution to a problem that should not exist. While commercially available substitutes must remain available, a national maternity system which supports breastfeeding in all environments is of far greater importance.

- **Is there anything else that should be considered?**

21. The ANMF recommends further consideration be given to the following aspects of mandatory controls on breastmilk substitutes marketing:

- Use of gender-neutral language throughout.
- Implications on Aboriginal and Torres Strait Islander people must be carefully considered through targeted consultation with Aboriginal and Torres Strait Islander consumers, and with the Council of Aboriginal and Torres Strait Islander Nurses and Midwives.
- Increasing available information to support families to make an educated choice regarding infant and child feeding.
- The ongoing surge in digital marketing should be addressed by a section describing the plan to maintain currency in the AI tool developed by Deakin University to reduce the predatory marketing of infant formula and associated products.
- Greater investment in midwifery-led models of care promote successful breastfeeding.
- Government support and investment into services to support breastfeeding and/or feeding difficulties will reduce the breastfeeding rate disparities, as these are often fee-based or privately run services.

Conclusion

22. It has been a long-held position of the ANMF that a stronger regulatory framework which adopts the WHO Code in full is necessary to adequately protect a positive breastfeeding culture in Australia. It is imperative that the Department of Health, Disability and Ageing oversee this legislation. The ANMF appreciates the opportunity to participate in this consultation process and provide feedback on behalf of our membership.