

## **Guidelines on the interpretation and application of the MAIF Agreement by the Advisory Panel on the Marketing in Australia of Infant Formula (APMAIF)**

These guidelines are developed by the APMAIF to assist with the interpretation and application of the MAIF Agreement. The guidelines do not form part of the Agreement and do not substitute for the actual wording of the terms of the Agreement. Where examples of specific activities are given, they are provided as guidance only and should not be considered exclusive or exhaustive. Each guideline is subordinate to, and should be considered in the context of, the clause(s) to which it relates.

The guidelines constitute a ‘living document’ which may be amended from time to time in order to remain relevant and up-to-date in a changing marketing environment.

In developing and reviewing these guidelines, the APMAIF focuses on the aim of the MAIF Agreement as outlined in Clause 1. The APMAIF is also aware of the need to ensure that the guidelines remain consistent with the requirements of the *Competition and Consumer ACT* (2010) (TPA) concerning anti-competitive conduct, having regard to the relevant TPA Authorisations relating to the MAIF Agreement itself.

**Clause 4(a):** Manufacturers and importers of infant formulas in Australia agree that informational and educational materials, whether written, audio or visual, dealing with the feeding of infants and intended to reach pregnant women and parents of infants and young children, should always include clear information on all the following points:

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

**Clause 4(b):** When such materials contain information about the use of infant formulas, they should include the social and financial implications of its use, the health hazards of inappropriate foods or feeding methods and, in particular, the health hazards of unnecessary or improper use of infant formulas. Such materials should not use any pictures or text which may idealise the use of infant formulas. (WHO Code Article 4.2)

### **Inclusion of information**

- The information required by clauses 4(a) and 4(b) should be included in material of any format (eg. video, written, audio, electronic, etc.) which refers to infant formula that is produced or sponsored by an infant formula manufacturer (December 1993).
- The information required by clauses 4(a) and 4(b) should be included in the main body of the material in the same type of presentation as the rest of the material, and at a level suitable for the target audience. A mother or other carer should be able to understand what it means (December 1993).

- The print size of the information required by clauses 4(a) and 4(b) should be the same size as the majority of the main text or at least 8 point (September 1993).
- The social and financial implications of infant formula use are inter-related. They may include the following points:
  - the weekly cost of formula and/or the impact on the family budget; and
  - notice that infant formula will need to be purchased until the baby is 12 months of age (March 1994).

### **Pictures on informational or educational material for health professionals**

- Certain pictures may be acceptable on materials for health professionals (1994).
- Cartoons and pictures of animals and toys do not necessarily idealise the use of infant formulas and therefore may be acceptable. They should not depict an animal or toy being fed, whether by breast or by bottle, nor should they depict animal or toy ‘mothers’, because these may idealise the use of infant formula (1994).
- Real babies depicted in a normal context do not necessarily idealise the use of infant formulas and may legitimately draw a health professional’s attention to information about an infant formula. However:
  - babies (with or without bottles) in fantasy situations (e.g. stars, heavens, clouds, sitting up in school) should not be depicted because they may suggest formula-fed babies are in some way ‘ahead’ of breastfed babies (March 1994);
  - babies with slogans over or adjacent to the pictures should not be used in such a way as to imply that the product is better than breast milk or idealise the use of infant formula (March 1994); and
  - A picture of an apparently newly born baby should not be used to draw attention to information about infant formula. Breast milk is the best milk for babies up to 12 months old, but it is particularly valuable in the first few weeks of life when the baby is most vulnerable. Baby models for such pictures should be no younger than three months (February 1995).
- A picture of a woman breastfeeding should not be used to draw attention to information about infant formula because it:
  - may create an impression that the product is equivalent to breastfeeding;
  - appropriates the image of breastfeeding for the purpose of promoting a product; and
  - may be considered a misleading way of gaining attention (March 1994).

**Clause 4(c):** Manufacturers and importers of infant formulas should not donate informational or educational equipment or materials unless it is at the request of, and with the written approval of, the appropriate government authority or within guidelines given by the Commonwealth, State or Territory Governments for this purpose. Such equipment or materials may bear the donating company’s name or logo, but should not refer to a proprietary infant formula, and should be distributed only through the health care system. (WHO Code Article 4.3)

- Instructions on how to prepare a specific infant formula may include the brand logo and should include the product name. Such materials should be limited to preparation instructions only and should not include other educational or promotional information (March 1994).

- Articles (such as pens and monogrammed paper) which bear a brand name and not just a logo should not be distributed at conferences. A slogan may be different to a logo (March 1994).
- Inexpensive materials likely to be used only in the process of professional duty (provided they are not readily given to mothers, for example small ‘tear off’ note pads) may be acceptable. Materials of a personal nature such as coffee mugs are not considered acceptable. Any such materials should bear only the company name and logo, and not a product brand name or a slogan (March 1994).
- The provision of basic refreshments at informational/educational events is acceptable provided it is in association with a presentation that coincides with a mealtime and that is not of a lavish nature (March 1994).

**Clause 5(a):** Manufacturers and importers of infant formulas should not advertise or in any other way promote infant formulas to the general public. (WHO Code Article 5.1)

### **Advertisements to the general public**

- Information for parents about the availability of infant formula should be accessible subject to the following:
  - announcements regarding changes to availability of infant formulas (for example, when formulas became available in supermarkets) are acceptable, but only on a one-off basis. Advertisements should appear only once in any one publication over a maximum three month period (to allow for inclusion in quarterly publications);
  - references to outlets of availability should be restricted to generic locations such as ‘toy stores’ or ‘supermarkets’, but not to specific locations such as ‘Coles’ or ‘Woolworths’;
  - such advertisements should have no promotional content. There should be no slogans and the logo should not include a slogan. Advertisements should not promote or encourage use of formula;
  - changes in formulation should be referred to only on the container, not promoted in advertisements (March 1994); and
  - pack shot size should be restricted to 4 cm x 3 cm (February 1996).
- New infant formula products should not be advertised or ‘announced’ to the general public (1994).
- When an infant formula manufacturer advertises to the general public a product with the same name as an infant formula, the product name should be followed either by the range name (e.g. toiletries) or the specific product (e.g. baby powder). Generalised terms such as ‘Brand X Baby Care Products’ or ‘Brand X, Best for Baby’, should not be used where Brand X is the name of an infant formula (June 1996).
- Slogans which could imply that feeding a baby the product would be better than breastfeeding should not be used – for example ‘Every baby deserves the best’ or ‘A little extra something’ (March 1994). However, slogans which clearly and distinctly compare infant formula products may be acceptable.

**Clause 5(b):** Manufacturers and importers of infant formulas should not provide samples of infant formulas to the general public, pregnant women, parents or members of their families. (WHO Code Article 5.2)

- Free samples should not be provided by manufacturers through pharmacies except at the request of a qualified health professional for the purposes of professional evaluation. However, small packs could be made available in retail outlets for purchase at commercial competitive rates. (February 1993).

**Clause 7(a):** Manufacturers and importers of infant formulas providing information about the formulas to health care professionals should restrict the information to scientific and factual matters. Such information should not imply or create a belief that bottle-feeding is equivalent or superior to breastfeeding. It should also include the information specified in clause 4(a) above. (WHO Code Article 7.2)

#### **Interpretation of the term ‘scientific’**

- Scientific information should reflect the current scientific knowledge in total, not simply selective parts that can be used in a misleading way (February 1993).

#### **Use of the terms ‘resembles’, ‘is close to’ and ‘is similar to’**

- It is not considered scientific or factual to claim that a product resembles, or is similar to, or is close to breast milk unless the ingredient that the company claims is similar to that in breast milk is specified, and evidence is provided which satisfies the Panel that this specific claim is valid.
- Where these terms are used without a specific claim, the manufacturer may be considered to be implying equivalence with breast milk.
- In informational material for health professionals, a manufacturer sometimes wishes to point out that mothers who cannot breastfeed should be advised that they should use an infant formula that resembles breast milk more closely than cow’s milk. The term ‘resembles breast milk’ should be used only in this context of the comparison with cow’s milk (December 1993).
- The following should be included in information used in promotional pieces to compare breast milk with infant formula or ingredients of infant formula:
  1. the units of measurement;
  2. the specific type of breast milk sample which is being compared;
  3. the average or mean values and the standard deviation; and
  4. the references for the source of data (January 1999).

#### **Access to health professionals**

- It is up to health care professionals to decide whether they wish to see representatives of formula manufacturers. There is nothing in the MAIF agreement, nor in the WHO Code, which prevents the access of representatives to health care professionals, and indeed such

access may play an important part in providing information about infant formula to health care professionals (June 1994 – February 1995).

- Information materials for health professionals should not contain pictures, music or other devices that are likely to be attractive to young children, and therefore might lead to health professionals putting them on display or giving them to children and parents to look at or play with. Examples might include use of music, posters or mobiles (December 1995).
- It is reasonable for manufacturers to provide information for retailers of their products in trade journals only. The information should comply with the restrictions of clause 7(a) and clause 4(a) of the MAIF Agreement. They should not be promotional in any way, and the information should be restricted to the scientific and factual. In addition, such information should be able to be understood by retailers who are not health professionals (June 1996).

**Clause 7(c):** Manufacturers and importers of infant formulas should not offer any financial or material inducement to health care professionals or members of their families to promote infant formulas, nor should such inducements be accepted by health care professionals or members of their families. (WHO Code Article 7.3)

### **Inducements**

- Items such as pens and papers (with the company name or logo only) designed for personal use may be handed out at a conference. However, if the gifts were designed to be taken home, this may be classed as an inducement. These materials should not be left in a hospital ward or other health care facility (September 1993).
- Anything intended or likely to be taken home may be considered an inducement.
- Competitions, included in information material for health professionals, which are clearly for the purpose of emphasising information that is restricted to the scientific and factual, may be acceptable. Such competitions, however, should not be an inducement to promote infant formulas. Therefore the prize should not exceed a value of \$100. Manufacturers should also be mindful of clause 4(c) (February 1996).
- The provision of basic refreshments at informational/educational events is acceptable provided it is in association with a presentation that coincides with a mealtime and is not of a lavish nature (March 1994).

### **Advertising**

- A diary may be considered an inducement; however, where the diary provides information regarding infant formula in a subtle and appropriate manner, the information conforms with the requirements of the MAIF agreement and its interpretations, and the diary offers a source of scientific information not readily available to health professionals, then the diary may be viewed as primarily informational with the intention that the diary be for professional use rather than home use. Without the appropriate informational component, the diary may be considered similar to an item intended to induce the professional health care worker (September 2003).

**Clause 7(d):** Manufacturers and importers of infant formulas should not provide samples of infant formulas, or of equipment or utensils for their preparation or use, to health care professionals except when necessary for the purpose of professional evaluation or research at the institutional level. (WHO Code Article 7.4)

- Infant formula given to child care or day care centres for distribution in single or small quantities to parents when a mother has forgotten to bring her own formula or when the baby's formula has unexpectedly been exhausted, will be considered, according to the definition in the MAIF Agreement, as a 'sample'. Child care centres are not a setting in which professional evaluation of infant formula occurs, there is therefore no valid reason for manufacturers to give samples of infant formula to child care centres (May 1995).

**The position of APMAIF on conferences, seminars or publications, under the auspices of another organisation, by manufacturers of infant formula**

Sponsorship of conferences, seminars or publications by manufacturers of infant formula does not necessarily breach the Agreement. However:

- Any sponsorship of meetings, seminars or conferences should be declared. There should be no conditions which relate to the marketing of the sponsor's product or to restrictions on promotion of breastfeeding.
- The sponsor should not exert any influence on the choice of speakers or the content of presentations.
- In line with clause 4(c) of the Agreement, any conference materials may bear the donating company's logo, but should not refer to a proprietary infant formula, and should be distributed only through the health care system.