

Let's talk shop.

Restricting Infant Formula Marketing in Australia

April 2026

The Australian Retail Council (ARC) welcomes the opportunity to provide feedback on the Department of Health, Disability and Ageing's Discussion Paper, Restricting Infant Formula Marketing in Australia.

ARC represents a \$444 billion sector and employs 1.4 million Australians, one in ten workers, making retail the nation's largest private sector employer and a cornerstone of the Australian economy.

Our membership spans the full breadth of Australian retail: from family-owned small and independent businesses, which comprise 95 per cent of our membership, to the largest national and international retailers that support thousands of jobs and sustain communities across both metropolitan and regional Australia. Our industry operates more than 155,000 retail outlets nationwide, with the majority of those also represented by an online or e-commerce presence.

A strong retail sector delivers widespread benefits to all Australians, with a significant portion of every dollar spent in retail flowing back into employees, suppliers, superannuation funds, and local communities. We are united in advocating for the policy settings, reforms and collaboration that will drive growth, resilience, and long-term prosperity for Australian retail and the millions who rely on it.

ARC's comments in this submission are confined to the retail-relevant elements of the discussion paper. We do not seek to comment on matters more appropriately addressed by public health, clinical or infant nutrition experts, except where those issues intersect with retail operations, affordability or consumer access.

Executive Summary

ARC supports the objectives of the proposed reforms in principle and recognises the importance of ensuring infant formula marketing is appropriately regulated in Australia.

ARC's view is that the most proportionate and workable approach is Option 2, namely legislation aligned with the scope of the former MAIF Agreement, made mandatory and supported by clearer enforcement arrangements.

In ARC's view:

- the principal weakness in the former framework was its voluntary nature, rather than an absence of any regulatory structure;
- the case for reform should be grounded primarily in Australian market conditions and evidence, with caution exercised in importing overseas evidence from materially different regulatory environments;
- any extension beyond the former MAIF framework should be approached cautiously, particularly where it would capture retailers generally, toddler milk products, or ordinary price promotions;
- the discussion paper does not sufficiently distinguish between different retail channels, particularly general retail and grocery settings as compared with pharmacy settings;

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- restrictions on ordinary price promotions may have unintended consequences for cost of living, affordability and food insecurity, particularly for families for whom infant formula is, in practical terms, an essential product.

For these reasons, ARC supports a mandatory framework broadly aligned with the former MAIF Agreement but does not support broader expansion under Option 3.

Retail Context and Overarching Considerations

1. The Australian policy context differs from overseas markets

Australia has had a longstanding framework governing the marketing of infant formula through the Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement (MAIF Agreement). While the former MAIF Agreement was voluntary and had recognised shortcomings, it nonetheless provided a domestic framework that reflected the Australian regulatory environment and gave effect in Australia to the core principles of the WHO Code.

Accordingly, ARC considers that caution should be exercised in relying too heavily on evidence from international jurisdictions with materially different legislative, retail and public health settings. The policy case for additional regulation in Australia should be based, as far as possible, on Australian evidence, Australian consumer behaviour and demonstrated shortcomings in the Australian framework.

2. The key issue is incomplete coverage, not the absence of a framework

ARC's reading of the discussion paper is that the most compelling rationale for reform is not that Australia lacks a regulatory architecture, but that the former MAIF Agreement was voluntary and therefore did not capture the full market.

A mandatory approach that aligns with the former MAIF framework would address the uneven playing field created where some market participants were subject to obligations while others were not. In ARC's view, this is a more proportionate response than materially broadening the regime to capture additional products and retail activities without a stronger Australian evidence base.

3. Retail channels should not be treated as interchangeable

The discussion paper appears to treat retailers as a relatively uniform category. ARC considers this too simplistic.

There are important operational and consumer-facing differences between supermarkets, discount department stores, general merchandise retailers and pharmacy settings. In particular, pharmacy environments may involve different staffing models, different consumer interactions and a more healthcare-adjacent setting than general retail and grocery outlets.

If Government is considering extending restrictions to retailer conduct, these differences should be acknowledged. A single undifferentiated approach to all retail settings risks poor policy calibration and may produce unintended consequences.

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4. Affordability and food insecurity must be considered

ARC considers it important that the affordability implications of any reforms be weighed carefully. Australian households continue to face significant cost-of-living pressures, with younger families and lower-income households often facing the greatest financial strain.

For some families, infant formula is not a discretionary product but a necessary one. Any restriction that has the effect of reducing price competition, limiting ordinary discounting or increasing compliance costs in a way that flows through to shelf price should be treated with caution.

The discussion paper itself recognises that restrictions affecting retailer price promotions may have equity implications for families relying on infant formula. ARC considers this to be a material consideration in assessing the relative merits of the policy options.

Responses to Consultation Questions

Question 1 – Are you aware of any high-quality studies that quantify the impact of infant formula marketing on infant feeding practices, particularly in the Australian context?

ARC has not identified any recent high-quality Australian studies that clearly quantify the impact of infant formula marketing on infant feeding practices in a way that would provide a strong evidentiary basis for broader retail-facing restrictions.

This is not to suggest that marketing has no influence. However, ARC considers that the Australian evidence base appears limited, and that policy development should acknowledge this limitation.

Question 2 – What other key concepts around the relationship between infant formula marketing on perceptions of breastmilk and infant formula and infant feeding practices should be considered?

ARC considers that social and economic factors require greater attention in the discussion paper.

Infant feeding decisions may be shaped by a range of influences beyond marketing, including workforce participation, financial pressure, parental circumstances, access to support, and comfort or capacity to breastfeed in different environments. In some cases, marketing may influence brand or product choice after a feeding decision has already been made, rather than driving the underlying decision itself.

The distinction between influencing whether to use infant formula and influencing which infant formula product is purchased is an important one and should be considered in policy development.

Question 3 – Please outline the pros and cons of infant formula marketing (if any). Please include contextual information to explain your perspective as required.

From a retail perspective, ordinary marketing and price communication can provide consumers with information about product availability, price and choice. In particular, price discounting may assist families who rely on infant formula by easing cost-of-living pressures.

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ARC acknowledges that concerns have been raised regarding the potential for some forms of marketing to influence consumer perceptions in ways that may not align with public health objectives. However, policy responses should distinguish between brand-led promotional activity and ordinary retail communications, particularly where the latter are primarily price-based and consumer-facing.

Question 4 – What other infant formula marketing prevalence data should be considered?

ARC considers that prevalence metrics alone should be interpreted cautiously.

Simple counts of advertisements, catalogue references or other promotional instances do not in themselves establish that consumers saw, understood or acted on the material in question. Nor do such measures establish causality between exposure and feeding decisions.

ARC considers that any future evidence base should seek to distinguish between exposure, consumer engagement, behavioural effect and substitution between product categories.

Question 5 – Do you think retailers should be included in mandatory infant formula marketing regulations?

ARC does not support the inclusion of food and grocery retailers within mandatory infant formula marketing regulations beyond what is necessary to support a proportionate and workable framework.

If Government nevertheless considers retailer inclusion, it should proceed only with clear distinctions between different retail channels (e.g., food/grocery retailers vs. Pharmacies), and with careful regard to the difference between ordinary price communication and broader promotional conduct.

Question 6 – What are the potential pros and cons of price promotions on infant formula products?

ARC considers that price promotions can deliver tangible consumer benefits.

Price promotions help reduce cost-of-living pressure for families, support price competition and can assist consumers in comparing and accessing products in a competitive retail environment. The discussion paper itself notes that exempting price promotions may mitigate equity impacts for those relying on infant formula.

Any restrictions on price promotions should therefore be approached with caution. A blanket restriction risks reducing affordability for consumers and could diminish competition without a sufficiently clear evidence base demonstrating corresponding public health benefits.

Question 7 – What other data on retailer marketing should be considered?

ARC considers that further evidence should distinguish more clearly between:

- manufacturer-led marketing and retailer-led conduct;
- brand promotion and ordinary retail price communication;
- physical retail, catalogues, apps and online environments;
- pharmacy settings and general retail/grocery settings.

More granular evidence of this kind would improve policy calibration and reduce the risk of overly broad regulation.

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Question 8 – Do you think restrictions on marketing of toddler milk products should be included in mandatory infant formula marketing regulations?

ARC does not support extending mandatory infant formula marketing restrictions to toddler milk products.

In ARC's view, the policy case for doing so has not been established clearly enough in the Australian context. Extending the regime in this way would move beyond addressing the principal weakness of the former MAIF framework, namely incomplete coverage of infant formula manufacturers and importers, and would instead broaden the scheme into a new product category with different consumer and regulatory considerations.

Question 9 – Are you aware of other data sources that should be considered, including research on the impact of toddler milk marketing on cross-promotion of infant formula and links to infant feeding decisions and breastfeeding rates?

ARC is not aware of additional Australian evidence that would justify a clear policy conclusion in favour of extending restrictions to toddler milk products.

Given the significance of such an expansion, ARC considers that any future decision should be supported by a stronger and more directly applicable evidence base.

Question 10 – Do you think restrictions on marketing of bottles and teats should be included in mandatory infant formula marketing regulations?

ARC does not support including bottles and teats within mandatory infant formula marketing regulations.

This would represent a substantial expansion beyond the most proportionate policy response and is not necessary to address the central shortcomings identified in the former MAIF framework.

Question 14 – Do you think restrictions on marketing by retailers should be included in mandatory infant formula marketing regulations?

ARC does not support broader restrictions on retailer marketing as contemplated under Option 3.

If Government is nevertheless considering retailer-facing obligations, any such measures should be tightly defined, proportionate, and should preserve the ability of retailers to engage in ordinary price communication and discounting.

Question 15 – Do you agree with the policy objectives? If not, please provide alternatives for consideration.

ARC broadly supports the policy objectives in principle.

However, ARC considers that the chosen policy response should remain proportionate to the evidence base and focused on addressing the clearest identified weakness in the former framework, namely its voluntary nature and incomplete market coverage.

Question 16 – What are the advantages and disadvantages of Option 1? Please explain your reasoning.

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ARC does not support Option 1.

Maintaining a non-regulatory or status quo approach would not address the acknowledged limitations of the former MAIF framework, including incomplete market coverage and limited enforcement consequences.

Question 18 – What are the advantages and disadvantages of Option 2? Please explain your reasoning.

ARC supports Option 2.

The principal advantage of Option 2 is that it addresses the key practical weakness in the former MAIF framework by creating a mandatory regime aligned with the existing Australian approach. This would promote greater consistency across the market and reduce the uneven playing field created by the voluntary system.

Option 2 is also the most proportionate option because it strengthens the framework without materially expanding it into adjacent product categories or broader retailer conduct where the evidence base is less clear.

Potential disadvantages include implementation and compliance costs, as well as the need for clear guidance, proportionate enforcement and sufficient transition time. However, these issues are manageable and do not outweigh the advantages of a mandatory baseline framework.

Question 19 – Do you have data on the costs and benefits associated with Option 2 that could contribute to a cost-benefit analysis to inform the policy development process?

From a retail perspective, the main benefit of Option 2 is that it improves regulatory consistency without unnecessarily expanding the scheme to capture broader retailer conduct.

It also has the benefit of creating a more level playing field by bringing all relevant market participants within the same baseline framework.

Question 20 – What are the advantages and disadvantages of Option 3? Please explain your reasoning.

ARC does not support Option 3.

The principal advantage of Option 3 is that it would broaden the scope of regulation and may close additional perceived loopholes. However, ARC considers that this option raises significant concerns from a retail and consumer perspective.

In particular, Option 3 risks:

- capturing retailers too broadly without sufficient differentiation between channels;
- extending the regime to toddler milk products without a sufficiently strong Australian evidence base;
- reducing price competition and discounting opportunities for consumers;
- increasing compliance complexity and cost for retailers; and
- creating affordability impacts for families who rely on infant formula products.

On balance, ARC considers that these risks outweigh the potential benefits of broader expansion.

Question 22 – Which is your preferred policy option?



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ARC's preferred policy option is Option 2.

Option 2 best balances the stated policy objectives with proportionality, competition, affordability and practical implementation. It addresses the central weakness of the former MAIF framework while avoiding the broader and less clearly justified expansion contemplated by Option 3.

Question 23 – What other considerations should be addressed in the legislative development process?

If legislation proceeds, ARC considers the following issues important:

- clear drafting and definitions, particularly around “marketing”, “promotion” and any retailer-facing obligations;
- appropriate differentiation between general retail, grocery and pharmacy settings;
- preservation of ordinary price communication and discounting;
- sufficient transition periods and implementation guidance;
- clear separation of responsibilities for monitoring and enforcement; and
- ongoing consultation with affected stakeholders during legislative design.

Question 24 – Do you have any suggestions regarding the most appropriate monitoring and enforcement arrangements for this policy?

ARC supports arrangements that are transparent, proportionate and administratively workable.

If Option 2 is adopted, monitoring and enforcement should focus primarily on the parties most directly engaged in the marketing of infant formula products under the former MAIF framework. Enforcement should be supported by clear guidance and should seek to promote compliance through certainty and consistency.

Question 25 – What other monitoring, enforcement and evaluation considerations should be considered?

ARC considers that any new framework should be subject to post-implementation review after an appropriate period.

This review should assess:

- whether the legislation is operating as intended;
- whether compliance obligations are clear and proportionate;
- whether there have been any unintended affordability or competition impacts; and
- whether further changes are justified based on Australian evidence.

Question 26 – Please provide any other comments or points for consideration that may not have been addressed in this consultation.

ARC reiterates that reform should remain proportionate, evidence-based and focused on the clearest identified shortcomings in the former MAIF framework.

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A mandatory regime aligned with the former MAIF Agreement provides a sensible and balanced path forward. By contrast, broader expansion to toddler milk products and retailer conduct risks creating additional regulatory complexity and consumer cost impacts without a sufficiently clear Australian evidence base.

Conclusion

ARC supports the objectives of the proposed reforms in principle and recognises the importance of an effective and workable framework for regulating infant formula marketing in Australia.

On balance, ARC considers Option 2 to be the most proportionate and appropriate policy response. Making the existing framework mandatory would address the clearest shortcoming in the former MAIF Agreement, namely incomplete market coverage, while avoiding unnecessary expansion into adjacent product categories and broader retail activity where the Australian evidence base is less clear.

If retailer-facing obligations are contemplated, they should be carefully defined and proportionate, with clear differentiation between overt promotional activity and ordinary retail price communication. In particular, ARC considers that standard price promotions should remain outside the scope of any restrictions, given ongoing cost-of-living pressures and the practical importance of infant formula affordability for many families.

ARC would welcome continued engagement as the policy develops and would be pleased to provide further input on the retail and implementation implications of the proposed reforms. Any queries in relation to this submission can be directed to our policy team at policy@retail.org.au.