

Wednesday 3 September 2014

Dr Simon Longstaff
Level 2
Legion House
161 Castereagh Street
SYDNEY NSW 2000

Dear Dr Longstaff

Re: Invitation to comment on successor to APMAIF

The Public Health Association of Australia (PHAA) appreciates the opportunity to comment on the successor to APMAIF in relation to the *Marketing in Australia of Infant Formulas: Manufacturers and Importers Agreement* (MAIF Agreement).

The PHAA is recognised as the principal non-government organisation for public health in Australia and works to promote the health and well-being of all Australians. The Association seeks better population health outcomes based on prevention, promoting the social and environmental determinants of health and equity principles. PHAA is a national organisation comprising around 1900 individual members, and representing over 40 professional groups concerned with the promotion of health at a population level.

Key roles of the organisation include the development of policy, capacity building and advocacy. Core to our work is an evidence base drawn from a wide range of members working in public health practice, research, administration and related fields who volunteer their time to inform policy, support advocacy and assist in capacity building within the sector. PHAA supports a preventive approach for better population health outcomes by championing appropriate policies and providing strong support for Australian governments and bodies.

Below are our comments and questions regarding the proposed *Terms of Reference* for a new Complaints Tribunal charged with achieving the public policy objectives that originally led to the establishment of the APMAIF.

Comments and Questions on Terms of Reference for the proposed MAIF Complaints Tribunal:

1. **Purpose:** Concern over the removal of two purposes covered in the previous APMAIF Terms of Reference including:
 - a. Act as a liaison point for issues relating to the marketing in Australia of infant formulas;
 - b. Provide advice on the operation of the MAIF Agreement to the Australian Government Minister for Health and Ageing

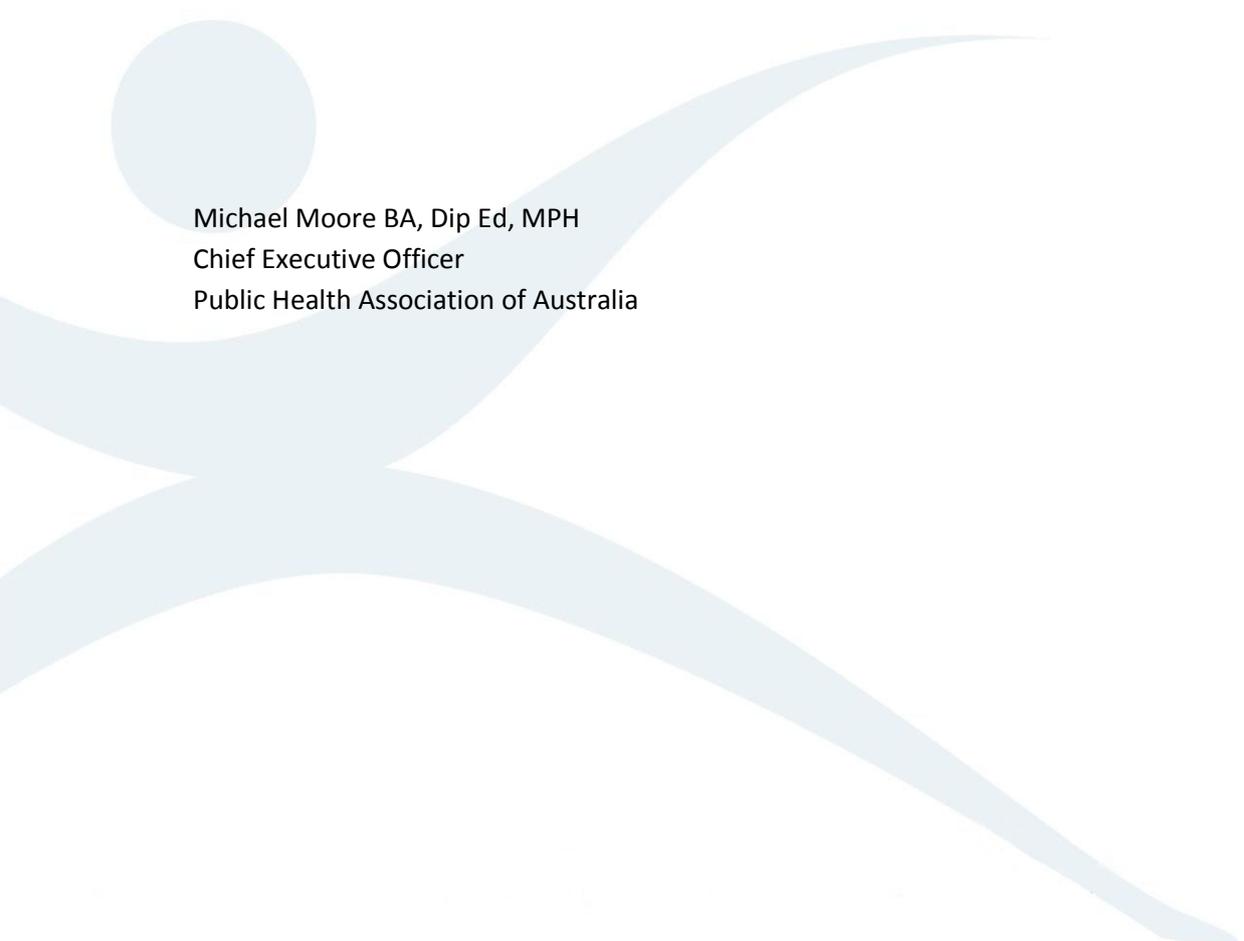
- 2. Proceedings (Point 4):** The Complaints Tribunal should be aware of similar issues and concerns regarding Toddler milks (e.g. supplement content/corn syrup etc) and should not exclude them from the ToR. See comment 7 – Process (Point 19.d)
- 3. Composition (Point 5):** It may be difficult to find a ‘disinterested Public Health and Nutrition Expert’ that is ‘free from any conflict of interest or duty that might affect the independence of judgement’. Perhaps just ‘free from any conflict of interest’ which should include receiving funding from INC members for research and omit ‘duty’. We also suggest that ‘impartial’ may be more suitable than ‘disinterested’.
- 4. Appointment (Point 6):** It is not clear how the Executive Director will determine the members – will this be open to anyone? Will organisations, such as the Public Health Association of Australia and the Australian Breastfeeding Association be invited to nominate representatives for the public health and consumer positions?
- 5. Appointment (Point 8.b):** We suggest that ‘impartial’ may be more suitable than ‘disinterested’.
- 6. Appointment for three years (Point 9):** Members being appointed for a potential 6 years (3 year term plus eligible for one further term of 3 years) is too long. Suggest reduction of second term length to one/two years at most to allow for recruiting of new members.
- 7. Basis for a determination (Point 17):** Where will the tribunal publish reasons for its determinations? Will the publication be available to the general public?
- 8. Process (Point 19.d):** Excluding “toddler milks”. It is well recognised that formula manufacturers are extensively marketing these milk to the general public, on television magazines and websites, using almost identical brand names and images to their infant formula brands, which is confusing the public. This is a large loop hole in the current agreement and it would be important for the Tribunal to work out how to manage this.
- 9. Process (Point 20):** The Department should record all complaints that are in scope and out of scope, and the Annual Report should include the number of 'out of scope' complaints received by the Department as per previous annual reports. This information should be in the public domain, as it provides some data for discussion on whether the scope of MAIF should be reviewed.
- 10. Process (Point 22):** next available meeting. When and where would meetings occur? It is important that the Secretariat prepares written material and distributes this to all members of the Tribunal with sufficient time for them to review prior to meetings. These points should be added to the Terms of Reference.
- 11. Process (Point 32):** An Annual report is mentioned. More information is needed about timing and dissemination of these reports. Seeing this is the only way that the Tribunal is monitoring companies, it needs to be widely available, including on the internet.
- 12. Process (Point 33):** As per comments re Process (Point 20) The Department should record all complaints that are in scope and out of scope, and the Annual Report should include the number of 'out of scope' complaints received by the Department as per previous annual reports. This information should be in the public domain, as it provides some data for discussion on whether the scope of MAIF should be reviewed.

General:

- It should be made clear under the Chair Section, that St James Ethnics will be the Tribunal secretariat; the term of their appointment as secretariat should be stated. Is there a review process for secretariat? How long are they funded to do this work? What happens if INC stops funding?
- There is no mention of the consequences of being in held in breach and noted in the Annual Report. Will the Annual Report be tabled in parliament? The report needs to be made publically available, ideally on the MAIF page of the DoH website so documents are all together.

The PHAA appreciates the opportunity to make this submission. We hope that the comments provided and questions raised prove constructive for establishing a replacement for the APMAIF.

Please do not hesitate to contact the PHAA should you require additional information or have any queries in relation to this submission.



Michael Moore BA, Dip Ed, MPH
Chief Executive Officer
Public Health Association of Australia