



**SUBMISSION ON THE COMMERCE COMMISSION'S DRAFT DETERMINATION FOR THE AUTHORISATION  
OF A 'RESTRICTIVE TRADE PRACTICE' ON INFANT FORMULA (INC CODE)**

**To:** The Commerce Commission

**Details of Submitter:** WellSouth Primary Health Network

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**OIA:** We do not object to the release of any information from our submission

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**Introduction**

Thank you for the opportunity to comment on the Commerce Commission's draft determination for authorising restrictive trade practice of breast milk substitutes for children under six months of age under the Infant Nutrition Council's (INC) code. This submission was developed by the Health Promotion Team on behalf of WellSouth Primary Health Network.

WellSouth Primary Health Network is a charitable trust, constitutionally representative of the community, and funded by the Southern District Health Board to provide primary health care services to over 287,000 residents enrolled with general practices in Otago and Southland. These services include first contact support to restore people's health when they are unwell as well as a range of programmes to improve access to health care services to promote and maintain good health. The health promotion programme facilitates the process of enabling people to increase control over, and to improve, their health. One aspect of health promotion is to advocate for healthy social, cultural and physical environments.

## General Comments

WellSouth supports the Commerce Commission's preliminary decision to grant authorisation for the Infant Nutrition Council application to restrict marketing activities of infant formula for children under six months of age, and applauds their consideration of non-commercial issues. Breastfeeding has impacts on the physical, social, and mental health of mother and child, the community and society as a whole<sup>1</sup>. We feel that public health should be given priority over any commercial gain for a particular industry, however we also note that there is a growing body of evidence that promoting breastfeeding over breast milk substitutes is economically beneficial to both developing and developed countries<sup>1,2,3</sup>.

WellSouth strongly supports the World Health Organisation's (WHO) recommendation that women exclusively breastfeed up to six months of age, with continued breastfeeding along with appropriate complementary foods up to two years of age or beyond. The authorisation would help New Zealand to get closer to meeting international standards and fulfil our obligations under the WHO's *International Code of Marketing of Breast Milk Substitutes*<sup>4</sup>.

WellSouth services promote the Ministry of Health's objectives to increase the prevalence and duration of breastfeeding<sup>5</sup>, as it is well established that breastfeeding provides optimal nutrition and lowers the rates of infections and disease, such as obesity, and diabetes<sup>5</sup>. In the Southern region exclusive breastfeeding rates are high upon discharge from hospital but at six weeks are around at 60%<sup>6</sup>. Māori and Pacific rates are similar, at 56% and 66% respectively. At three months the rates have dropped further to 45% (Māori to 35%, and Pacific to 48%), and at six months the rates are substantially lower at 21% (Māori to 12%, and Pacific to 13%)<sup>6</sup>. It has been shown that the increase in marketing and increased sales of breast milk substitutes has negatively affected breastfeeding rates, and increases the likelihood that a mother will stop breastfeeding sooner<sup>1,2,7,8,9,10</sup>. While the INC code was implemented in New Zealand to help reduce the negative impact of marketing on breastfeeding, it was made voluntary, and only 30 out of 70 companies (who are members of the INC) chose to follow it<sup>11</sup>.

## Specific Comments

Section 11. It would be preferred if the amendment included restrictions on other products for later stage use, including follow-on formula and toddlers milk, as breast milk is still the best option in later life stages.

Section 15. It is important to note that the authorisation will only apply to members of the INC. Breast milk substitutes are produced and marketed through a global system<sup>2</sup>, and with the increasing globalisation of the industry and the increasing globalisation of trade agreements between countries, WellSouth has concerns that if the government does not expand these marketing restrictions to include all formula companies trading in New Zealand, there is a potential for these companies to exploit the public and potentially challenge New Zealand and Australian Infant Formula companies.

Section 44. Retail competition may lessen among commercial providers, however, this statement significantly undervalues mother's production of milk and does not take into consideration the economic cost to the health system<sup>1</sup>. The health system is typically under resourced making it difficult for health agencies and professionals to 'market' breast milk. There is potential for competition to increase as companies will be required to compete with breast milk.

### Conclusion

In conclusion, WellSouth strongly supports authorisation of restrictive trade practice for marketing of breast milk substitutes for infants under six months and recommends that:

- The Code is legislated in New Zealand
- That breastfeeding recommendations are amended to align with the WHO's recommendations'.

Recommended additions to the Code if legislated in New Zealand:

- It applies to all breast milk substitute companies who trade in New Zealand (Including internet trading).
- It applies to other products for later stage use, including follow-on formula and toddler's milk, as per the *International Code of Marketing of Breast-milk Substitutes*.

We do not wish to be heard with regards to this submission.

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<sup>1</sup> Smith, J., Galtry, J., & Salmon, L. (2014). Confronting the formula feeding epidemic in a new era of trade and investment liberalization. *Journal of Australian Political Economy*, 73:132-170.

<sup>2</sup> Kent, G. (2015). Global infant formula: monitoring and regulating the impacts to protect human health. *International Breastfeeding Journal*, doi:10.1186/s13006-014-0020-7. Article URL: <http://dx.doi.org/10.1186/s13006-014-0020-7>.

<sup>3</sup> Holla, R., Iellmao, A., Gupta, A., Smith, J.P., & Dadhich, J.P. (2015). Investing in breastfeeding – the world breastfeeding costing initiative. *International Breastfeeding Journal*, doi:10.1186/s13006-015-0032-y. Article URL: <http://dx.doi.org/10.1186/s13006-015-0032-y>.

- <sup>4</sup> World Health Organisation. (1981). *International Code of Marketing of Breast-milk Substitutes*. Geneva: World Health Organisation.
- <sup>5</sup> Ministry of Health. (2007). *Implementing and Monitoring the International Code of Marketing of Breast-milk Substitutes in New Zealand: The Code in New Zealand*. Wellington: Ministry of Health.
- <sup>6</sup> Royal New Zealand Plunket Society. (2014). *PCIS Statistics*. Invercargill: Royal New Zealand Plunket Society.
- <sup>7</sup> Rosenberg, K. D., Eastham, C. A., Kasehagen, L. J., & Sandoval, A. P. (2008). Marketing infant formula through hospitals: the impact of commercial hospital discharge packs on breastfeeding. *American Journal of Public Health, 98*(2), 290.
- <sup>8</sup> Brady, J. P. (2012). Marketing breast milk substitutes: problems and perils throughout the world. *Archives of disease in childhood, 97*(6), 529-532.
- <sup>9</sup> Kaplan, D. L., & Graff, K. M. (2008). Marketing breastfeeding—reversing corporate influence on infant feeding practices. *Journal of Urban Health, 85*(4), 486-504.
- <sup>10</sup> Sobel, H. L., Iellamo, A., Raya, R. R., Padilla, A. A., Olivé, J. M., & Nyunt-U, S. (2011). Is unimpeded marketing for breast milk substitutes responsible for the decline in breastfeeding in the Philippines? An exploratory survey and focus group analysis. *Social Science & Medicine, 73*(10), 1445-1448.
- <sup>11</sup> Infant Nutrition Council, 'Application to Commerce Commission Seeking Authorisation of a Restrictive Trade Practice'. 25 November 2014. Commerce Commission Anti-competitive practices authorisations register: <http://www.comcom.govt.nz/business-competition/anti-competitive-practices/anti-competitive-practices-authorisations-register/detail/851>