

# INFANT FORMULA AND FOLLOW-ON FORMULA MARKET STUDY

## August 2024 update

1. The Competition and Markets Authority (CMA) launched a market study into the supply of infant formula and follow-on formula to consumers in the UK on 20 February 2024. We took action because of our concerns that suppliers may face insufficient incentives to offer infant formula at competitive prices, and that parents and carers may not always have the information they need to make well-informed choices. We are now six months into a detailed examination of whether the market is delivering good outcomes for parents and carers.
2. At this point in the market study, we have a legal obligation to decide whether or not to consult on a market investigation reference. Based on the evidence reviewed to date, and as identified in the CMA's cost of living update on 26 July 2024 ([link](#)), the CMA has identified significant concerns that the combined effect of the current regulatory framework, the behaviour of manufacturers and suppliers and the needs and reactions of people buying formula, are resulting in poor market outcomes. The CMA considers these concerns will be best addressed by progressing with our market study and developing recommendations to governments to improve these market outcomes rather than moving to a more extensive market investigation. This August update briefly summarises the CMA's concerns to date and explains the decision not to make a market investigation reference at this point.
3. Given the importance of the regulatory framework for infant formula in supporting public health objectives, we will be liaising closely with the UK, Northern Ireland, Scottish and Welsh governments as we develop our thinking on potential action that could lead to better outcomes. We expect to publish an interim report with provisional recommendations for action in October this year.

### *Summary of concerns to date*

4. Based on the evidence we have reviewed to date, we are concerned that many parents and carers are paying more than they need to for infant formula. Price competition appears to be weak, and we have heard concerns

that manufacturers are able to raise brand awareness and influence infant formula brand choices. This is despite regulations requiring all infant formula to meet the same compositional requirements (within a range), meaning they are all suitable for meeting the nutritional needs of infants to support healthy growth and development. We also have concerns that parents and carers do not have the information they need to make well-informed purchasing decisions.

5. These concerns are amplified given the vulnerable circumstances in which many decisions are made when parents and carers first choose infant formula, and in light of ongoing cost of living pressures. As well as a lack of switching by existing customers, those who are choosing an infant formula brand for the first time are generally not choosing cheaper options as prices have risen.
6. Our emerging view is that these outcomes are being driven by a combination of issues including:
  - The operation of the regulatory framework. For public health reasons, the advertising of infant formula is restricted, and other promotional and commercial activities are also restricted to avoid inducing the purchase of infant formula. Since price reductions cannot be promoted, this has the effect of softening competition on price. We are also considering whether the regulations around labelling and marketing of infant formula are being enforced effectively.
  - The behaviour of firms in the market in response to the regulatory framework. Since advertising of infant formula is restricted, building brand awareness and reputation is a key way for manufacturers to make people aware of their products. We are considering whether infant formula is being indirectly promoted (via marketing of follow-on formula and growing-up milks), and how statements on products may influence parents' and carers' choices. We also want to understand how the visibility of products online and in-store, and in hospitals, drives choices.
  - The way in which parents and carers behave in this market, understandably driven by a desire to do what is best for their baby, with price used by some as a proxy for quality. For many, the decision to formula feed is made in vulnerable circumstances, for clinical reasons, in healthcare settings after birth. Many parents and carers are, naturally, not focused on comparing products and prices when they need to make a decision to start buying formula, and once they have found a product that works well for their baby they are reluctant to switch. This brand loyalty means new entrants face considerable barriers to win the trust of parents

and carers and gain market share while remaining within the regulatory constraints.

7. Given the significant role of public health policy in this market, and the key role of the regulatory regime in how the market operates, it is important that the UK, Northern Ireland, Scottish and Welsh governments have the opportunity to consider our emerging findings in the context of their policy goals and priorities.
8. To support this, the CMA will continue its engagement with governments by issuing an interim report in October. This will set out possible options for governments and other stakeholders to consider to drive better outcomes for parents and carers in terms of prices and choices. It will also invite comments from all interested parties on those options.
9. The CMA has also today published its decision not to make an in-depth market investigation at this stage. Given the pressing impact on parents and carers, the key role of the regulatory framework and the vital public health objectives involved, we want to get as quickly as possible to the point where we have fully diagnosed any problems in the market and so can offer workable options for governments to consider to address these.

#### *Next steps*

10. The CMA will consider the feedback we receive after publishing the interim report, before preparing a final market study report. It will be important for the CMA to understand any action governments plan to take following the publication of our final report, and the anticipated timing for this. In light of governments' responses, including regarding any potential changes to the legislative landscape, the CMA may further consider whether and what action by the CMA would be appropriate to address the concerns identified. This could include the option of making a market investigation reference at a later date although, for the reasons set out above, the CMA does not currently consider this to be the best way to address its emerging concerns.