

# INFANT FORMULA AND FOLLOW-ON FORMULA MARKET STUDY

Interim report summary

8 November 2024

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The Competition and Markets Authority has excluded from this published version of the final report information which it considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [✂]. Some numbers have been replaced by a range. These are shown in square brackets. Non-sensitive wording is also indicated in square brackets.

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## Overview

1. On 20 February 2024 we launched a market study into the supply of infant formula<sup>1</sup> and follow-on formula in the UK.<sup>2</sup> This followed our November 2023 [report on price inflation and competition in food and grocery manufacturing and supply](#) ('groceries review').
2. This interim report sets out our emerging findings from the market study and explores potential recommendations to UK, Northern Ireland, Scottish and Welsh governments for action to address our provisional concerns. We are inviting submissions on this by **29 November 2024**. We will then consider the feedback we have received, and continue to liaise closely with those governments, as we prepare our final report for publication in February 2025.
3. Infant formula is a vital part of the weekly shop for many parents<sup>3</sup> across the UK who rely on it to ensure their babies get the best possible start in life. Although a large proportion of parents plan to breastfeed their baby, most parents use formula milk at some point.<sup>4</sup>
4. This market has a number of specific features that distinguish it from other consumer goods markets. Our analysis to date indicates that these features, in combination, are driving poor outcomes for consumers, in terms of the prices they pay for infant formula.

### Regulatory framework

5. For public health reasons, the infant formula market is tightly regulated:
  - (a) Government policy and legislation seeks to ensure that all infant formulas meet compositional standards (which includes minimum and maximum levels of essential nutrients). That means that all infant formulas provide all the nutrients a healthy baby needs for development and growth.

<sup>1</sup> Infant formula is designed for use in the first months of life and is the only substitute for breastmilk that can satisfy, by itself, the nutritional requirements of healthy babies until appropriate complementary feeding is introduced. As set out in the [Market Study Notice](#) published alongside our [invitation to comment](#), the scope of the market study also includes formulas labelled by manufacturers as foods for special medical purposes – such as certain 'anti-reflux' and 'comfort' formulas – that are suitable from birth and can be sold directly to consumers (but which may not strictly be classified as "infant formula" for the purposes of the relevant regulations).

<sup>2</sup> Follow-on formula is a product for use by infants once complementary feeding has started (generally from six months), intended to constitute the principal liquid element in a progressively diversified diet. Official sources advise that follow-on formula is unnecessary (see paragraph 45). All major suppliers of infant formula also sell follow-on formula.

<sup>3</sup> We use 'parents' to refer collectively to parents and carers in this report.

<sup>4</sup> Official statistics indicate that within two months of birth more than two thirds of babies are given at least some formula milk. Office for Health Improvement and Disparities (2023), experimental data, [Breastfeeding at 6 to 8 weeks after birth, Apr 22 to Mar 23](#); Public Health Scotland (2023), [Infant feeding statistics Financial year 2022 to 2023](#); and HSC Public Health Agency (2024) [Health Intelligence Briefing](#). Data is for England, Scotland and Northern Ireland.

- (b) The advertising of infant formula is restricted, as are other promotional activities, including the promotion of price reductions. This is to avoid inducing the purchase of infant formula, so as not to discourage breastfeeding.
- (c) There is a requirement for the labelling, presentation and advertising of infant formula and follow-on formula to be clearly distinct from each other. Guidance indicates that as well as ensuring appropriate product use and preventing confusion between products, this provision also serves to prevent cross promotion and indirect marketing of infant formula.
- (d) Health and nutrition claims on labelling of infant formula are not permitted.

### **Consumer behaviour**

- 6. Infant formula is an essential, non-substitutable product for parents and carers who need or choose to use it.
- 7. Parents make decisions, frequently in vulnerable situations, and often in the absence of timely, clear, accurate and impartial information. Understandably, they want to do the best for their babies, and are highly responsive to brand reputation, which is built in different ways, including through marketing of adjacent products such as follow-on formula, and messaging on packs. Most parents are likely to find it difficult to meaningfully assess information about product quality. Price is often used as a proxy for quality despite NHS advice that *'It does not matter which brand you choose, they'll all meet your baby's nutritional needs, regardless of price'*. Once parents have found a brand that works for their baby, they are unlikely to switch, remaining loyal to their chosen brand.

### **Manufacturer behaviour**

- 8. Regulations constrain the extent to which manufacturers can differentiate their products and communicate these points of difference to parents. The advertising of infant formula is restricted, as are other promotional activities, including promotion of price reductions.
- 9. This context means that instead of focusing on price competition, manufacturers place more emphasis on branding and differentiating their products to attract and retain parents. While, in general, branding can help to inform consumer choice, given the specific features of this market it appears that manufacturers' efforts on quality and innovation are in significant part oriented to signalling trustworthiness and superiority via intangible and/or non-verifiable benefits, rather than specific and verifiable points of difference about particular products. Marketing and promotion costs are high. Entry and expansion into the market is challenging, and

in the one example to date where it has happened at material scale, it has not prompted a widespread price response by manufacturers.

10. Our review has also raised concerns that there appears to be widespread non-compliance with provisions of the regulations which require infant formula and follow-on formula products to be clearly distinct from each other.

### **Limited retail competition**

11. Retailers have limited ability and incentive to push manufacturers to set lower prices; one likely reason for this is the regulatory restrictions on advertising or promoting infant formula, including price promotions. Cost increases have therefore largely been passed through to parents.

### **Combination of these market features driving poor market outcomes**

12. Important public health goals underpin the current regulatory framework. However, we consider that aspects of its design, and challenges around its enforcement, are leading to poor outcomes from a consumer point of view.
  - On the one hand, it strongly disincentivises price competition, and creates barriers to entry. These contribute to persistent high margins, in aggregate and weighted by revenue, at manufacturing level and a lack of downward pricing pressure from entry and expansion.
  - On the other hand, it incentivises a disproportionate reliance on brand-building, whereby manufacturers seek to signal their brands' trustworthiness and superiority via intangible and/or non-verifiable benefits as a main way to encourage parents to choose their product, and to cross-market (ie increase sales of their infant formula via the marketing of follow-on formula and growing-up milks).
13. To compete effectively a business typically needs consumers to have a certain level of awareness of its products and their features. In a situation where the advertisement of infant formula and certain product features is restricted, it is logical that manufacturers will seek other ways to bring about a level of awareness of their products. However, in this market we are concerned that, given its specific features, including that many parents are vulnerable and use shortcuts when making decisions (eg recommendations from family and friends, equating price with quality), brand influence may play an outsized role in decision-making. Conversely, while valued by parents, information from impartial sources appears to be limited when parents are making decisions.

14. In light of the above we are concerned that parents lack timely, clear, accurate and impartial information to enable them to come to an informed decision about which product(s) best meets their needs and preferences.
15. Combined with the current restrictions preventing promotions, including regarding price, by retailers, these market features are likely to result in parents overpaying for infant formula. We are therefore setting out a number of possible measures for consideration by governments to help bring about better outcomes for consumers.

### **Features of a well-functioning market**

16. In our view, for the many parents who use infant formula, a well-functioning market would have the following characteristics:
  - **Clarity** for parents that **all infant formula products meet the nutritional and safety needs of their babies** and that **cheaper products are not nutritionally inferior**.
  - **Clarity** for parents about the **features that differentiate brands and that these are not related to nutritional need**.
  - **Easy access to clear, accurate and impartial information** that enables parents to come to an early and informed decision, with relatively little effort, about which product(s) best meets their needs and preferences.
  - **Effective competition between multiple infant formula manufacturers** to offer infant formula products with features parents can easily interpret and verify, at competitive prices, and an ability for newer entrants to challenge incumbents if they offer a competitive product.
  - **A well-designed and robustly enforced regulatory regime**, including where branding and promotion of follow-on formula products doesn't undermine the rules and desired outcomes for infant formula.
  - **Effective price competition between retailers**, with parents easily able to compare retail prices for their preferred product to get the best deal.

### **Possible measures to improve outcomes in this market**

17. We want our final recommendations in February 2025 to drive better outcomes for parents, without compromising the compositional standards and safety of infant formula and follow-on formula, or undermining governments' wider policy objectives for this market, including not discouraging breastfeeding. Accordingly, our interim report sets out a range of possible measures that could help to reduce prices and support effective consumer choice, through increasing manufacturers' and retailers' incentives to compete on price, and rebalancing the information



environment. Reflecting the acute issues for some parents that high formula milk prices can cause, we also set out some more significant interventions that governments could, in principle, make with the aim of bringing prices down more directly, although these are not actively recommended at this stage.

18. In the coming months, we want to engage closely with governments in all parts of the UK as we work towards a set of final recommendations that is consistent with their objectives. We also welcome the views of other stakeholders on these measures, including their potential impact on prices and consumer choice, the wider issues they may raise, and whether they would be effective and proportionate in addressing the issues we have identified.
19. The areas for potential action to improve outcomes in this market reflect our provisional thinking, and have been categorised as follows:
  - **Information and supply in healthcare settings:** providing parents with clear, accurate and impartial information, including on nutritional sufficiency of all infant formula products; and possible measures to reduce the influence of branding in such settings.
  - **Information and price promotion in retail settings:** providing clear, accurate and impartial information, including on nutritional sufficiency of all infant formula products, at the point of sale; and incentivising competition on price by potentially permitting prices and price reductions to be publicised.
  - **Clarifying, monitoring and enforcing the existing regulations:** including clarifying how the existing regulations apply to online advertising, and strengthening the competent authority role so that approval of packaging is required before infant formula products are placed on the market.
  - **Strengthening labelling and advertising rules:** including measures to support parents to place greater weight on clear accurate and impartial information when choosing which brand of infant formula to use by reducing the incentive and/or ability of manufacturers to engage in brand-building behaviour, given the specific features of this market, and possible measures to set stricter thresholds for certain types of on-pack messages; and
  - **Backstop measures (not currently recommended): price controls and public provision:** reflecting the acute issues for some parents that high formula prices can cause, our interim report also sets out a number of more significant interventions that governments could, in principle, make with the aim of bringing down prices directly.

## Background to our market study

20. On 20 February 2024 we launched a market study into the supply of infant formula and follow-on formula in the UK. This followed our November 2023 [report on price inflation and competition in food and grocery manufacturing and supply](#) ('groceries review').
21. In that report we announced that we would carry out further work in the infant formula market, in light of concerns that weak or ineffective competition could be leading parents and carers (who we refer to collectively as parents) to pay higher prices than they need to.
22. Launching a market study allows us to use our formal information gathering powers to gain a deeper understanding of the market. It also triggers statutory time limits in relation to our work in this area. This includes a requirement to publish, within six months of the launch of a market study, our decision on whether or not to consult on making a market investigation reference (MIR). We published our [decision not to make a market investigation reference](#) on 16 August 2024, alongside an [update on our work](#).
23. That update noted that the CMA had identified significant concerns that the combined effect of the current regulatory framework, the behaviour of manufacturers and retailers, and the needs and reactions of people buying formula, are resulting in poor market outcomes. We said that we considered these concerns would be best addressed by progressing with our market study and developing recommendations to government to improve these market outcomes rather than moving to a more extensive market investigation.
24. We indicated that, given the importance of the regulatory framework for infant formula in supporting public health objectives, we would 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.
25. This interim report sets out our emerging findings from the market study and explores potential recommendations to governments for action to address our provisional concerns. We are inviting submissions on this by **29 November 2024**. We will then consider the feedback we have received, and continue to liaise closely with governments, as we work towards our final report.
26. We will publish the final report on the market study, setting out our conclusions and any recommendations for action, no later than the statutory deadline of 19 February 2025.
27. In light of the 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.

## Emerging findings

28. Our emerging findings are summarised below. First, we consider the regulatory and policy framework, consumer behaviour and the information environment in which consumer decisions are made. We then go on to assess the evidence reviewed to date on competition in this market.

### Regulatory and policy framework

29. Infant formula and follow-on formula products are tightly regulated in the UK, the EU, and across many parts of the world to achieve the public health objectives of ensuring formula milks provide essential nutrients for babies and are safe and not discouraging breastfeeding.<sup>5</sup> Nutrition law is an area of devolved competency in the UK, and responsibility for overseeing and enforcing the infant formula and follow-on formula regulations sits with each of the UK's devolved governments.
30. In this market the regulatory framework<sup>6</sup> has a considerable bearing on competition and the outcomes we observe. Notably:
- (a) Government policy and legislation seeks to ensure that all infant formulas meet compositional standards (which includes minimum and maximum levels of essential nutrients). That means that all infant formulas provide all the nutrients a healthy baby needs for development and growth.
  - (b) The advertising of infant formula is restricted, as are other promotional activities, including the promotion of price reductions. This is to avoid inducing the purchase of infant formula, so as not to discourage breastfeeding.
  - (c) There is a requirement for the labelling, presentation and advertising of infant formula and follow-on formula to be clearly distinct from each other. Guidance indicates that as well as ensuring appropriate product use and preventing confusion between products, this provision also serves to prevent cross promotion and indirect marketing of infant formula.
  - (d) Health and nutrition claims on labelling of infant formula are not permitted.
31. We consider below how manufacturers and retailers respond to these aspects of the regulatory framework, and in turn, the outcomes this is driving in the market.

<sup>5</sup> The regulations for infant formula and follow-on formula in the UK are designed to ensure that these products provide essential nutrients for infants and are safe; provide accurate labelling to inform consumer choice and minimise the risk of consumers being misled; and ensure marketing and advertising does not discourage breastfeeding. The regulatory framework allows for growing scientific understanding and development.

<sup>6</sup> [Commission Delegated Regulation \(EU\) 2016/127](#) (assimilated direct legislation).

## Consumer behaviour

32. Infant formula is an essential, non-substitutable product for parents and carers who need or choose to use it. We have heard the benefits of breastfeeding are widely understood, and that there is no evidence that pricing impacts on parents' decisions to formula feed in the first place.
33. Our evidence indicates that most parents and carers who need or choose to use infant formula experience a degree of vulnerability because most feeding decisions come with high pressure on a parent to do the best they can for their baby. Our consumer research found that 'when it comes to choosing a brand for their infant, consumers want to purchase "the best"- whatever that means to them.' There is evidence that parents who experience feelings of guilt around formula milk use as opposed to breastfeeding are particularly vulnerable, as are those making unplanned decisions to use formula milk in hospital settings and/or under time-pressure.<sup>7</sup>
34. Guilt is detrimental to consumer outcomes in this market because it puts parents at risk of spending more than they need to. Our consumer research found that the desire to purchase a premium brand is 'felt particularly strongly amongst mothers who had hoped to exclusively breastfeed. They have heard "breast is best" and therefore feel even more guilt if they make a rational budgeting decision in their choice of formula brand.'<sup>8</sup> More generally, parents often use price as a proxy for quality and so would actively choose a higher priced product.
35. The evidence we have reviewed shows that personal recommendations, followed by availability and visibility in-store, online presence, and visibility in hospitals, are the key factors influencing parents' choice of infant formula brand. Brand awareness and reputation also plays an important role in decision-making. All the key factors influencing brand choice are points at which brand awareness and reputation can factor into parents' decision making. Equally, these are points at which manufacturers can seek to build brand awareness and reputation.
36. Parents rarely switch brands unless they experience health or feeding issues and almost four in five stay loyal to their brand of first choice. Most parents also continue to use the same brand with subsequent children.<sup>9</sup>
37. We consider below how outcomes in this market are shaped by the behaviour of parents buying formula milk.

<sup>7</sup> Thinks Insight and Strategy (2024), Experiences using infant formula and follow-on formula: Qualitative research report, pp 13-14, 32, 46.

<sup>8</sup> Thinks Insight and Strategy (2024), Experiences using infant formula and follow-on formula: Qualitative research report, p32.

<sup>9</sup> Thinks Insight and Strategy (2024), Experiences using infant formula and follow-on formula: Qualitative research report pp6-9, 46.

## The information environment

38. In addition to recommendations, and information from healthcare professionals and other sources such as parenting forums, parents may also receive or access information directly from manufacturers or retailers, which can influence their infant formula brand choice. Family, friends or others recommending a brand to parents may also be drawing on information they previously received or accessed from manufacturers.
39. In this market, manufacturers place a strong emphasis on brand building to support sales of infant formula, which is reflected in their high levels of promotional and marketing spend. In our view, key reasons for this are because:
- They are constrained by regulations in the degree to which they can differentiate their products.
  - Regulations restrict the advertisement and promotion of infant formula and prohibit the use of health and nutrition claims on infant formula labelling.
  - They have weak incentives to compete on price, knowing that most parents are generally unresponsive to changes in a product's price.
40. Important public health goals underpin these regulations, but to compete effectively a business typically needs consumers to have a certain level of awareness of its products and their features. In a situation where the advertisement of infant formula and certain product features is restricted,<sup>10</sup> it is logical that manufacturers will seek other ways to bring about a level of awareness of their products. However, in this market we are concerned that, given its specific features, including that many parents are vulnerable and use shortcuts when making decisions (eg recommendations from family and friends, equating price with quality), brand influence may play an outsized role in decision-making.
41. Conversely, while valued by parents, information from impartial sources appears to be limited when parents are making decisions. Our consumer research found that the NHS is a trusted source of information and parents welcome advice from healthcare professionals. While some parents felt supported by the NHS when they began to use formula, our consumer research found many examples of parents who did not feel they had received enough information from the NHS on formula-feeding, particularly ahead of the birth of their baby, as clinical guidelines recommend. Many parents wished they had been better prepared for unexpected feeding situations.<sup>11</sup>

<sup>10</sup> Advertisement of infant formula is allowed in baby care and scientific publications.

<sup>11</sup> Thinks Insight and Strategy (2024), Experiences using infant formula and follow-on formula: Qualitative research report, p15.

42. In light of the above we are concerned that parents lack timely, clear, accurate and impartial information to enable them to come to an informed decision about which product(s) best meets their needs and preferences.

## **Compliance with regulations on advertising and marketing**

### *Cross-promotion and indirect marketing*

43. We are concerned that there appears to be widespread non-compliance with, and underenforcement of, provisions within the regulations which require infant formula and follow-on formula to be clearly distinct from each other. This means that infant formula may be being indirectly promoted via a 'halo effect' from follow-on formula, which may be advertised, unlike infant formula. Research commissioned by some manufacturers indicate that marketing activities for products under the same brand or sub-brand can, in some cases, boost sales of infant formula.<sup>12</sup>
44. We found that promotional and marketing spend on follow-on formula and growing-up milks appears to be high, particularly if its main purpose is to support sales of just these product categories. For two manufacturers, promotional and marketing spend amounted to [20-30%] and [10-20%] as a share of follow-on formula and growing-up milk revenues in the UK. We therefore consider that this level of spend is likely to support infant formula sales through brand awareness and reputation, as well as sales of those products being directly advertised.
45. We would like to understand from stakeholders the value derived from follow-on formula for a) parents and babies and b) manufacturers and retailers given that the NHS states that 'research shows that switching to follow-on formula at 6 months has no benefits for your baby. Your baby can continue to have first infant formula as their main drink until they are 1 year old.'<sup>13</sup> Follow-on formula is generally priced the same as (or sometimes slightly cheaper than) infant formula.

### *Interpretation of the regulations*

46. In addition, we have found that there are aspects of the regulations where greater clarity of their interpretation may be required. Specifically, in terms of what constitutes 'advertising', particularly with regards to formula milk manufacturers' websites, for the purposes of the regulations, given there is no clear definition in the legislation. This lack of clarity has made it challenging for the ASA to monitor and assess compliance with the CAP Code which states that marketing communications/adverts for infant formula are not permitted.<sup>14</sup>

<sup>12</sup> They told us that this does not reflect the views or practices of their business.

<sup>13</sup> NHS, [Types of formula](#), accessed 17/09/24 NHS.

<sup>14</sup> The CAP Code includes specific provisions on infant formula and follow-on formula which reflect Regulation 2016/127.

47. Finally, we have heard that that the use of numbered stages on formula milks, while helping parents identify the right product for their baby's age, may encourage some to move through a 'feeding journey' and purchase growing-up milks without realising that cow's milk is a suitable alternative.<sup>15</sup> Although relatively few parents purchase growing-up milks, they are then paying a price premium.

### **The nature of infant formula supply**

48. The UK formula market is supplied by five main manufacturers.<sup>16</sup> The market has a highly concentrated structure, with the top three manufacturers accounting for [90-100%] of supply, and the largest manufacturer alone accounting for [50-60%], over the first seven months of 2024.
49. Manufacturers' main route to market is via major retailers, with supermarkets the most important distribution channel. CMA analysis suggests that, in 2023, [80-90%] of manufacturers' aggregate infant formula sales (by revenue) were to retailers, and [60-70%] were to the five largest retailers of formula milks.
50. Manufacturers also supply infant formula to the NHS for distribution to parents in healthcare settings. This supply is small in the context of the market: NHS Trusts in England and Wales spent just over £1.3 million on infant formula in 2022-23, compared with annual manufacturer infant formula revenues of well over £100 million.<sup>17</sup> However, manufacturers view supplying the NHS as an important way of influencing consumer choice as parents rarely switch brand after leaving hospital, and manufacturers have predominantly sold to the NHS below cost.
51. The market has displayed some dynamism in the recent past. Five manufacturers (or own-label suppliers using contract manufacturers) have entered the market within the last decade: Kendal Nutricare, which entered in 2016 and supplies the Kendamil brand; Aldi, which entered in 2016 and supplies the own-label brand Mamia; Sainsbury's, which entered in 2018 with the Little Ones own-label product (and exited in 2020); Arla, which entered in 2018 (and exited less than a year later); and Lidl, which entered very recently in August 2024 and supplies the own-label brand Lupilu.
52. The entry and growth of Kendamil in particular suggests it is possible to attract parents to a less established brand and build a significant customer base. Kendamil's share of supply has risen from [0-5%] in 2019 to [20-30%] in the first seven months of 2024, and it is now the second-largest manufacturer of infant

<sup>15</sup> NHS, [Types of formula](#), accessed 23/07/24.

<sup>16</sup> There are several other manufacturers that supply the UK market; however, each of these has a very small share of supply and they are not assessed in this report.

<sup>17</sup> We note that NHS spend is not directly comparable with manufacturer revenues as supply to the NHS is below cost, whereas manufacturer revenues include products sold at a profit. Nevertheless, given the difference in magnitude, we consider that supply to the NHS is small in the context of the market.

formula. However, we consider that Kendal's success is unlikely to be replicated by other potential entrants. In particular, Kendal acquired a production facility with experienced staff and created a distinctive combination of product features (such as being vegetarian, palm oil-free, and made in Britain) which has resonated with parents. Furthermore, to date, Kendal's entry has not prompted a widespread price response by incumbents.

53. Kendamil is the only example of entry at meaningful scale in the past decade. The evidence suggests that there are currently several significant barriers to entering and expanding in this market, including: limited suitable manufacturing capacity within the UK; the large investments needed in product safety and quality; the need to develop an offering which is perceived as sufficiently differentiated; the need to secure widespread distribution through major retailers; high marketing costs; and the restriction on advertising and promoting infant formula to parents.
54. The powerful role of brand reputation in this market, together with the need for a given infant formula product to be widely available for it to be attractive to parents, are particular barriers for own-label suppliers. At present there is one established own-label supplier (Aldi), with a share of supply of [0-5%] in the first seven months of 2024 in infant formula (and no presence in follow-on formula), and a second own-label supplier (Lidl) that has very recently entered the market.<sup>18</sup> Other retailers have told us that they are unlikely to consider entering the market with an own-label product.
55. Consumer behaviour (discussed above) and in particular the low tendency for parents to switch infant formula product once they have found one that works for their baby, could in theory represent another barrier for an entrant seeking to build sales. Working in the opposite direction, however, is the fact that churn in the market is relatively high, as customers typically exit the market after a year or less. This means that incumbent manufacturers need to continually attract new customers, just as new entrants do.
56. Our assessment on the basis of the evidence we have seen so far is that there are several significant barriers to entering this market, which taken together reduce the possibility of disruption to incumbents. While Kendamil provides a notable example of entry, we consider would be hard to replicate its success at scale.

<sup>18</sup> Lidl entered the supply of infant formula and follow-on formula (both 800g powder under its Lupilu brand) in August 2024. Since this development is very recent, it is too early for us to assess its share or supply or impact on the market.



## Competition between manufacturers

57. To understand the extent and nature of competition between manufacturers, we have reviewed submissions and internal documents from manufacturers and retailers, as well as data on prices and margins.

### Competition on price

58. The time periods for which we have obtained data (2019 – 2024) and documentary evidence (2021 – 2024) include two significant market developments. From 2019, Kendamil's market share began to rise rapidly. Then, from around late 2021, rising input costs had an inflationary impact across the whole economy, and infant formula retail prices began to rise with increasing frequency. The price of 800/900g infant formula powder (which is the most sold format) increased by 18-36% (depending on brand) between December 2021 and December 2023.<sup>19</sup> In 2024, prices for some brands have decreased (and others levelled off), although they remain at or above early-2023 levels for all but the cheapest two brands.
59. Based on internal documents we have reviewed relating to manufacturers' pricing strategies over the period 2021 to early 2024, Danone looks to be the clear price leader. In our view, during this period, Danone seemed able to set its prices with limited regard for its competitors' pricing.
60. According to their internal documents, Nestle and HiPP appear to have been constrained by Danone's pricing, especially its pricing of Aptamil.
61. Internal documents also indicate that manufacturers set prices on the assumption that, in this market, parents are generally unresponsive to changes in a product's price, allowing manufacturers to increase prices with less constraint. This weak sensitivity to price is consistent with the evidence (discussed above) on consumer behaviour – that most parents in this market are keen to choose what they perceive to be a high-quality brand, and that they often infer quality from the product's price, and hence often actively choose a higher priced product. In combination with manufacturers' price-setting behaviour, these are the most direct pieces of evidence we have of a low intensity of price competition between manufacturers in this market.
62. The difference in prices between brands leads to substantial differences in the cost over a baby's first year of life, such that brand choice has a sizeable financial impact on parents. Buying the current market leader Aptamil's 800g tubs at the Tesco price (in July 2024) would cost around £700 for a baby exclusively formula-

<sup>19</sup> Based on CMA analysis of the prices of 800g infant formula powder products (or pro-rated equivalent price for 900g products) for each of the major infant formula brands, in Tesco.

fed from birth to 12 months, based on the feeding guidance stated on the pack.<sup>20</sup> On an equivalent basis, Little Steps (the cheapest widely available 800g product) would cost around £400; therefore, choosing Little Steps over Aptamil – as an example – could save parents around £300 over the first year of their baby’s life. Choosing Little Steps instead of Aptamil Advanced, meanwhile, could save parents around £540.

63. Our calculations of manufacturers’ gross margins suggest that, in aggregate and weighted by revenue, they have broadly been stable in percentage terms (remaining within a range of around [X]%) throughout the period 2019-2023). This indicates that manufacturers (in aggregate) have largely been able to pass on cost increases to their customers. While some brands have consistently generated gross margins greater than [X]%, others have generated much lower gross margins.
64. Full pass-through of cost increases does not, in and of itself, imply weak competition on price between manufacturers. However, we consider that the relatively high level of margins over the period, coupled with their stability, when taken together with the evidence we have seen on concentration, pricing strategy, and consumer behaviour, does indicate weak competition on price.
65. We have also examined the evidence to determine the nature of the main manufacturers’ responses to the entry and growth of Kendamil. In a competitive market, we would expect incumbents to respond to a successful new entrant, including through price decreases.
66. Kendamil was gaining market share for some time before any manufacturers implemented any price decrease. Danone implemented a temporary price decrease in January 2024 for certain Aptamil products. It is unclear to what extent Kendamil might catalyse greater competition on price long term. To the extent that Danone reverses its price cuts and continues to lead pricing in this market, any price decreases implemented by other suppliers may also be reversed. The price response following Kendamil’s entry has taken time to occur and, to date, has been limited. As such we continue to be concerned about the lack of widespread price competition in the supply of infant formula.
67. We will continue to monitor price developments closely for the remainder of this market study.

<sup>20</sup> Based on CMA calculations of the total volume of infant formula powder implied by the recommendations on the product packaging, assuming no formula is wasted. Prices based on average selling price at Tesco in July 2024.

## Competition through differentiation

68. Infant formula manufacturers seek to compete by differentiating their products. They have told us that they compete strongly on quality and innovation, that this competition has benefited parents, and that it will continue to deliver improved outcomes for babies. The biggest manufacturers invest substantial sums on R&D related to formula milks.
69. However, manufacturers are constrained in the degree to which they can differentiate their products by the regulations, which stipulate, for example, the minimum and maximum levels of essential nutrients that must be included in all formula products to ensure that they provide all of the nutrients a healthy baby needs for development and growth.<sup>21</sup>
70. The regulations do allow for other ingredients to be added, provided that they are proven to be suitable (in terms of expected benefits and safety considerations) for babies. This ability to add ingredients, as well as to vary the quantities of essential nutrients included (within the thresholds specified in the regulations) is one way manufacturers can differentiate their products.
71. Over many years, the composition of infant formula has evolved due to advances in scientific evidence, with legislation on compositional standards updated to reflect this, which has led to better outcomes for infants. For example, docosahexaenoic acid (DHA) is now mandated to be included in all infant formulas following its inclusion by Danone since the 1990s. It is our understanding that updates to the compositional requirements set out in Regulation 2016/127 have been infrequent.
72. Aside from nutritional composition, other types of product differentiation include:
- the quality or provenance of ingredients (such as organic milk);
  - other aspects of formula content or its production which parents value (such as being halal, kosher, or vegetarian); and
  - features that are not about formula content, but instead about aspects of the product such as packaging or ease of use.
73. Additionally, manufacturers may signal trustworthiness and superiority in more subtle ways, including through the use of words or phrases such as ‘inspired by research’, ‘expertise’, or ‘advanced’, or through their packaging design. The evidence we have reviewed shows parents choosing based on positive, but subjective feelings about reputation that go beyond simply being aware of a

<sup>21</sup> [Regulation 2016/127](#), Article 2.

brand's existence. Moreover, these feelings tend to be general impressions rather than based on concrete attributes of a product as they might be in other markets. One survey we reviewed found the top three drivers of brand desire to be emotive rather than concrete: they were (in order): 'closeness', 'trust' and 'reflects my values and supports my role as parent'.

74. Parents are able to assess certain aspects of product differentiation more easily than others. For example, there is a well-established process for verifying and communicating organic provenance, and trial and error will quickly establish for a parent how easy a given product is to use. We would typically encourage competition on product differences such as these, which offer genuine choice to parents.
75. However, in this market, for an essential, non-substitutable product, regulations constrain the level of differentiation that is possible, and most parents are likely to find it difficult to meaningfully assess information about product quality. Therefore, our concern is that manufacturers' efforts on quality and innovation are primarily oriented to signalling their trustworthiness and superiority via product packaging and broader marketing, with use of phrases such as 'inspired by research' or 'advanced' connoting intangible, non-verifiable benefits rather than specific and verifiable points of difference about particular products. Such signalling could help manufacturers (i) to build their brand reputation in general; and (ii) to justify charging a premium on certain products/ranges (in a context in which they lack incentives to compete on price).
76. Each of the largest manufacturers offers a portfolio of different brands, with the market broadly structured across three tiers: 'premium', 'standard', and 'value'/'entry'. Although uptake by parents of the premium infant formula ranges is low, we consider it likely that some parents assess the value-for-money of standard products by benchmarking against the equivalent premium products (a practice known as reference pricing).
77. Manufacturers' cost data suggests that the raw ingredients in the 'premium' products do appear to cost more than those in the 'standard' products, and [REDACTED]. However, cost differences between the 'standard' and 'value' products are smaller and, in some cases, negligible. Despite limited differences in the underlying costs of the raw ingredients, the RRP and actual retail prices of 'standard' products are typically higher than those of 'value' products from the same manufacturer. We are concerned that this could be an outcome of the signalling we describe above, and will explore the reasons for this in the next phase of our work.

### **Competition between retailers**

78. We consider that the major retailers contribute to competition through their two inter-related roles in this market:

- They are a vital route to market for manufacturers. CMA analysis suggests that, in 2023, [80-90%] of manufacturers' aggregate infant formula sales (by revenue) were to retailers, and [60-70%] were to the five largest retailers of formula milks. As such, retailers may be able to impose a constraint on manufacturers' behaviour.
- They all offer largely the same range of infant formula major brands and products, and so can compete directly with each other to offer lower prices to parents.

### **Retailers' ability to constrain manufacturers**

79. Strong buyer power from retailers could, in theory, help offset weak price sensitivity among parents and exert downward pressure on prices, if combined with robust competition at the retail level.
80. The evidence suggests that retailers often try to validate or challenge cost price increases presented by manufacturers. They do this with reference to other manufacturers' prices, and to the prices of relevant inputs such as dairy. We have seen examples of retailers applying pressure to manufacturers with respect to pricing, and retailers' focus on pricing looks to have increased as cost-of-living pressures intensified.
81. In addition, documents we have seen indicate that retailers are often successful at securing manufacturers' agreement to additional spend to support sales, including (where permitted) funding for point-of-sales media, price promotions and, in some cases, shelf space.
82. However, the pricing and documentary evidence taken together suggests that retailers have accepted multiple substantial price increases throughout 2022 and 2023, prior to prices stabilising or decreasing in 2024.
83. Retailers have told us that their bargaining power is reduced by the fact that certain infant formula products are 'must carry', and that strong brand loyalty means that parents would prefer to switch retailer than switch product, which puts manufacturers in a relatively strong bargaining position.
84. Documentary evidence suggests the degree of bargaining power differs between manufacturers, with the market leader Danone appearing to hold a stronger position than its competitors.
85. Overall our provisional assessment is that, while retailers do have the ability to constrain manufacturers to some degree, they do not display the buyer power or incentives to strongly resist price increases.

## **Retailers' direct competition with each other**

86. Most retailers submitted that they monitor and take into account competitors' pricing (based on publicly available information), amongst several other factors, when setting their own retail prices for formula milks, and there are some examples of this in the internal documents we have seen.
87. However, the pricing data shows that retailers' prices have tended to track (usually very closely) the RRP's that manufacturers provide. We have seen few examples of retailers choosing to absorb all or part of the successive price increases implemented by manufacturers between 2021 and 2023, in an attempt to undercut their rivals. Internal documents likewise indicate that retailers have largely accepted these cost price increases and passed them on to parents. Retailers' margins, in aggregate, weighted by revenue, on infant formula have remained stable within a range of 20-24% for the past five years, which is further evidence that they have been able to pass through rising manufacturer prices to parents.
88. We consider that this is likely due to a lack of incentive on the part of retailers to compete strongly on price. There are likely to be two main reasons for this.
89. First, retailers cannot advertise or promote infant formula prices. This means it would be difficult for a retailer to inform parents who do not normally shop with it that they could find their preferred product cheaper there.
90. Second is the price-unresponsiveness of parents, to the point of doing minimal shopping around between retailers once their brand choice has been made.<sup>22</sup> As discussed above, parents in this market are often time-pressured, may be at a vulnerable time in their lives, and are keen not to make decisions in this market based on saving money.
91. There are two significant exceptions to this general lack of price competition. Iceland announced and implemented a price reduction on all the infant formula brands it carried in August 2023; and in February 2024, Iceland introduced Nestle's Little Steps infant formula and priced it well below the RRP.<sup>23</sup> The retail price data suggests this latter action triggered a price reduction on Little Steps by most other major retailers.
92. More recently, prices have come down across a limited subset of infant formula products, in the context of increased scrutiny of infant formula prices. While the drivers and persistence of these price decreases are uncertain, this may be an

<sup>22</sup> Given that retailers' prices have generally been similar for a given infant formula product, and therefore there would have been little benefit in shopping around, it is not surprising that most consumers have not done so.

<sup>23</sup> Iceland's infant formula monthly sales volumes did increase substantially in 2023 and 2024; however, these price changes occurred around the same time that it began stocking a greater range of products across more stores. It is therefore not possible to isolate the effect of the price changes alone on its sales volumes.

indication that retail level competition is increasing (as noted above), but it could also be a reflection of easing inflationary pressure. Nevertheless, we consider that the inability to promote price reductions, and parents' weak price sensitivity, are likely to mean that retail level price competition is weaker than it otherwise would be.

93. As noted above, retailers compete on non-price aspects of competition, including the way they present and market formula products. This includes the distribution across and within stores, shelf space, and promotional activity.
94. We consider that it is likely that this activity is emphasised over competition on price as the key route to increase sales by both manufacturers and retailers, both because of the significant influence of brand and reputation in consumer choices, and because the regulations prevent retailers from advertising prices of or promoting any price reductions on infant formula.

### **Possible measures to address our emerging concerns**

95. In a well-functioning market, we would expect to see the following market outcomes:
  - (a) We would expect to see indications that the market is dynamic, including lower barriers to entry and expansion, with it being feasible for newer manufacturers to gain market share if they offer a competitive product, and incumbents responding to the threat of entry and expansion, including by competing on price;
  - (b) We would expect price and margins data, taken together with evidence of manufacturers' pricing strategies, to suggest that manufacturers were responsive to the prices of their competitors;
  - (c) At times of rapidly rising costs, on the assumption that manufacturers' and retailers' margins were not already low, we would expect to see them absorbing some of the higher costs into their margins for longer in order to maintain a competitive price and maintain their market share, rather than consumers bearing the majority or all of the cost increases; and
  - (d) At retail level, we would expect to see competitive infant formula prices, with parents more responsive to price, and choosing products with features that they can easily interpret and verify.
96. Our provisional view is that the market is not delivering these outcomes.
97. The regulatory framework is one key driver of the outcomes we have seen:

- On the one hand, it strongly disincentivises price competition, and creates barriers to entry. These contribute to persistent high margins, in aggregate and weighted by revenue, at manufacturing level and a lack of downward pricing pressure from entry and expansion.
- On the other hand, it incentivises a disproportionate reliance on brand-building, whereby manufacturers seek to signal their brands' trustworthiness and superiority via intangible and/or non-verifiable benefits as a main way to encourage parents to choose their product, and to cross-market (ie increase sales of their infant formula via the marketing of follow-on formula and growing up milks).

98. Combined with entrenched patterns of consumer behaviour in this market, this creates further barriers to entry and expansion, and generates significant marketing costs that are likely to contribute to the prices parents pay for infant formula.

99. Given the above, and in the face of substantial price increases over the past few years, we are concerned that parents are overpaying for infant formula. We are therefore setting out a number of possible measures for consideration by governments to help bring about better outcomes for consumers.

## **Approach**

100. In our August 2024 update we said that our concerns in the market would be best addressed by progressing with our market study, and developing recommendations to governments to improve market outcomes rather than moving to an extensive market investigation.

101. We want our final recommendations to drive better outcomes for parents, without compromising the compositional standards and safety of infant formula and follow-on formula, or undermining governments' wider policy objectives for this market, including not discouraging breastfeeding. Accordingly, this interim report sets out a range of possible measures that could help to reduce prices and support effective consumer choice, through increasing manufacturers' and retailers' incentives to compete on price, and rebalancing the information environment. Reflecting the acute issues for some parents that high formula milk prices can cause, we also set out some more significant interventions that governments could, in principle, make with the aim of bringing prices down more directly, although these are not actively recommended at this stage.

102. In the coming months, we want to engage closely with governments in all parts of the UK as we work towards a set of final recommendations that is consistent with their objectives. We also welcome the views of wider stakeholders on these measures, including their potential impact on prices and consumer choice, the



wider issues they may raise, and whether they would be effective and proportionate in addressing the issues we have identified.

103. We consider that the measures we are proposing would not compromise the compositional standards and safety of infant formula. Further, it is our provisional view that a number of measures set out below are not inconsistent with, and may potentially support, governments' policy objective of not discouraging breastfeeding. For example, improving enforcement of rules to prevent cross-promotion of infant formula via follow-on formula, or the strengthening of these rules, could support stronger price competition, while also reducing opportunities to induce infant formula purchases.
104. In other areas, there may be trade-offs to consider. For example, allowing retailers to publicise their price reductions of infant formula could help to support stronger retail price competition, but governments will wish to consider the extent to which this could serve to induce infant formula purchases, and therefore potentially be inconsistent with the policy objective of not discouraging breastfeeding. The evidence we have collected, including on supplier behaviour and consumer choice, will help government to assess the nature and extent of any policy trade-offs arising from changes to the regulatory framework.

### **Possible measures**

105. The measures set out below reflect our provisional thinking, and have been categorised as follows:
- information and supply in healthcare settings;
  - information and price promotion in retail settings;
  - clarifying, monitoring and enforcing the existing regulations;
  - strengthening labelling and advertising rules; and
  - backstop measures: price controls and public provision.
106. We consider that a combination of these measures is likely to be needed to enable the market to function more effectively and deliver better outcomes for parents.
107. Some measures may be more straightforward than others to implement, and some may bring into play other trade-offs. For example, one consequence of some of the stronger measures which could make more of a difference in terms of consumer outcomes is that they may reduce consumer choice. Governments will wish to assess whether that is an acceptable outcome, particularly given all infant formulas provide all the nutrients a healthy baby needs for development and

growth, and our ultimate conclusions on the extent to which manufacturers' investments are oriented towards 'signalling' higher quality.

### **Information and supply in healthcare settings**

108. In any scenario, we consider that there is a strong case for governments to raise the profile of timely, clear, accurate and impartial information to help parents make well-informed decisions on what brand of formula to use.
109. Our research indicates that many parents make decisions over what brand of formula to use based on the information they are given in healthcare settings. It also indicates that many parents may find information from the NHS and healthcare settings to be helpful when deciding which infant formula to purchase and weighing up factors such as price and manufacturers' claims. Information on nutritional sufficiency (e.g. the NHS's statement '*It does not matter which brand you choose, they'll all meet your baby's nutritional needs, regardless of price*'<sup>24</sup>) could be provided prominently and consistently at key decision points in hospitals and other healthcare settings. This could be accompanied by specified information on the range and cost of infant formula. It might also include a clear and factual assessment of some of the claims made by manufacturers on their packaging.
110. This should give some parents the confidence that cheaper products are suitable for meeting the nutritional needs of their baby, and as a result encourage some to purchase cheaper products which match their preferences and budget.
111. Consideration could also be given to how infant formula is procured for, or presented in, healthcare settings. We have observed that brand visibility in hospital settings can be highly influential. One option is to introduce balanced procurement to ensure parents are given a wider choice of brands where possible, or that brands are rotated. A further option is to require infant formula to be presented in standardised packaging in healthcare settings. In considering such measures, governments would need to take into account potential for increasing costs to the NHS.

### **Information and price promotion in retail settings**

112. We consider that parents would be more supported in making well-informed decisions regarding what infant formula to purchase, and be more confident that cheaper products are suitable for meeting the nutritional needs of their baby, if they were given clear, accurate and impartial information on the nutritional sufficiency of infant formula in retail settings (for example, on retail shelf-edges next to infant formula products). A similar measure would involve requiring

<sup>24</sup> NHS, [How to use formula](#), accessed 17/10/24.

manufacturers to display this information directly and prominently on the labelling of infant formula products.

113. To reduce indirect promotion of infant formula, standards for shelf positioning in retail settings could be set, eg requiring infant formula to be displayed more prominently, and separately, from other formula milk products.
114. To incentivise more competition on price we consider that the regulations could be revised to ensure that manufacturers and retailers are permitted to publicise prices and price reductions. In turn, this may put pressure on manufacturers' prices. While governments will wish to carefully consider the extent to which this could serve to induce sales of infant formula, we note that the evidence we have obtained suggests that parents' overriding motivator is doing what is best for their baby, as opposed to price, and we have not seen evidence that pricing impacts on parents' decisions to formula feed in the first place.
115. As noted above, we have seen that currently parents tend to be fairly price-insensitive in this market, and may use price as a proxy for quality; this may be taken to indicate that allowing retailers greater leeway to publicise prices and price reductions would have a limited effect on attracting customers. However, there are two potential ways in which this could allow parents to access lower prices. First, publicising of lower prices could lead some consumers to buy the same brand at a different retailer; this in turn would provide some incentives for retailers to offer more competitive pricing on a given brand. Alternatively, and coupled with the measures we are considering to give consumers greater information about the comparative merits of different brands (see eg paragraphs 108, 109 and 112), knowledge of the price differential could lead consumers to switch to a lower-priced brand.

### **Clarifying, monitoring and enforcing the existing regulations**

116. We consider that measures could be taken to improve outcomes by clarifying and strengthening how the current regulatory regime (the relevant features of which are described in paragraphs 29 to 31, and paragraphs 43 to 46 and includes restrictions on advertising and promotion) operates:
  - (a) Firstly, through clarifying how the existing regulations apply to online 'advertising' and providing guidance with a wide range of examples.
  - (b) Secondly, by strengthening the competent authority role. Although it would be for the courts to determine any breach of the law, we have concerns as to whether the products we examined comply with the rules that require infant formula and follow-on formula to be clearly distinct. Currently infant formula products may be placed on the market as soon as notification has been given by manufacturers to the competent authority. However, in our view, the

absence of a pre-authorisation process means that products can be placed on the market before the competent authority has reviewed the material submitted which may reveal any concerns about regulatory compliance. To address this, one possible option is to enhance the competent authority role so that approval is required before infant formula products are placed on the market.

### **Strengthening labelling and advertising rules**

117. In this market, given its specific features, we consider that brand awareness and reputation play an outsized role in parents' decision-making. This can mean that parents' decisions are typically not based on objective information, and as such, they may pay more than they otherwise would.
118. We are concerned that some on-pack messages are difficult for parents to meaningfully assess, and that signalling trustworthiness/superiority could help manufacturers to build their brand reputation and justify charging a premium on their products/ranges. Measures could therefore be taken to set stricter thresholds for certain types of claims, or to prohibit the use of phrases/claims which are difficult for parents to meaningfully assess, but which can be persuasive.
119. Measures could be implemented to support parents to place greater weight on clear, accurate and impartial information when deciding which brand of infant formula to use by reducing the incentive and/or ability of manufacturers to engage in brand-building behaviour. As noted at paragraph 107, some such measures may be more straightforward than others to implement, and some may bring into play trade-offs. They might include a requirement for entirely different branding for infant and follow-on formula, for all infant formula products to be in standardised packaging, extending the prohibition on advertising infant formula to follow-on formula, or going even further, preventing all brand related advertising.

### **Price controls and public provision**

120. Reflecting the acute issues for some parents that high formula prices can cause, our interim report also sets out a number of more significant interventions that governments could, in principle, make with the aim of bringing down prices directly. Based on the evidence the CMA has assessed to date, these measures would be unlikely to form part of our final recommendations, but are included for completeness at this stage. As part of our engagement with governments in the coming months, we will explore whether there is any interest in considering any such measures as backstop options, and if so, we will explore their impacts and potential risks, and reflect this in our final report.

### *Price ceilings*

121. In response to rising prices, some organisations<sup>25,26,27</sup> have called for price ceilings to be implemented. While this could bring prices down with more certainty, potential undesirable consequences of such measures would need to be carefully worked through. Key considerations would include:
- The possibility that prices converge at the ceiling, with prices of cheaper products on the market increasing. Permitting retailers to publicise prices could mitigate against this.
  - Reducing incentives for manufacturers to compete by innovating, potentially resulting in less choice for parents.
  - The risk of product shortages if some manufacturers scale back or exit the market.
122. Governments will wish to assess – in light of the nutritional sufficiency of all infant formula products, and our ultimate conclusions on whether manufacturers’ investments are significantly oriented towards ‘signalling’ higher quality, rather than reflecting specific and verifiable points of difference about particular products – whether the potential outcomes and risks are acceptable.

### *Public provision*

123. A potential intervention is for government(s) to procure infant formula from a third-party contract manufacturer at a competitive price point, with the possibility of, for example, ‘NHS’ branding. This would introduce greater choice for parents and a lower price point. In turn, it may also put downward pressure on other manufacturers’ prices. However, at this stage there is significant uncertainty about its potential effectiveness, and the following factors would need to be carefully assessed, including in terms of the level at which governments would need to set price to cover costs:
- Potentially high upfront investment costs from the public purse in setting up the supply chain, managing distribution, and building awareness.
  - If parents continue to see price as a proxy for quality, they may not choose a government or NHS branded product (or there may be stigma associated

<sup>25</sup> [Unaffordable infant formula price rises: Safeguarding infant health and safety - Baby Friendly Initiative \(unicef.org.uk\)](#), accessed 17/10/24.

<sup>26</sup> Baby Feeding Law Group UK’s response to the CMA’s invitation to comment.

<sup>27</sup> First Steps Nutrition Trust’s response to the CMA’s invitation to comment.

with such a product). Successful implementation of the information remedies discussed above is likely to mitigate to some extent against this.

- In the event of a lack of demand, there is a risk that the supply of publicly procured infant formula may have insufficient scale to be economically viable without financial assistance.

## Next steps

124. We invite comments on our provisional findings and potential measures to address our emerging concerns by **29 November 2024**.
125. The CMA will consider the feedback we receive after publishing the interim report, before preparing a final market study report, and will continue engaging with governments. 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 the CMA does not currently consider this to be the best way to address its emerging concerns.