

Invitation to comment responses

NHS & Healthcare

- For newcomer brands, the largest barrier to entry and opportunity to compete on an even playing field is the narrow, selective and subjective offering of infant formula brands in UK hospitals. We wish to see this critical segment of the formula decision journey explored in a much more thorough way as part of this investigation as it represents the key barrier to newcomer brands being able to compete on an even playing field and highlight to consumers that lower-priced formulas are available on the market (and available for them to take home in their hospital bag, if needed, at source). The ongoing dominance of multinationals in this field stems from their historic influence over the hospital channel, which despite the good recent work of the UNICEF UK Baby Friendly Initiative (“BFI”), continues to reap dividends for incumbents and reinforces the status quo, due to the unavailability of competing brands and lack of consumer information and choice in UK hospitals. It is our view that consumers who make the decision to bottle feed would stand to benefit from greater transparency, information and empowerment through clear information and a complete, unbiased selection of infant formulas to choose from.
- The BFI has stated that the NHS has a responsibility to rotate infant formula brands. This is to avoid any appearance of promoting one brand over another and to ensure formulas are available at a fair market price. However, data indicates that this isn't happening in practice.
- To achieve this NHS must review the tender criterion for infant formula in hospitals and offer all brands. If this leads to an excess of SKUs, the NHS could provide one SKU per supplier to avoid monopolistic behaviour. This would remove a significant barrier to entry for new brands entering the market, whilst ensuring the NHS is not funnelling new parents into multiple premium variations of the same supplier at this critical stage. Further to this, there should be an opportunity for all brands to tender for contracts in Scotland and Northern Ireland.
- We welcome the CMA’s suggestion of supporting healthcare providers to ensure consumer are well-informed regarding formula choices in advance of the birth of their baby, should their planned feeding journey change. As the qualitative research from the CMA’s interim report states, most consumers plan to

breastfeed, and formula is often used only if exclusively breastfeeding is not working as planned. This is an understandably stressful time for consumers and any decision-making around formula is often highly emotionally charged. This echoes what we hear from within our community and is why we believe that consumers could be given more advice pre-birth to prepare for the unexpected.

Therefore, we agree with CMA's recommendation that it is important for the NHS to provide timely, objective information to consumers during the pre-natal period. Given the lack of switching between brands, such decisions are often long-lasting for families, so no consumer should be making such a decision under pressure and in a vulnerable state.

- We were pleased to understand that most consumers recognise the “breast is best” and “all formulas are nutritionally the same” messaging projected by the NHS. However, this messaging ignores differences between formula brands such as carbohydrate or fat sources which deliver product that is nutritionally the same but of differing quality levels. This is acknowledged by consumers (identified in the qualitative research) who stated they were unsure whether the quality levels of private label brands were on a par with the rest of the market. This is in line with almost all food groups and how consumers view the food and drink market. Quality of ingredients and source of nutrition must be taken into consideration alongside the nutritionally complete message to ensure consumers are empowered with objective information.
- We support healthcare professionals providing objective, factual information on the potential impact of certain ingredients added by manufacturers to infant formulas. Some formulas have a clear point of difference in their ingredients used (for which context can and should be provided by healthcare professionals as an objective advisor, if sought by consumers), whilst other formulas have other important consumer attributes such as organic, goat milk, halal, vegetarian, kosher, etc. Providing objective information to consumers will empower them to choose what is the best for their family.

Information in a retail setting

- We support the recommendation of NHS-sponsored information in a retail setting at fixture. Some consumers choose their formula for the first time in store and consumers who select formula in this environment would be reminded that “all formula is nutritionally the same”. This may alleviate pressure on consumers to select the most expensive options but instead to consider what is best and most appropriate for their families and their budget.
- The CMA propose a pricing portal for consumers to make comparisons between brands. Whilst we fully support this proposal as a key platform for greater consumer transparency, education and empowerment, any such tool would need to be regularly updated and would need to measure all formulas on a common basis that accurately depicts the true cost between brands (including accounting for differing volumes of powder used per feed). Monthly updates from the NHS should be circulated to all maternity staff and health visitors with the latest pricing information.
- We note the suggestion of segmenting stages 1-3 at retailer fixtures to reduce the impact of cross promotion by later stage brands. Nevertheless, the data suggests consumers appear to rely more heavily on which brand was endorsed (provided) in a healthcare setting, or on friend / family recommendations, than positioning on shelf.
- Revising regulations to ensure manufacturers and retailers are able to publicise prices and price reductions is an action we would support, and which could bring immediate benefits to UK families. The current restrictions in place have made it difficult for both manufacturers and retailers alike to indicate cost savings for consumers and may be part of the explanation for the relative lack of price competition more widely.
- We would also support the ability of retailers to allow consumers to apply loyalty points to the purchase of infant formula, a restriction we believe punishes families who may have no option but to formula feed.

Labelling and advertising rules

- Forcing brands to re-label follow on formula and growing up milks under a different brand name would cause further confusion for the consumers who use

these products. The removal of any and all brand recognition would furthermore discourage manufacturers to supply these categories (due to the significant investment required to establish a new brand in an already small subcategory), in turn removing a set of products relied on by consumers for their children today and would reduce competition. Such a move would also present a significant risk of reduced R&D investment from existing manufacturers, who would be unable to associate any new formula innovation with their other, larger product lines, where such positive innovation would be most impactful. Furthermore, should brands be forced to re-label, social media would inevitably identify and inform consumers over time as to which product relates to which brand, undoing any benefit of such a proposed change. Finally, any such legislation would be difficult to enforce given the subjective nature of imagery and branding in its various forms. We agree with the CMA's admission that this suggestion would be "challenging" and furthermore, consider the proposal not only difficult to implement but one that will increase consumer confusion, reduce incentives for R&D investment in product innovation and ultimately reduce consumer choice within the market.

- Standardising infant formula labelling (in a similar manner to cigarettes) would serve to only stigmatise the formula category further and compound the intense feelings of guilt that thousands of consumers (who originally intended to breastfeed) already associate with the necessity to use infant formula. Such a drastic action, which would remove all differentiation amongst brands, dumbing-down a category in which genuine and important differentiation exists among products which consumers clearly value and care about. This attempt to commoditise and stigmatise the industry would erode any incentive to innovate and improve products by existing suppliers, placing the UK at a disadvantage versus other developed nations in which innovation is encouraged via fair and open markets. Furthermore, we expect such regressive and penal action would lead to the exit of certain suppliers from the market, removing consumer choice and competition and exacerbating what is already a highly concentrated industry, to the detriment of consumers. Competition and differentiation fuels leaps forward in products across almost every consumer category and the reversion to a 'nanny state' model where the state over-simplifies to prescribe a single, commodity-like product will remove manufacturer innovation incentive, reduce competition, individual agency and consumer choice. British consumers would be at an immediate disadvantage compared to other countries and based on case studies from other markets, we suspect this would lead to a rise in unauthorised imports of non-UK approved infant formula into the country.

- We support the CMA's suggestion to set stricter standards for certain types of claims (intangible benefits). Wording such as "Advanced" on packaging is a clear cue to consumers of premiumisation without clearly explaining how and we agree that greater restriction of such terminology (used to implicitly suggest a product that is closer to breastmilk) would increase transparency. Nevertheless, we struggled to see any evidence in either the CMA report or the qualitative consumer report of any significant impact of on pack messages to consumer purchasing decisions. We would recommend the CMA prepare more detailed research demonstrating to what extent on pack cues has any meaningful effect upon the consumer before making purchasing decisions.
- We do not support the CMA's proposal to extend the prohibition of advertising of all brand-related advertising. Like any product, particularly one for a new parent, consumers will always seek information and peer advice and in the absence of factual brand messaging, will find themselves relying more heavily upon social media recommendations, which may or may not be accurate. Furthermore, a long-term effect of this would again be a stagnation of R&D incentive and / or an unwillingness of brands to invest or participate in the UK market. This is not in the long-term interest of either the industry, retailers or the CMA, who want consumers to both make educated decisions that are right for their family.
- The final points raised by the CMA regarding price or margin capping, or NHS branded milk are clearly extreme reactions to the current situation. Price or margin capping would again leave British consumers at a disadvantage as formula manufacturers will be less likely to invest in R&D that would drive improvements in infant nutrition and may result in the removal of several brands from the market, reducing long term competition and choice. While we are certainly not opposed to an NHS branded milk, we expect it would likely attain no greater prominence or acceptance in the market than existing private label offerings, none of which have obtained meaningful market share or consumer acceptance, as has been noted by CMA. Whilst consumers are grateful for advice from HCPs, they will nevertheless still wish to exercise their own individual agency autonomy to make their own decision for what is the most suitable formula to use for their family.