

Thank you for such a comprehensive analysis of the infant/ formula market and a wide-ranging and sensible set of provisional options for government to consider. As CMA clearly recognise, infant formula and follow-on formula and their marketing are unavoidably interconnected with breastfeeding and its support, promotion and protection. For CMA, government and others who use the CMA report, it is important to keep broader impacts on infant feeding in mind when finalising this report. Formula marketing often directly aims to undermine breastfeeding – that is, after all, the main competitor to formula – and for this reason the WHO Code was developed in 1981 and is continuously updated as new marketing threats to infant health evolve. While breastfeeding is not within CMA remit, the context of infant formula marketing is quite specific due to the individual and societal impact of undermining breastfeeding, and it is good to see that recognised in this report.

My comments directly address the CMA's potential options for the infant and follow-on formula sector.

1. Information and supply in healthcare settings.

Some form of standardised packaging is an excellent suggestion, and would I believe have the support of NHS Procurement. This reduces the opportunity for on-pack advertising within health facilities. The WHO Code, to which this government states it is wholeheartedly committed, makes it clear that there should not be any marketing of formula in healthcare settings. Article 6.2 from the original 1981 Code states 'No facility of a health care system should be used for the purpose of promoting infant formula'. Both standardised packaging, and a recommendation for healthcare facilities to avoid and monitor for inappropriate formula company sponsorship of hospital activities, seem appropriate. Formula companies often sponsor lunches and meetings on hospital premises in the NHS, which is clearly a breach of the WHO Code. Without clear statements against such activities, and monitoring for such activities, hospital trusts may not even be aware of their occurrence.

2. Information and price promotion in retail settings.

While any improvement in the information available to parents and carers is a positive, it is probably not possible to effectively communicate impartial information without limiting industry marketing activities. The majority of first-time mothers in the UK join a formula industry baby club while pregnant, and other forms of marketing such as helplines, digital marketing and targeted advertisements are widespread. Without placing tighter limits around cross-promotion, baby clubs etc, the impact of any additional information about formula products may be very limited indeed. This can be seen, for example, in the booming growing up milk market worldwide, despite consistent public health messaging that these products are harmful and unnecessary. Regarding price promotions, please be aware that these are one of a number of well-known strategies whereby the formula industry tries to avoid the regulations imposed by the WHO Code. Attached is a UNICEF summary of the tactics commonly used to resist the recommendations of the WHO Code – price promotions is Argument number 14 on page 15. I would dispute the claim that there is no evidence price promotions influence breastfeeding. We know that formula marketing, including the provision of free or discounted formula, serves to undermine breastfeeding. The provision of free or discounted formula by the infamous formula company 'mothercraft nurses', with all its devastating consequences for maternal and child health, was one of the key triggers of the social and political actions which led to the WHO Code in 1981. Once breastmilk production has stopped, an infant is dependent on formula, with the associated cost, health and development implications. Article 5.3 from the original 1981 Code states '...there should be no point-of-sale advertising, giving of samples, or any other promotion device to induce

sales directly to the consumer at the retail level, such as special displays, discount coupons, premiums, special sales, loss-leaders and tie-in sales....'. 'This provision should not restrict the establishment of pricing policies and practices intended to provide products at lower prices on a long-term basis.'

3. Clarifying, monitoring and enforcing existing regulations.

Agree this is much needed. No further comment.

4. Strengthening labelling and advertising rules.

Agree this is much needed, to prevent cross-promotion. The specific suggestion to prohibit advertising of follow-on formula is a totally logical and necessary recommendation, given that this category of formula is not considered necessary and the category essentially serves as a conduit to allow advertising of formula for infants under age 1 year. Pre-authorisation is also a logical step to ensure that the information reaching consumers is scientifically validated. We know that the claims of manufacturers, and indeed the published science they fund, are unreliable sources of information about formula products. An independent body needs to oversee these, in a similar way to oversight of pharmaceutical claims/licensing. The oversight needs to address both safety and effectiveness, since 'effectiveness' of infant formula is so closely associated with growth and tolerance i.e. safety. Currently, there are a large number of UK government bodies with overlapping roles regarding infant formula. Committees in DEFRA, FSA and DHSC deal with Codex interaction, nutrition labelling, novel foods, safety and toxicity, health claims, and nutrition advice. For robust and consistent pre-authorisation of infant formula products, the pathway through these overlapping committees needs to be clear, and DHSC is likely to need to take a lead, due to the importance of health outcomes in this field.

5. Backstop measures.

I would just make the point that there is already a model for public provision of formula, in that there is public provision of 'health start vitamins', produced for the NHS by IVC Brunel Healthcare. Learning from that experience may inform any potential initiative around NHS provision of infant formula.