



## Response to CMA Infant formula and follow-on formula market study Interim report from The Breastfeeding Network

The Breastfeeding Network welcomes this investigation and interim report by the CMA. For too long infant formula manufacturers have been left to regulate themselves, resulting in a broken, dysfunctional industry.

The Breastfeeding Network is a member of the Baby Feeding Law Group (BFLG) and as such, endorses the comprehensive response submitted by BFLG to this interim report. We would also like to draw out some key points, which we consider to be of particular importance and emphasise them here.

Infant formula is a unique product. It is an essential and irreplaceable foodstuff for babies under 1 year who are not fully breastfed, and as such should not be subject to the same market conditions as other products. The content of first infant formula is tightly regulated, meaning all first infant formulas are nutritionally equivalent, as recognised in the interim report. Special milks, such as comfort formula, hungry baby formula or anti-reflux formula do not have proven benefits. As such, consumer choice between different formulas based on composition is almost entirely unnecessary and irrelevant. Additional ingredients added to formulas by manufacturers to differentiate their products have no proven benefit, otherwise they would be required -by law- to be added to all formulas. [EFSA](#) state that *“The addition in amounts higher than those serving a benefit or the inclusion of unnecessary substances in formulae may put a burden on the infant’s metabolism and/or on other physiological functions, as substances which are not used or stored have to be excreted”*. Additional ingredients are included for marketing purposes and drive up the price of the product without providing any proven benefit. Families must be protected from these predatory marketing techniques.

When considering the regulation of the formula industry, the most important factor is ensuring the health and wellbeing of all babies and young children and their families, whether infants are breast or formula fed. For those who are formula fed, this means ensuring equitable, sustainable access to affordable first infant formula. Our priority is advocating for measures that will ensure this, whilst also protecting breastfeeding. Most mothers want to breastfeed, but most stop breastfeeding before they intended to ([McAndrew et al., 2012](#)). Multiple factors contribute to this, including the undermining of breastfeeding by the predatory marketing tactics of the infant formula industry ([The Lancet, 2023](#)).

To protect ALL babies and young children, we advocate enshrining World Health Organization International Code of Marketing of Breast-milk Substitutes and subsequent resolutions, (the WHO Code), in full into UK law. We do not support any measures that would contravene the WHO Code, including the allowing manufacturers and retailers to promote prices and price reductions.

The below is not an exhaustive list of measures that we would support/not support. It is intended to highlight the measures we would consider most impactful/damaging.

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[www.breastfeedingnetwork.org.uk](http://www.breastfeedingnetwork.org.uk)

**To talk to a mum who knows about breastfeeding call the National Breastfeeding Helpline 0300 100 0212**

*Calls to 0300 numbers cost no more than calls to UK numbers starting 01 and 02 and will be part of any inclusive minutes that apply to your provider and call package.*

## **Key measures within the interim report that we support:**

### **Public provision (8.101-8.104)**

We believe it would be of benefit to families for government to offer a white-labelled, National Formula, at a sustainable, low price, to lessen control over the industry from existing commercial interests. However, provision of this would need to be carefully considered so that this does not inadvertently strengthen the hold over the market of any one / group of commercial supplier/s.

### **A price cap (8.91)**

We strongly support the introduction of a price cap that would ensure affordable first infant formula for all families. Infant formula is a powerful, multi-billion-pound industry that has demonstrated, both in the UK and worldwide that it is not willing to effectively regulate itself. Relying on price competition within the industry is therefore not a reliable means of lowering prices to a sustained level that is fair and affordable for all. Many families are unable to shop around for their formula, whether due to income, geography, time poverty or supplier availability. A price cap is an equitable solution, ensuring that all first infant formula is affordably priced, wherever it is purchased.

### **Pre-authorisation for packaging/labelling of formula (8.57-8.63)**

We strongly support a system of pre-authorisation of the packaging/labelling of all new formula products and recommend that this should apply to any and all revisions of packaging/labelling for existing products. Furthermore, once the criteria for authorisation have been established, they should also be retrospectively applied to all existing products within a fixed timeframe. This should extend to all infant formula milks including follow on, growing up and special milks, and FSMP. The responsibility for applying for this authorisation, and the cost of obtaining it, should be borne by the manufacturers.

We agree that current enforcement is inadequate. Enforcement of legislation on packaging and marketing must be independent of industry and adequately resourced. The system of improvement notices and legal action needs to be implemented. Fines need to be levied and invested in both enforcement and public health work on infant feeding.

### **Standardised labelling (8.25, 8.74-8.75)**

We support standardised labelling for all formula products, in healthcare settings, and all other settings. This would prevent the use of unnecessary claims and information which are hard for parents to assess and are potentially misleading. Currently, parents who are motivated by making the best choices for their children are misled by claims and branding into buying what they believe to be a superior, premium product. This is exploitative, as all infant formula is nutritionally equivalent by law, and additional ingredients are unnecessary and potentially harmful, as detailed above. We note that applying standardised labelling in healthcare settings only would be beneficial in that specific setting where parents are particularly vulnerable but could place a burden on the NHS to apply the standardised labels. It would be a more practical solution with further reaching benefits to require manufacturers to place all formula in standardised packaging.

### **Entirely different infant formula labelling (8.68-8.72)**

We support entirely different labelling, brand names and logos for first infant formula and other formulas from the same manufacturer. We recommend that this include growing up milks and special milks as well as follow on milks, so that first infant formula is entirely different from all other products to prevent any cross promotion.

### **Public health messaging on the equivalence of all infant formula (8.18-8.20, 8.35-8.38)**

We agree that key messages: *'that all infant formula products will meet babies' nutritional needs', that 'it does not matter which brand you choose, they'll all meet your baby's nutritional needs, regardless of price' and that 'there are different brands of infant formula but there is no real difference between them as all first milks must meet the same nutritional standards'* should be communicated consistently and widely at key decision points in hospitals and healthcare settings, that all healthcare providers should be supported to deliver this message without discouraging breastfeeding, and that this information should reach parents in a timely manner to avoid decision making in a vulnerable or time pressured situation. We also support this message being communicated in retail environments and on formula packaging.

As advocated by BFLG, we recommend the following wording:

*“All infant formulas will meet your baby’s nutritional needs regardless of brand or price. Extra or special ingredients make no difference to product quality.*

*By Law, all infant formula sold in the UK must meet the same standards which cannot be exceeded. This means they are all suitable for your baby’s growth and development.”*

Furthermore, we support the wide communication of the message that all other types of milks (special, follow on and growing up) are unnecessary (not “optional”, as stated in the interim report), that first infant formula is the only infant formula a baby needs in their first year if they are not fully breastfed and that all formula milks are unnecessary after 1 year, by healthcare professionals, particularly health visitors, in retail environments and on product packaging.

**Key measures within the interim report that we DO NOT support:**

**8.45 Revision of the regulations to ensure that manufacturers and retailers are permitted to publicise prices and price reductions**

Allowing manufacturers and retailers to publicise prices would contravene the WHO Code and would allow them to raise brand awareness and induce purchasing. Short term price reductions and special offers are a contravention of the WHO Code. They do not help parents, who need stable, reliable affordable prices, not fluctuating, unreliable special offers. They are intended to induce purchases, establish brand loyalty and ultimately increase profits, not to benefit families ([The Lancet, 2023](#)). Any reduction to the retail price of formula should be sustained over a significant minimum time period, and this should be regulated and enforced, with strict penalties for violations. Fines need to be levied and invested in both enforcement and public health work on infant feeding.

**The expectation that healthcare workers will support parents with selecting a formula or comparing prices of formulas (8.19-8.21)**

Healthcare providers (HCPs) should not be expected to discuss the relative features of different formulas or assist in comparing prices. This places a burden on HCPs and creates opportunities for industry to break the WHO Code by marketing their product to HCPs and attempting to influence the information that HCPs give to families. Furthermore, in the case of discussing the differences between brands, this is irrelevant and unnecessary as all first infant formulas are nutritionally equivalent. The only information HCPs should be expected to provide is that all first infant formulas are nutritionally equivalent, regardless of price, brand or additional ingredients, and that first infant formula is the only formula a baby needs if they are not fully breastfed. All other formula milks (special, follow on and growing up) are unnecessary.

With regards to price comparison, the simplest way to ensure parents can accurately compare prices would be to require that all formula milk products have the price per 100ml made up displayed on the retail price label.

We look forward to the publication of the final report and would be very happy to engage with the CMA in the interim.

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The Breastfeeding Network