



29th November 2024

**The Food Foundation response to the CMA invitation to comment: *Infant formula and follow-on formula market study interim report***

**About The Food Foundation:**

We are a young, dynamic, and impactful charity with a mission to change food policy and business practice to ensure everyone, across the UK, can afford and access a healthy diet supplied by a sustainable food system. We are independent of all political parties and business. We work with others who believe there is a problem with the system and want to change it. Visit our website for more information: [www.foodfoundation.org.uk](http://www.foodfoundation.org.uk)

**Summary:**

Our response below takes the form of:

- 1) A general submission which summarises The Food Foundation's recommendations that we would urge the CMA to take forward to government.
- 2) An update since our response to the CMA in February 2024 based on our ongoing tracking and analysis of infant formula prices through the Kids Food Guarantee.<sup>1</sup> These updates are relevant to the CMA's findings on market outcomes (section 4) and competition in the market (section 7).
- 3) Our response to each of the possible measures proposed by the CMA and additional measures that need to be taken.

**1) Context and summary of recommendations**

We welcome the CMA's investigation into the infant formula market, and the opportunity to put forward recommendations to government. We outline below in detail our response to the CMA's findings and potential measures. However, we would urge the CMA to emphasise two key additional factors when making recommendations to the government on the infant formula market:

- i) **Food insecurity and health inequalities mean infant formula prices not only need to be reduced but reliably affordable for low-income families:**

The infant formula market needs to be regulated not only to protect and prioritise breastfeeding, but to ensure that infant formula is affordable and accessible to low-income families who need or choose to use it.

Data from The Food Foundation’s latest food insecurity survey shows that 18.0% of households with children experienced food insecurity in June 2024. This is significantly higher than seen in households without children (11.7%).<sup>ii</sup>

Deprivation is shown to have a significant impact on breastfeeding initiation and exclusive breastfeeding rates, with mothers from the most deprived neighbourhoods in England significantly less likely to initiate breastfeeding compared with mothers from the least deprived.<sup>iii</sup> The consequence of low breastfeeding rates among low-income families is that those least able to afford formula are more likely to be reliant on it.<sup>iv</sup>

Currently, only three first infant formulas are affordable within the Healthy Start scheme weekly payment of £8.50 for a child under one.<sup>v</sup> The Healthy Start Scheme aims to support low-income households with young children by providing access to fruit, vegetables, vitamins, milk and infant formula. The scheme offers funds worth £8.50 for children from birth until their first birthday. It is an essential safety-net for low-income families who need or choose to buy infant formula.

We therefore recommend that the government:

1. **Strengthen the Healthy Start Scheme** by extending eligibility, increasing weekly payments in line with inflation and auto-enrolling all eligible families.
  2. **Introduce pricing policies to ensure formula affordability:** the government should establish pricing policies and practices to ensure that infant formula is consistently available at lower prices, ensuring accessibility for all who need it.
- ii) **Every mother should be free to choose the feeding option that best suits her and her baby, with the right support and information available, and without undue influences from the market.**

Influences and behaviours in the infant formula market need to be taken in the wider context of the public health importance of breastfeeding. Many women want to breastfeed for longer but face multiple systemic barriers.<sup>vi</sup> In a Food Foundation commissioned survey of 500 mothers with children under 18 months, 44% of mothers who reported to have breastfed at some point and were no longer doing so would have liked to exclusively breastfeed for longer.<sup>vii</sup>

Currently, the marketing of formula can influence breastfeeding in multiple ways:

- It normalises and encourages bottle feeding through repeated positive messaging.
- Any marketing promoting infant formula disrupts unbiased, accurate public health messaging on the benefits of breastfeeding.
- It raises parents’ concerns about common infant behaviour, like colic and reflux, to sell products, with unevidenced health claims.<sup>viii</sup>

WHO's International Code of Marketing of Breastmilk Substitutes<sup>ix</sup> (hereafter referred to as the WHO Code) already provides the guidance and framework for regulating the marketing of infant formula in order to protect the choices of mothers and breastfeeding. It is vital that any recommendations made to the government by the CMA do not undermine the WHO Code.

We recommend the following measure be put to the government to ensure that mothers can choose how to feed their children without undue market influence:

1. **Strengthening the UK law on the marketing of breastmilk substitutes, in line with WHO's International Code of Marketing of Breastmilk Substitutes**, including by:
  - a. closing loopholes and extending restrictions to include follow-on formula and toddler/growing up milks;
  - b. introducing mandatory independent monitoring and enforcement;
  - c. and providing clarification on what falls within UK law.
2. **Promote improved communication and information about infant formula to parents**: given that all first infant milk formulas are nutritionally comparable, healthcare professionals should clearly communicate and guide parents, indicating that there is no need to purchase more expensive products.

## 2) Response to the CMA provisional analysis and findings:

We would like to respond to two specific questions in relation to the CMA's analysis and findings (Q2, and 3). Our response draws on findings from The Food Foundation's Kids Food Guarantee, which has been monitoring the price of first infant formula at nine major retailers since April 2023.<sup>x</sup>

- *Do you agree with our provisional analysis of market outcomes, as set out in section 4 of this interim report? Please explain why you do or do not agree, providing evidence to support your response where possible.*

Since The Food Foundation's response to the CMA report in February 2024, our ongoing tracking has found that:

- There is a concerning price variation across retailers for the same product within a brand: The most expensive product (Aptamil 1 First Infant Milk From Birth 800g from Co-op) is now **twice as expensive** as the cheapest (Aldi's Mamia brand 800g) despite being nutritionally comparable.<sup>xi</sup>
- Overall infant formula prices remain high and unaffordable for families on a low income: despite small price reductions, most infant formulas exceed the value of the Healthy Start scheme weekly payment of £8.50 for a child under one.<sup>xii</sup>

The CMA analysis concludes that the price of particular brands tended to be similar across the major retailers. However, our analysis, which looks at nine major retailers (Aldi, Asda,

Co-op, Iceland, Morrison's, Ocado, Sainsbury's, Tesco and Waitrose), did find some significant price differences across retailers for the same product within a brand:

- The price of Aptamil 1 First Infant Milk From Birth (800g) is 25% higher at Co-op where it retails for £14.00 compared to Iceland where the same product is £11.20
- Cow & Gate 1 First Milk Powder (800g) retails at £10.50 at Asda, Morrisons, Ocado, Sainsbury's, Tesco and Waitrose, while at Co-op it is £10.75 and £9.75 at Iceland

### First Infant Milk Formula 800g tin prices, October 2024

Highlighting cheapest (green) and most expensive (orange) retailers for each brand, and price changes since February 2024 (in brackets)

|                    | Aptamil 1 First Infant Milk From Birth (Danone) | Cow & Gate 1 First Milk Powder (Danone) | HiPP Organic Infant Milk      | Kendamil First Infant Milk Stage 1 | Mamia First Infant Milk | SMA Little Steps First Milk 1 From Birth (Nestlé) |
|--------------------|---|---|-------------------------------|------------------------------------|-------------------------|---|
| <b>Aldi</b>        | Out of stock, price not given                   | NA                                      | NA                            | NA                                 | £7.09*                  | NA  |
| <b>Asda</b>        | £13.50  | £10.50                                  | £13.50                        | £10.00 (900g)                      | NA                      | £7.95**   |
| <b>Co-op</b>       | £14.00  | £10.75                                  | Out of stock, price not given | £12.50                             | NA                      | £7.95 (-£3.55)                                    |
| <b>Iceland</b>     | £11.20  | £9.75                                   | NA                            | £9.25                              | NA                      | £7.95   |
| <b>Morrison's</b>  | £13.50  | £10.50                                  | £13.50                        | £12.00                             | NA                      | £7.95 (-£1.80)                                    |
| <b>Ocado</b>       | £13.50  | £10.50                                  | £13.50                        | £12.00                             | NA                      | £9.75   |
| <b>Sainsbury's</b> | £13.50  | £10.50                                  | £13.50                        | £12.00                             | NA                      | £7.95 (-£1.80)                                    |
| <b>Tesco</b>       | £13.50  | £10.50                                  | £13.50                        | Out of stock, price not given      | NA                      | £7.95 (-£1.80)                                    |
| <b>Waitrose</b>    | £13.50  | £10.50                                  | £13.50                        | £12.00                             | NA                      | NA  |

Price changes are shown in brackets unless stated otherwise. NA means the product is not stocked at the retailer.

\*Aldi supplied a 900g tin of Mamia First Infant Milk in February and a 800g tin in October, therefore no price change recorded in this table. However, the price per 100g fell by 11p during this period.

\*\*Price data for Asda SMA Little Steps not collected in February, therefore no price change recorded in this table.



This variation in pricing is concerning given that all first infant formulas are nutritionally comparable. The Food Foundation has also found the same retailer setting different pricing for the same product in different geographical locations.<sup>xiii</sup> This creates a postcode lottery in access to affordable infant formula and warrants further investigation.

- *Do you agree with our provisional conclusions on the potential drivers of these market outcomes as set out in sections 5, 6, and 7 of this interim report?*

We note the CMA's finding on the weak demand for own-label infant formulas (7.25). However, we believe that further research is needed by the CMA on the impact of the introduction of own-label formulas on prices, especially given the introduction of Lidl's own-label Lupilu in August 2024. It is worth noting that, not only did this provide an additional

product to the market at a low price point, the price point was matched to Aldi's Mamia formula showing the influence and competition that can happen at the lower end of the market.

Our analysis suggests that own-label products could ensure that a lower-priced infant formula is available, which is essential for low-income families. The introduction of Lidl's Lupilu at the same price as Aldi's Mamia means of the three first infant milk formula products that are affordable with the weekly £8.50 Healthy Start payment, two of these are own-label products:

- Aldi's own-label Mamia brand (£7.09 in October 2024)
- Lidl's newly launched own-label Lupilu first infant formula (£7.09 in October 2024).
- SMA's Little Steps brand (£7.95 at most retailers in October 2024)

Further investigation is needed on the potential of own-label products to offer a lower price formula option to families.

### 3) **Response to CMA provisional views on possible remedies**

- *Please provide your views on whether the possible remedies we have set out in section 8 would be effective and proportionate in addressing the issues we have identified (on their own or in combination).*

#### **(a) Information and supply in healthcare settings:**

##### **We agree with the following recommendations:**

- The CMA's recommendations set out in 8.15 to 8.20 regarding the methods of providing '*clear, accurate and impartial information on what brand of formula to use.*' However, on the suggestion in 8.20 - '*official information from healthcare providers could be provided to parents in hospitals and other healthcare settings that the use of follow-on formula is optional*', we would amend 'optional' to 'unnecessary' and clarify that the continuation of first infant formula after 6 months of age is sufficient as per NHS messaging, which states that '*Research shows that switching to follow-on formula at 6 months has no benefits for your baby*'.<sup>xiv</sup>
- We agree with the recommendation made in 8.23, that measures need to be taken to rebalance the information environment in healthcare settings by reducing the influence of brands.
- We agree that standardised packaging in healthcare settings (8.25) is likely to be effective at reducing the influence of brands. Given the strong influence exerted by healthcare professionals, standardised packaging has the potential to remove the indirect endorsement of certain brands, that may be unnecessarily expensive, and supports the message that all infant formula is nutritionally adequate.

- We acknowledge the CMA's concern that the impact of this measure would be limited to healthcare settings. This limitation can be reduced by extending the signposting to standard packaged formula by health visitors and midwives during the critical early at-home period following birth. Regarding the concerns around the stigma of standardised packaging, we would question the rationale for this concern in the context of healthcare settings.

**We disagree with the following:**

- We believe that balanced procurement (rotating brands or that parents are given as wide a range of brands as possible), would be logistically challenging and would not have the intended benefit on individual families and the confusion surrounding formula.
- While we agree that healthcare providers should be equipped to communicate the nutritional comparability of all infant formula, we disagree that they should be expected to provide information on specific health claims of different brands or on the price of different products (8.21). We believe that it may put undue pressure on healthcare providers, at a time when our research indicates investing in better professional support for breastfeeding should be prioritised and is what many mothers want.<sup>xv</sup>

**Additional recommendations on information provided in healthcare settings:**

- Alongside information on the nutritional adequacy of all infant formulas, healthcare professionals should promote the Healthy Start scheme, which amongst other benefits, supports low-income families with the cost of formula.

**(b) Information and price promotion in retail settings:**

**We agree with the following recommendations:**

- We agree with the measures suggested in 8.35-6, that '*clear, accurate and impartial information on the nutritional sufficiency of infant formula*' should be prominently shared on labelling of all infant formula. Specifically, this information should be included clearly on the front of packs to ensure clarity, visibility and consistency.

**We disagree with the following recommendations:**

- In response to 8.42 – 8.47, publicised price reductions, we strongly disagree that the regulations should be revised to allow promotions of price reductions on formula, whether that be short or long-term price reductions. It is important to clarify that it is the promotion and publicising of price reductions that is concerning, and that price reductions in themselves do not contravene the WHO Code. Whilst it is essential that retailers bring down the prices of first infant formula, it would breach the WHO Code

to promote these price reductions. Price reductions must not be promoted for the following reasons:

- **Any marketing of infant formula can encourage formula feeding at the expense of breastfeeding**, which should be prioritised in the interests of public health. Allowing retailers or manufacturers to publicise a price reduction would be a breach of the WHO Code, which is designed to protect breastfeeding and ensure safe formula feeding practices.
- **Temporary price reductions do not offer a stable, affordable price in the long-term.** For those who need or choose it, first infant formula is an essential non-substitutable product that needs to be affordable and readily available over a sustained period. Temporary price promotions can induce parents into buying a formula product that they cannot afford longer-term and so would not be helpful.

#### **Additional recommendations for retail settings:**

- Encourage retailers to introduce consistent pricing across store locations, sizes and with online prices.
- The CMA should continue to investigate the impact of own-label brands on prices and retailers should be encouraged to introduce these.

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

#### **We agree with the following recommendations:**

- We strongly agree that there is a need to strengthen the competent authority role (described in 8.55 to 8.63), including the pre-authorisation of all new products.
- We agree with the suggestion that clarification of the existing regulations on online advertising, as described in 8.50-8.54, is needed.
  - Specifically the existing regulations should be strengthened in line with the WHO Code. Unicef's summary of the WHO Code states that "manufacturers and distributors should not engage in any form of promotion related to breast milk substitutes...this includes...establishing parent clubs and helplines".<sup>xvi</sup>
  - However, our October analysis of infant formula identified that several retailers were passing on promotion of Aptamil and Cow & Gate careline information within product information on their online webshops.<sup>xvii</sup>
  - Infant formula brand initiatives like these carelines are described as "hidden marketing" in a recent international study of the impact of marketing of breast-milk substitutes on infant feeding decisions and practices.<sup>xviii</sup> The research describes carelines as a marketing tactic that formula companies use to build relationships with mothers by offering a direct line of support, positioning themselves as a parent's supporter and friend.<sup>xix</sup>

Our additional recommendations on monitoring and enforcing regulations:

- In addition to pre-authorisation of new products, we recommend that the government implement stringent independent monitoring and enforcement of the law, imposing penalties on companies found to break the regulations and re-investing this back into healthcare support on infant feeding.
- Furthermore, UK law should be strengthened to align with the WHO Code.

**d) Strengthening labelling and advertising rules**

**We agree with the following recommendations:**

- We strongly agree with the CMA's recommendations in 8.68-8.72 that infant formula should have entirely different labelling, including brand names and logos, compared to follow-on formula to avoid cross-product marketing and confusion.
- We also agree with the measure suggested in 8.78 '*Governments could intervene in the market by setting stricter thresholds for such certain types of claims, or to prohibit the use of phrases/claims which are difficult for parents to meaningfully assess.*' This could be enforced through a pre-authorisation process used to scrutinise any health claims made. This process would also help to prevent claims of extra nutritional benefits of certain formula products giving the impression that neither breast milk nor competing products are nutritionally adequate.<sup>xx</sup>
- We also agree with 8.85, on extending legal restrictions on the marketing of formula to follow-on formula. This would effectively prevent cross-product marketing misleading parents and aligns with the WHO Code.

In response to the potential trade-offs (8.80-81), we do not think that price reductions on an essential item like infant formula should be left solely to the market. Instead we would advocate for government pricing policies to bring downwards pressure on prices and thus increase affordability for consumers, as well as supporting low-income households to afford the cost of formula.

**e) Backstop interventions:**

Although both backstop interventions – government price controls and public provision – are "*not actively recommended at this stage,*" we advise that the CMA continue to investigate the feasibility of these measures and remain open to recommending these in the final report. As a minimum, these should not be ruled out before there is evidence that other recommendations have worked to reduce pricing and protect families from misinformation and marketing. We recommend that the CMA monitor the impact of the above recommendations, setting realistic timeframes and targets for changes to prices following the implementation of these measures.



a. **Price controls: cap the price of infant formula or profit margin cap (8.91-8.100)**

We agree that government pricing policies are potentially needed to ensure that infant formula is reliably affordable for low-income families. We note that although Iceland's leadership in reducing the prices of both Aptamil (January 2024) and SMA Little Steps (February 2024) did lead to some price reductions across the sector, formula prices overall have remained high and progress has stalled.<sup>xxi</sup>

Of the options suggested – a price cap or a profit margin cap - we advise further investigation into the potential of a profit margin cap for reducing infant formula prices equitably. We recommend that the CMA should monitor the impact of the 7% profit margin cap which was implemented in Greece in March 2024 as a potential model.

b. **Public Provision (8.101-8.110)**

We note the CMA has made a second “more significant backstop intervention” relating to public provision, in 8.101-8.110. This is a potentially interesting recommendation to help bring down the price across the market. If considered further, we would advocate that:

- **The pressing need for public investment in breastfeeding promotion and support should be taken into account when considering the financial implications of public provision of infant formula.** Greater investment in breastfeeding support would need to be committed alongside any public provision of infant formula.
- **A thorough impact assessment is undertaken to ascertain the feasibility and potential impact of this measure.** Considerations around unintended brand endorsement and logistical and financial implications should all be included in such an assessment, as well as how it may incentivise price reductions across the market.
- Regarding the specific concern about the stigma attached to an NHS branded product (8.106), we recommend that the CMA carry out further market research with parents to test their views on standardised packaging approved by the NHS vs an NHS branded product. It would be imperative to ensure that the branding of a publicly provided infant formula neither stigmatised parents using formula nor promoted formula-feeding over breastfeeding.
- *Are there any other possible remedy options which are not outlined in section 8 which we should consider? If so, please outline how the option would work and its likely impact on market outcomes (such as price, product differentiation and/or choice).*

While formula costs are so high and mostly (with the exception of three brands) not affordable within the value of a Healthy Start weekly payment for families with a child under one, it is more important than ever to review the scheme to ensure that low-income families

who need or choose it can access first infant formula. We recommend that the government strengthen the Healthy Start scheme by:

- Expanding eligibility to include all families on Universal Credit, and extend the age-eligibility to include four-year-olds.
- Increasing the value of the Healthy Start allowance in line with inflation and price increases.
- Introducing auto-enrolment, with an “opt-out” rather than the current “opt-in” system to remove barriers faced by families in applying.
- Permanently extending eligibility to families with no recourse to public funds who meet the earnings threshold.<sup>xxii</sup>

We look forward to seeing the progress of the CMA work on infant and follow-on formula. Should you require additional information or insights from our research, please do not hesitate to contact us by email [Redacted].

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The Food Foundation

## References:

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<sup>i</sup> The Food Foundation, Kids Food Guarantee Dashboard, 2024. Available from:

<https://foodfoundation.org.uk/initiatives/kids-food-guarantee-dashboard>

<sup>ii</sup> The Food Foundation, Food Insecurity Tracking Round 15, July 2024. Available from:

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<sup>iii</sup> NHS England. *Initiation of breastfeeding*, by NHS Trust - Quarterly 2016/17. 2017. Available from:

[https://www.england.nhs.uk/statistics/wp-content/uploads/sites/2/2014/03/Breastfeeding\\_1617Q2\\_v1.0.xlsx](https://www.england.nhs.uk/statistics/wp-content/uploads/sites/2/2014/03/Breastfeeding_1617Q2_v1.0.xlsx)

<sup>iv</sup> The Food Foundation, *Breaking down the barriers to breastfeeding to support healthy weight in childhood*,

February 2024, available at: [https://foodfoundation.org.uk/sites/default/files/2024-](https://foodfoundation.org.uk/sites/default/files/2024-02/TFF_Nourishing%20children%20early%20years_DIGITAL.pdf)

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<sup>v</sup> The Food Foundation, Kids Food Guarantee: First infant formula Update – October 2024, 2024, Available from:

<https://foodfoundation.org.uk/publication/kids-food-guarantee-first-infant-milk-formula-update-october-2024>

<sup>vi</sup> The Food Foundation, *Breaking down the barriers to breastfeeding to support healthy weight in childhood*, February 2024.

<sup>vii</sup> Data provided by YouGov based on a survey of 506 mothers with children 18 months or less, conducted in January 2024.

<sup>viii</sup> See The Food Foundation, *Breaking down the barriers to breastfeeding to support healthy weight in childhood*, p.27 for more detail.

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- <sup>ix</sup> WHO, *International Code of Marketing of Breast-Milk Substitutes*, Jan 1981, Available from: <https://www.who.int/publications/i/item/9241541601>
- <sup>x</sup> The Food Foundation 2024, Kids Food Guarantee Dashboard, Available from: <https://foodfoundation.org.uk/initiatives/kids-food-guarantee-dashboard>
- <sup>xi</sup> The Food Foundation, 2024. Kids Food Guarantee: First infant formula Update – October 2024. Available from: <https://foodfoundation.org.uk/publication/kids-food-guarantee-first-infant-milk-formula-update-october-2024>
- <sup>xii</sup> Gov.uk: *Healthy Start*, Available from: <https://www.gov.uk/healthy-start>
- <sup>xiii</sup> This was reported in private correspondence between The Food Foundation and retailers.
- <sup>xiv</sup> NHS, *Types of Formula*, Available from: <https://www.nhs.uk/conditions/baby/breastfeeding-and-bottle-feeding/bottle-feeding/types-of-formula/>
- <sup>xv</sup> The Food Foundation, *Breaking down the barriers to breastfeeding to support healthy weight in childhood*, February 2024.
- <sup>xvi</sup> United Nations Children’s Fund (UNICEF), *What I Should Know About ‘the Code’: a guide to implementation, compliance and identifying violations*, 2023, Available from: <https://www.globalbreastfeedingcollective.org/media/2121/file>
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- <sup>xviii</sup> World Health Organization, United Nations Children's Fund (UNICEF) & M&C Saatchi World Services, *Multi-country study examining the impact of marketing of breast-milk substitutes on infant feeding decisions and practices: commissioned report*, World Health Organization. 2022, available from: <https://iris.who.int/handle/10665/354094>
- <sup>xix</sup> See also research by the University of Stirling, Hastings G, Angus K, Eadie D *et al*, *Selling second best: how infant formula marketing works*, *Global Health* 16, 77, 2020, available from: <https://globalizationandhealth.biomedcentral.com/articles/10.1186/s12992-020-00597-w>
- <sup>xx</sup> Parry K, Taylor E, Hall-Dardess P, Walker M, Labbok M. Understanding Women’s Interpretations of Infant Formula Advertising. *Birth*. 2013 Jun 14;40(2):115– 24
- <sup>xxi</sup> The Food Foundation, 2024. Kids Food Guarantee: First infant formula Update – October 2024.
- <sup>xxii</sup> For more detail on the background to this recommendation, see The Food Foundation, *The Healthy Start Scheme and First Infant Formula*, December 2023, Available from: [Healthy Start Infant Formula Briefing.pdf](#)