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Response from Hipp Organic UK. 29.11.24

It is important to say that breastfeeding is best for the baby, if the parent is able to. HiPP fully complies with the WHO International Code of Marketing of Breast-milk Substitutes and as a member of the BSNA and the SNE, HiPP commits to their codes of practice. Along with baby foods and baby care products, we manufacture life sustaining organic formula milks and infant milks for special medical purposes for those parents who cannot or choose not to breastfeed.

HiPP Organic is a family-owned business that has been making baby products for 125 years and has always been committed to doing the right thing. Our formula milks are known and trusted by parents and carers to feed their babies, made from premium quality organic ingredients, and farmed sustainably.

HiPP has contributed fully to the CMA's investigation, and we welcome the opportunity to debate ideas and actions that may create a more balanced and competitive infant formula market. While brands can enter the sector, it is hard to thrive due to a combination of competitor landscape and regulations, and the challenges in communicating innovation advances.

We believe that all parents should be supported in making decisions about how to feed their little ones, and should have that choice respected, whatever their feeding journey. It is so important that families can access a range of information and advice when it's needed, helping them feel confident and empowered in their parenting choices. We were encouraged to see that the report recognises parents don't always have the information they need in the right place at the right time, including in the hospital setting. This must change for families to feel supported, and to avoid guilt and shame – any regulations that inhibit this would negatively impact parents.

HiPP's response to the interim report is based on understanding what can better support parents and carers, and on maintaining a sustainable industry.

Regarding price, we understand that this is important to families, given cost of living pressures. We manage our cost base carefully but like many others, have seen significant increases in our costs. We've worked hard to address and absorb these, and make savings where possible, while ensuring our business is sustainable now and in the future. We welcome a discussion on what will enable parents to have a good range of choices, alongside expert advice.

On marketing, HiPP recognises that formula milks are part of a highly regulated industry, and we take our responsibilities very seriously – trust and transparency matter to us and to families. Clear marketing guidelines and consistent enforcement are essential, alongside the ability to clearly

communicate product information to parents and carers, while providing reassurance that all infant formulas are nutritionally complete.

Our full response follows.

The Market

- **What is 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." CMA analysis has found that follow-on formula is generally priced the same as (or sometimes slightly cheaper than) infant formula.**

1a)
Follow-on formula enables parents and carers to make informed choices about how to feed their baby based on their baby's needs and differences. Simply put, baby's nutritional needs differ after 6 months, it is for that reason that HiPP Organic supplies organic follow-on milks as an option for parents.

HiPP Organic follow-on formula has existed since before the 1981 WHO Code of Marketing of Breastmilk Substitutes was introduced. HiPP launched its first milk formulas in 1964 in Germany under the brand name Hippon, offering formula in two stages: Hippon 1 from birth on and Hippon 2 from the 4th month. In this way, HiPP have always tried to ensure that we can give parents informed choice around the products that they use for their babies.

HiPP follow-on formula has been specifically developed to meet the nutritional needs of older infants aged 6 months plus. It contains significantly higher levels of iron in comparison to first infant formula. This is particularly important because around the age of 6 months babies'[1] store of iron from birth becomes depleted[13]. HiPP follow-on milk also contains higher levels of other important nutrients such as Vitamin D, Calcium and Magnesium.

Our understanding is that NHS research which suggests "switching to follow-on formula at 6 months has no benefits for your baby" differs from the EFSA 2014 revised scientific opinion on the essential composition of infant and follow-on formula[1]. This guidance currently forms the framework of the revised EU 2016/127 regulations on infant and follow-on formula and is adopted in the UK[2], forming the basis of UK formula nutritional guidance.

What is particularly notable from the amended EU 2016/127 regulations[2] and HiPP Organic infant versus follow-on formula are the differences in the levels of iron, vitamin D, inositol, Choline and L Carnitine.

Iron: The 2014 EFSA opinion[1] notes that the physiological changes in iron metabolism during the first year of life are considerable, it is well documented that heathy full-term babies are usually born with a good store of iron to last them until about 6 months of age[3]. Breast milk and first infant formula will provide enough iron for the first six months of a baby's life however, after that iron rich foods need to be included when weaning[4].

In the UK, the introduction of complementary foods into an infant's diet is recommended from around 6 months of age, with the first few weeks mainly consisting of a variety of single-flavoured pureed vegetables and fruit[5], which are generally low in iron/low iron-bioavailability[6].

HiPP Organic follow-on formula contains a significantly higher level of iron in comparison to HiPP Organic first infant formula and exists to give parents choice and help with the confidence of babies getting enough iron whilst weaning.

Vitamin D: HiPP Organic follow-on milk also contains higher levels of Vitamin D compared to HiPP Organic first infant formula. The NHS recommends vitamin D supplementation for breastfed infants and any formula fed infants who are having less than 500ml per day[7] of formula. It's therefore important that a follow-on formula provides a sufficient amount of the vitamin D within this 500ml in order to help meet the required intake.

Inositol: The EFSA Panel[1] considers it is not necessary to add inositol to follow-on formula, unlike first infant formulas as the supply from complementary food is sufficient in older infants. Inositol can be achieved in the diet from vegetables, fruits, starchy foods; many of the foods that are introduced early in the complementary diet. Therefore, HiPP follow-on formula does not contain inositol.

Choline: The EFSA Panel[1] considers that it is not necessary to add choline into follow-on formula, unlike first infant formulas. Choline can be provided via a complementary diet, and additionally the body can also form choline de novo via two pathways that both lead to phosphatidylcholine. Therefore, HiPP follow-on formula does not contain Choline.

L-Carnitine: The EFSA Panel[1] considers L-Carnitine as an indispensable nutrient for newborn infants because of a temporarily insufficient synthesising capacity. However, as it is not considered essential in follow-on formula for older infants, due to its availability through a complementary diet. HiPP Organic follow-on formula does not therefore contain L-Carnitine.

1 b) The value for manufacturers and retailers is to ensure that they can help parents and carers have an informed choice when it comes to feeding their child.

Our provisional analysis and findings

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

In general, HiPP agrees with the analysis. The market is an oligopoly since most of the market is shared by three suppliers. This makes it a difficult market for smaller brands to compete in relation to scale and reach. HiPP Organic supports a debate around creating the conditions for a more balanced and competitive infant formula market.

Pricing
We agree with the data for price trends.

We understand that price is important to our customers, especially now when the rising cost of living is having a real impact. HiPP is a family-owned business that has been supporting parents for over 125 years. We provide high quality organic ingredients in our range of products, and we will never compromise on this. We do our best to manage costs as much as possible but, along with producers within and beyond our sector, have unfortunately seen significant increases in our supply chain costs over the last two to three years. We have worked hard to manage and absorb these costs and make savings where possible.

Product differentiation
We believe that legislation currently limits the incentive for current or new suppliers to innovate in the category. Whilst we agree that legislation allows for differences, provided that the compositional standards are met, in some cases investment, research and development efforts that are designed to benefit parents and babies cannot be communicated.

For example, while we have improved our products via relevant research and development, we can't inform our customers about a change in the form of folate (5-MTHF) used within our formula milks. Folate is a B Vitamin that is indispensable, particularly in the early stages of development; it's essential for cell division and DNA synthesis[8] and as such, is legally required to be added into infant and follow-on milks.
In the UK, up until 2023, synthetic folic acid has been prescribed by law as the standard for formula milks. 5-MTHF, as now contained within HiPP Organic milks is a metabolically active form of folate, which is more bioavailable for absorption compared to folic acid as it doesn't need to be metabolised and therefore is immediately available to the baby's body.

Following years of safety studies, and application to the authorities in both the EU and UK, the infant and follow-on formula legislation has been amended to allow the use of 5-MTHF within our milks. There are no authorised article 141b health claims on folate (claims on reduction of disease risk or to children's development or health), as such we are unable to refer to the benefits of 5-MTHF direct to consumers.
Despite not being able to communicate any benefits to consumers with this recent improvement, we endeavour to continually develop the composition of our milks according to the latest scientific findings because it is the right thing to do.

We would welcome a fairer, more balanced approach to encourage more category innovation, allowing for differentiation, which is useful to parents. We would like to give parents the right information to help make their own choices. This would enable smaller companies like HiPP to assert themselves on the market through new or improved and innovative products against the dominant market leaders and to promote competition, which benefits all consumers. Despite the CMA's wish for further regulation, HiPP sees it as a principal task of the CMA to keep the markets open, so that consumers will be able to benefit from the innovative power of competition both now and in the future.

- **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? Please explain why you do or do not agree with regards to the following in particular:**

  a) Consumer behaviour (section 5)

It is clear from the report and the accompanying consumer research, as well as our own consumer research, that the main issue for most parents who choose to or need to formula feed is the lack of a range of unbiased, impartial advice. It is important to remember that currently the majority of parents (75%), do formula feed at some point, and impartial fair information about brands and choice is critical. Currently the balance here is not right, and that negatively impacts parents and carers.

It is useful to look at other markets which are similar to the UK to try and understand any other drivers of the UK market outcomes. Where markets are similar demographically, and from product range point of view, but where breastfeeding rates are higher is there anything that could be learned to help the UK public health goal of increasing breastfeeding?

In Germany, breastfeeding rates are much higher than the UK and healthcare professionals play a more impartial role in helping parents with their feeding journey. In UK breastfeeding rates at 6 weeks are 55%[A] compared to 63.5%[B] in Germany and at 6-month UK rates are 34%[A] compared to 50.1%[B] in Germany. For those parents who do choose or need formula, in the UK 20% say a healthcare professional influenced their choice of brand whereas in Germany 75% of those parents say a healthcare professional influenced their choice of brand. This would suggest that support and impartial information from healthcare professionals helps on all accounts, both to increase breastfeeding rates by extra support available at all stages and decisions, and better access to impartial information for those who need or want to use infant formula milks.

For some parents presence at a hospital setting is a driver of choice. It is usual for anyone in a healthcare setting to be able to request and receive impartial information from healthcare professionals. In the case of infant formula, this is often not happening. Too many parents tell us that they feel too much pressure to breastfeed and shame and guilt if they cannot or do not (this insight is also evident in the CMA consumer research). The discussion around feeding with healthcare professionals is often not a balanced one. The pressure on healthcare professionals to increase breast feeding rates can negatively impact parents. The goal of increasing breastfeeding is the right public health goal, however too many parents are not being educated impartially on the alternatives should they need or want it. Parents who cannot or choose not to breast feed can feel emotionally drained, exhausted and overwhelmed – when all they want to do is the right thing for their baby.

NHS information on formula feeding focuses on safe feeding, which is of course essential. However any other information that may help parents make a choice is not always readily available. Stating that there is no real difference in formulas doesn't help parents make a choice, whereas advising that "all infant formulas meet a compositional standard which mean all are suitable for your baby's needs" could be very helpful.

The interim report also mentions that parents are likely to consider that switching infant formula brands is not good for their baby, since comfort and digestion is a priority for them. Whilst all infant milks are nutritionally complete, there are differences between them which can mean some agree with or disagree with certain babies to different extents. We often hear from parents that tolerability is the main driver of switching, and it is referenced in the report. This comes from what parents have learned about their own or other peoples feeding experiences, rather than from any misinformation. Any parent who has had this experience won't believe that switching is not a good idea and will know that certain formulas suit their babies better.

We would disagree that personal recommendations about feeding from friends and family being a shortcut (as referenced in the report). Parents tell us they value information and experiences from people they trust and, as with many other decisions in society today, this can help inform their choice.

b) The regulatory framework (section 6)

Labelling

Product labelling and information are key to ensure parents and carers have easy access to information. Branded goods typically follow similar rules in terms of ensuring the look and feel of products is consistent across the brand, helping shoppers to make decisions. It is noted in section

6.10 that although it is logical for brands to drive awareness, it is the view of the CMA that brand influence may play an outsized role in decision-making. This is contrary to what we hear from parents.

Marketing
In a category where most parents use formula at some point in their feeding journey, brand marketing and claims serve an important role to ensure parents do have the information they need to make a choice. Parents need information, alongside ensuring trusted brand-led businesses exist and can be sustainable allowing them to be here in the future, continuing to provide infant formulas for families who need or choose them.

Engagement with Healthcare professionals
Engagement with healthcare professionals is no longer possible for HiPP Organic due to limitations and restrictions of access. We agree that brands have a role to play in informing and sharing product information, including up to date ingredient information, with healthcare professionals. However not all healthcare professionals have access to this information because they do not hear from all brands consistently. This limits their ability to provide impartial balanced information.

Feeding Journey
HiPP follow-on formula has been specifically developed to meet the nutritional needs of older infants from 6 months. It contains significantly higher levels of iron in comparison to first infant milk. Higher levels of iron are particularly important around the age of 6 months, as babies store of iron from birth becomes depleted. HiPP follow-on formula also contains higher levels of other important nutrients such as Vitamin D, Calcium and Magnesium, and is an available choice for parents to make.

HiPP Growing-up milk is marketed as an alternative to whole cows' milk for toddlers and children over 12+ months. It offers parents an option to safely increase intakes of certain essential nutrients and achieve a balanced diet for young children at risk of inadequacy, at a time of rapid growth and development, ie.in the case of fussy eaters, which can sometimes arise in toddlerhood.

Growing up milks in general have been designed as an alternative to cows' milk and aim to further improve nutritional status in young children over the age of 12 months by adding nutrients which are generally low (or lacking) in the diet[i], whilst also offering lower levels of protein, which is often consumed in higher levels than recommended for toddlers. [11] In 2013, EFSA published a scientific opinion on the nutrient requirements of infants and young children in the EU, which reported that a large proportion of young children in Europe are either deficient in, or at risk of deficiency of, certain nutrients including iron, vitamin D, and the omega 3 fatty acid DHA. [ii] levels of these nutrients have been found to be insufficient across a number of European countries. [iii, iv, v, vi, vii] Similarly, the UK Diet and Nutrition Survey of Infants and Young Children (UKDNSIYC) showed that some young children aged 1-3 are not meeting nutritional requirements. [viii] A Scientific Advisory Committee on Nutrition (SACN) report published in July 2016 recommended a 'safe level of vitamin D of 8.5 to 10 micrograms per day for all infants from birth to 1 year of age, and 10 micrograms per day for children aged 1 to 4 years [ix].

Young children have specific needs per kg body weight compared to adults, and require more vitamin D, iron, DHA and sometimes iodine. While these nutritional requirements can be met with a balanced diet, in reality, as demonstrated, many families across Europe do not meet infants' nutritional needs. Moreover, intake of Vitamin D and iron from food sources is considered to be low

or inadequate for the European population as a whole[x], and some groups at special risk of poor iron status, such as children, could benefit from additional iron and/or improved availability of dietary iron. Additionally, reducing the dietary total protein content in infants' diet could prevent excessive early weight gain.[11] EFSA has concluded that the use of young child formula in children from 1-3 years provides one way to increase essential nutrient intakes and decrease the intake of protein compared to the use of whole cows' milk in infants and young children who have, or are at risk of, deficiencies in these nutrients.

We would always advise in cases of extreme fussy eating, or concern over nutrient intake, such as a child refusing whole food groups, growth slowing or stopping; that parents seek advice from their Healthcare Professional.

Compliance and reinforcement
There is information around compliance and enforcement from sections 6.43 to 6.62 which describes the difficulty in universal clarity of some of the regulations, and the lack of resource in some local authorities to ensure compliance. However we note that there are recent examples of recurring breaches of the advertising regulations which impact the reputation of the infant formula sector. We agree that there needs to be universal clarity in how to interpret and therefore enforce the regulations, but there also must be better and non-discriminatory ways of dealing with recurring breaches. We would welcome a consistent, non-discriminatory approach to ensure that parents are protected, and that competition is fair.

c) Competition in the market (section 7)
- **i. Competition between manufacturers/brands**
- **ii. Competition between retailers**
- **iii. Barriers to entry and expansion**

(i) As a smaller brand within this market our marketing budget is more limited than some competitors. It has been mentioned throughout the report that the information shared with and product supply in an NHS Setting is very limited. Currently it is not viable for HiPP Organic to provide NHS distribution at scale due to the requirements of NHS procurements being below our cost price. Also given healthcare professionals are actively discouraged from product information by their local health authorities, it makes providing healthcare professionals with product and ingredient information currently untenable for HiPP Organic. Added to this the lack of consequences for recurring breaches of regulations makes fair competition hard.

(ii) No comments.

(iii) The barriers to entry are described accurately as.
- Suitable manufacturing being limited and costly.
- High investments needed in product safety and quality.
- Developing a suitably differentiated offering.
- The need for widespread distribution and the costs involved to secure it (this is a product parents must be able to find easily).
- Restrictions in advertising.
- Restrictions on sharing information with health care professionals.

We would also add the point that even when ingredient differentiation can be added, brands are restricted from talking about those ingredients and the related functions of those ingredients with parents. Another limiting factor is that often infant formula brands are restricted from working with certain partners to meet their awareness needs. Some agency policies restrict them from doing business with formula milk manufacturers. Similarly it can be hard to recruit healthcare professionals to share information with parents on our behalf; we have had instances where healthcare professionals have been pressured to not work with us to help educate and inform parents and carers on all aspects of parenting. We therefore feel that entry to this market and maintaining a presence for all but the biggest brands is very difficult and so it is likely to deter new entrants.

- **Are there any other factors which we have not addressed in the report which you consider could be contributing to the outcomes we observe?**

In our view an unintended consequence of the UNICEF Baby Friendly Initiative is added pressure on parents. We have heard anecdotally from some midwives that there are breast feeding targets for parents who leave hospital. It is our view that this can lead to pressure amongst healthcare professionals and instead of receiving support and impartial information, parents could be left feeling guilt which could limit them interacting with a healthcare professional for future feeding or more general information. It is our view that other markets like the UK experience higher breastfeeding rates without using these measures. In these markets, the number of brands and supply of infant formula is very comparable, the main difference is that there is a larger amount of impartial support and information given by healthcare professionals around feeding, in a supportive way which drives informed choice, not judgment.

Also, we appreciate that lots of families are struggling with the cost of living at the moment and need to manage money carefully. At HiPP Organic we do our best to offer an organic product at an accessible price and we take any decision to pass on extra costs very seriously. The driver of increased costs mentions raw materials but does not mention the other increased from a business perspective over the last few years such as increased packaging taxes and Brexit import processes which have added significantly to our costs.

There is information around compliance and enforcement from sections 6.43 to 6.62 which describes the difficulty in universal clarity of some of the regulations and the lack of resource in some local authorities to ensure compliance. However it doesn't mention that there are examples of recurring breaches of the advertising regulations, which are not consistently managed by the authorities. We agree that there needs to be universal clarity on how to interpret and therefore enforce the regulations, but there also must be better and non-discriminatory ways of dealing with recurring breaches to ensure a fair market.

In terms of the questions on article 10 of the infant and follow-on formulas regulations[2], the main focus of the interim report is around whether infant formula could or should be price promoted or advertised. There is no clarity and no call for clarity around the following two practises which also form part of article 10 guidance. We believe urgent clarity and consistency around the areas mentioned below, could help a lot of families who are particularly struggling with the affordability of infant milks.

- Donations of infant formula to baby banks, for those families who are already using formula. Currently many baby and food banks will not accept donations of product due to the

additional UNICEF recommendations in place. Clarity here could help a lot of vulnerable families. We ask the CMA to include clarity here in the final guidance.

- The use of food bank vouchers and or loyalty points to be used against the purchase of infant formula. Clarity here is needed in the same way it is needed around pure pricing and promotions. We ask the CMA to include clarity here in the final guidance.

Our provisional view on possible remedies

6. 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). We also invite views on the specific questions below, noting that stakeholders can refer to the same remedy in response to Question 7 and 8 if they consider the remedy could have both positive and negative impacts.

Below are the specific views per CMA report area, however one overarching view we have with regard to the remedies proposed as a whole, is that the bulk of the proposals will add more burden to the NHS and appear to seek to remove support from industry.

Whilst we understand and fully support that the main public health goal in this area is to increase breastfeeding, there is a lack of balance in some of the approaches for those who cannot or choose not to breastfeed which may lead to being less informed and less confident at a time when they need support. We would welcome more open dialogue and work between policy makers, the DHSC and the manufacturers in this area to ensure that industry fulfils its role of helping to improve products, services and support for parents and carers. Currently this discussion is incredibly limited, and we would like to have useful collaborative debate to drive balance and better outcomes for all. We believe that the formula feeding industry has a duty to fulfil its role in helping to improve its products and services to support parents and carers and there is more value in working collaboratively to shape its role positively, rather than reducing the ability to play a role in the solution.

Information supply in healthcare settings.
We welcome fair, impartial information being shared by healthcare professionals to parents to be extended to product information and simple ways that parents could compare brands. Currently telling parents that all products are the same and that follow-on formula is not useful is not always helpful. Impartiality is key since parents are asking for more information from trusted healthcare professionals.

We agree that supply within the NHS needs to be fairer, those parents who are making the choice in hospital need a simple way to compare products. A simple fact sheet which shows key ingredients and their function as well as useful information such as organic, or no palm oil along with typical price per feed costs would provide parents with the key information that they need, in an impartial way whilst in hospital.

More information and transparency are also pro-competitive since it allows parents to get a better picture of the available products and making better-informed decisions thereby allowing suppliers to adapt their products and providing consumers with the products they need, which is to the benefit of all consumers and parents.

We welcome a more balanced approach to NHS procurement however disagree that it should be on a rota system since this would not help parents to make informed choices, in fact it would restrict choice. It is also important that suppliers don't provide product at a loss. So, we agree with the point that the NHS supply must be fairer and more balanced and not at discounted rates.

We would welcome an impartial factual assessment of the differences between formulas to be shared with parents at any stage during their pregnancy and feeding journey by the NHS.

This would mean that the statement all milks are the same would need to be updated to be impartial and factually correct. A possible option could be "All infant formulas are safe and meet compositional standards which mean all are suitable for your baby's needs", followed by the factual assessment including such detail as key ingredient differences, organic or non-organic and costs per feed.

We agree that parents should know that follow-on and growing up milks are optional but disagree that first infant formulas are recommended for 6 – 12 months. Follow-on and growing up formulas are specifically designed to meet the changing nutritional needs of older babies and toddlers and offer reassurance that the nutritional needs at this age could be met, in the case that weaning is slow to start or in the case of fussy eaters at that age. This again would serve to encourage impartial information to drive informed choice.

We do not agree that infant formula should be presented in standardised packaging for three reasons.

1. This approach would remove knowledge and information rather than enhance it, parents have consistently asked for more information, not less.
2. This could reduce parenting confidence at a time when they need support the most by driving more guilt and shame.
3. This further reduces the incentive for manufacturers to innovate and improve their products.

Information in retail settings.
We would welcome standardised impartial information on shelf (physical and online) to help parents compare products more accurately in a retail setting. This would require a process to enable both retailer and manufacturer to execute feasibly, whilst giving consumers the clear, impartial information they need.

We disagree that the use of follow-on formula is not necessary. It is a choice that some parents want to make and should be able to make without being influenced. Stating that it is not necessary does not match the EFSA 2014[1] revised scientific opinion with regards to differing nutritional needs for different ages. This forms the basis of infant formula nutritional composition. Instead we recommend standardised impartial information to help parents understand the differences between follow-on, growing up and infant formula to enable them to make their own informed choice.

Shelf Positioning
We disagree with the recommendation to position first infant formulas in a different location in store to other formulas. Instead of making parent choice and shopping for these products easier, this would make it harder for them to find their chosen product. Shoppers typically find their product instore by looking for brand cues to help them navigate the shelf, so changing the expected fascia layout would make it harder for them to find what they are looking for.

Publicised price reductions
Whilst it is consistently clear through the CMA report and the consumer research that parents are not making decisions predominantly based on price, if retailers choose to reduce the price of infant formulas to drive competition we believe that they shouldn't be penalised for that if there were to be a change to Article 10 subsection 1 (2016/127 regulation)[2]. This should be within the discretion of the retailer that set prices since the fact that retailers determine their prices should be unaffected. However, given the limited impact of price on choice it is not clear to us whether this would help consumers or not.

Clarifying the existing regulations
We would welcome clarity on what constitutes advertising so that all manufacturers can adhere consistently, and any breaches can be made clear and dealt with appropriately and in a non-discriminatory way ensuring a fair market for all manufacturers.

Strengthening the competent authority role
In accordance with these regulatory requirements, HiPP send first infant formula, follow- on formula and infant formula for special medical purposes label notifications to the relevant authorities in the UK (and Ireland where relevant), for review and approval prior to being placed on the market. This is done following a lengthy sign off process by HiPP regulatory colleagues in both Germany and the UK, who possess multiple years of experience of the requirements of infant and follow-on formula regulations. This therefore ensures, amongst other things, that packaging complies with all required legislation, which, as the CMA interim report mentions is the responsibility of individual businesses.

The most recent experience of notification of labelling amends through the DHSC nutrition legislation team was a 9 month turnaround; on the 16th of August 2022, we notified the DHSC of HiPP Comfort milk and HiPP anti-reflux milk amends as required by Article 9 of Commission Delegated Regulation (EU) 2016/128, but did not receive a response until the 22nd May 2023. Through discussions with other infant formula companies via our industry body the BSNA, we have also learnt of unprecedented delays in notification repose times.
With the current state of turnaround, having a mandated label pre-authorisation in place could hamper product launch timelines, potentially resulting in product shelf shortages to the end consumer from a delayed artwork sign off process, which is to be avoided wherever possible.

Although we would welcome any improvements to the current way of working with the DHSC on labelling notifications and how legislation is interpreted by HiPP's long standing infant regulatory specialists versus the DHCS nutrition team , we would not favour a system being put in place involving preauthorisation of products prior to placement on the market due to the realities of business already being well resourced and experienced in doing this, and the time delays we have seen with other approvals, which could limit the delivery of innovation to parents.

Labelling rules
We agree that there should be more and better information available to parents as well as clarity around the use of claims which can help parents understand the product differences. This could help parents and carers make an informed choice.

HiPP do not support either a standardised infant formula labelling (white label), nor labelling regulations which would see a brands first infant formula look incredibly different to the other formula milks from a branding perspective, because we believe it would make it harder for parents who have already researched and made a well-informed and conscious decision on their brand to find their choice. In a branded category having differing looks and artworks will create confusion at

the point of purchase and serve to drive less trust in the category. It could also further add to feelings of guilt and shame which so many parents tell us that they are made to feel if they need to or choose to formula feed by singling out these products unnecessarily. Furthermore, it could also add to the difficulties other brands could have to enter this category if they cannot follow common and consistent consumer led behaviour when it comes to product choice.

Restrictions on product messaging
We agree that there should be more and better information available to parents and welcome clarity around the use of claims which can help parents understand the product differences and take an autonomous and well-informed decision. If these thresholds become stricter and are based around ensuring that the claims used are useful for parents rather than misleading, this would help parents make an informed choice. Relevant and appropriate resources would need to ensure enforced compliance and deliver consequences fairly for non-compliance.

Advertising rules – prohibition on advertising
Parents consistently say that they do not get enough information on infant formulas and many of them join Babyclubs, similar mailing lists and parent groups to get more relevant and timely information to help them with their product choices. Increasing advertising restrictions will not help parents gain the information they are looking for, and instead could further exacerbate their need for support and information, inadvertently making the difficulties parents face in this category even worse. Removing advertising entirely would serve to further stigmatise and drive shame with parents at a time when they need support and information. We believe as with some of the other measures, this would also serve to reduce competition, and therefore innovation and product choice by making it even harder to enter this category as a manufacturer, thus again limiting parent choice.

Price controls
Profit margin caps would limit innovation and restrict any added value to parents from research and development. There is a risk of lowering of quality vs today if such a cap was introduced. In Greece, where a similar approach was introduced, we understand that it did not serve to drive competition and instead cheaper products were sold at higher prices.

Public provision
We do not agree that this approach will help parents with impartial information to make an informed choice on how they wish to feed their babies. It could also lead to more shame in a category which already has unnecessary stigma associated with it.

We believe that increased funding of the Healthy Start scheme would be a more useful way to support the most vulnerable families, alongside the impartial product information as mentioned previously. The value of Healthy Start vouchers is currently £8.50 per week for children under one, which does not enable parents to buy formula and other necessities. The value of these vouchers has not changed since 2021 despite the highest levels of inflation for 40 years seen in the UK across 2022 and 2023. The most vulnerable families deserve extra help to cover the costs for these items.

7. Which of the possible remedies (on their own or in combination) set out in section 8 are likely to have the biggest impact on improving outcomes for parents who need or choose to use infant formula? Please explain why, including which of the following outcomes you think would be affected:

a. price
b. product differentiation and/or

c. choice
d. other (please specify)

Any measure which helps parents with impartial education to support informed choice will have the biggest impact on parents. Parents and carers have consistently said that they are missing it, and a large portion of healthcare professionals also agree that they would like to be able to provide parents with more information. This would need to be done in a way which does not remove choice (e.g. standardisation of labelling on first infant milks or public provisions) since these approaches could further stigmatise parents who need to or want to use formula as part of their feeding journey.

8. Are any of the possible remedies set out in section 8 likely to have an adverse effect on the following outcomes for parents in this market? If so, please explain why.

a. price -
b. product differentiation and/or -
c. choice
d. other (please specify) –

Price: Price or profit caps could lead to a lack of innovation and therefore less value added to consumers from manufacturers.

Product differentiation and choice. Any changes which reduce available information or reduce choice (such as standardised label products, no marketing) would not help parents make informed choices and could lead to increased stigmatisation and shame already felt by parents in this category. If the government and industry can help parents with this intervention, the top priority should be to better support parents no matter how they feed their baby, remove the shame, and guilt they feel for their choices.

9. Do you consider that revising the regulations to ensure that manufacturers and retailers are permitted to publicise (i) prices and (ii) price reductions (section 8) is likely to induce the use of infant formula? If yes, please explain to what extent you consider this is likely to occur and any possible mitigations.

It is clear from the CMA report consumer research that very few parents make their formula choice based on price.

10. Are any of the possible remedies set out in section 8, likely to have an adverse effect on outcomes or unintended consequences for businesses or any other stakeholders in this market? If so, please explain what these outcomes are and why they may arise.

Any intervention which inadvertently reduces available information, reduces choice or exacerbates the shame and guilt already felt in this category would have an adverse outcome on parents and carers.

Parents have consistently told us that they do not get enough impartial information from their healthcare professional and in some cases, they can be made to feel guilt and shame since and instead of getting support, they can often feel pressure.

White label products, public provision and or making infant formula look unbranded and generic vs follow-on and growing up milks could make parents feel even more guilt for wanting to or needing to use these life sustaining products. Restrictions in marketing and stricter labelling laws would

need to ensure that parents can still get the information that they need, too strict an approach could have the same unintended impacts we already see in this category in that parents lack the information they need to make an informed choice. Profit caps would limit innovation and therefore limit the opportunities to improve products.

11. 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).

- There needs to be more support in general for parents when it comes to the feeding journey of their little ones. This includes more time spent with them by healthcare professionals, more impartial information given an improved ability for them to make their own choice without fear of shame or guilt from their healthcare professionals. Midwives have told us that they want to be able to give parents more information and support and have even said that breastfeeding targets in their trust can restrict the information given to parents about formula, driving guilt and shame for those parents affected. Countries similar to the UK have infant formula markets which are very similar to the UK in terms of products available, but have much higher breastfeeding rates, the main difference between the UK and those countries is the possibility of more support and advice from healthcare professionals.

- The healthy start voucher scheme needs to be brought up to date in its ability to help the most vulnerable families. The voucher value at £8.50 has not changed since 2021 despite high inflation since then and it no longer covers the essentials parents need in those situations.

- There needs to be better monitoring of and clear consequences for any recurring breaches of the regulations.

- Targets for healthcare professionals when discharging newborns should be focused on parents leaving informed and supported in general so that those who do need or choose formula at some point are better supported.

- There needs to be clarity on the donations for food banks and food bank vouchers and whether loyalty points can be used or not on infant formula rather than just clarity on price reductions and promotions of infant formula.

It is our view that there are shared goals that the DHSC, industry and other groups could better collaborate on to drive better outcomes for parents.

HiPP fully supports the important public health goal of increasing breast-feeding rates, we also believe that parents who choose or need formula milks require more support and information and we support the CMA's intention to ensure that this market operates fairly. We welcome the opportunity to discuss these details with the CMA or DHSC and other stakeholders to improve this market and better support parents.

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[A] – Breastfeeding rates in the UK, UNICEF the baby friendly initiative Breastfeeding in the UK - Baby Friendly Initiative
[B] – Breastfeeding rate in Germany. The latest official data for breastfeeding are the KiDn0-3 study, conducted 2022 by the National Center of Early Prevention in Childhood (Nationales Zentrum Frühe Hilfen [NZFH]) and represents a cooperation project of the German Youth Institute (DJI) and the Federal Center for Health Education (Bundeszentrale für gesundheitliche Aufklärung [BZgA]). Parents of children aged zero to 3 years (N = 8.063) were recruited from random probability-sampled paediatric clinics (n = 271) across Germany.