Pricing of infant formulas – a clinical academic response to CMA

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Infant feeding is a highly contested area of public health with longstanding conflict between the key stakeholders. Although there will be general concern about the inflated prices for infant formulas and the need for action, reaching a resolution that has collective support may be problematic.

Pricing of infant formulas needs to be considered in the context of availability of high quality products, acceptable marketing practices, compatibility with antitrust laws and the need for product affordability. This contribution explains how at a practical level, this may be achieved.

The role of the UK Government and Devolved Governments

The government needs to address the following questions.

First, why are infant formula products allowed to enter the open market before being officially certified as acceptable from both a composition and a marketing perspective?

Second, how can the government ensure that at the time of purchase parents are aware which formulas meet quality standards and which formulas are the most appropriate for their baby?

Third, in relation to pricing how can government avoid breaking antitrust laws?

Fourth, how can government ensure that in the UK infant formulas are affordable?

Government actions

First, the government is the largest purchaser of infant formulas in the UK and it needs to ensure that there is an authorisation system in place that will confirm that all formulas entering the UK market have been properly assessed and certified in terms of composition and appropriateness of marketing materials and this needs to be undertaken during the pre-market period. This will ensure that formulas available to parents in the open market will have been officially certified as meeting composition and marketing standards.

Second, the government needs to ensure that the certification of a product is clearly stated on the packaging and marketing materials and the importance of parents and health professionals checking for certification of formula standards should be documented in UK infant feeding policy and communicated to parents by health personnel.

Third, those companies with certified infant formulas will be able to compete for contracts with the government and this procurement process will allow government to choose a range of best value best quality products through a competitive process that should not impact on anti-trust laws.

Fourth, in addition to quality, price will be a key criteria within the government procurement process. By creating a competitive market of available formulas that have met the composition and marketing standards, government is in a strong position to procure products of high quality at an acceptable price. Retailers should adopt similar prices to those within the government contracts. Families with financial difficulties should qualify for a financial support scheme that will enable those in greatest need to receive a certified formula for their child at a reduced price. Options of discount and special offers by retailers should be allowed as the range of products

on the market will have met the set standards for composition and marketing and therefore lower price will not come with a lower quality of product. If retailers fail to market formulas at around government prices then government could arrange for sale of government procured formulas within government facilities at the procurement price or less.

From a political perspective this initiative will enable government to constructively alter the market for infant formula to enable parents to purchase a formula that has been formally certified and is purchased within a competitive market.

What are the logistics for this initiative?

A regulatory system needs to be established in the UK that will ensure that infant formulas are certified before entering the UK open market. Authorisation is dependent upon companies submitting data on their proposed product to an authorisation centre during the pre-market period. (Table 1). There will be data on the composition of the product and this will be checked against the current or future recommendations of Codex Alimentarius Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) or another relevant authority. Second, the data and materials relating to the marketing of the product will be checked against the recommendations contained within the current or future International Code for Marketing of Breastmilk Substitutes or another relevant authority.

The outcome of this assessment will be placed on an infant formula register, and if the product is certified it will be registered for the UK market and traced through the bar code or similar digital technology, and this will be recorded on the packaging and the related marketing material. The product can then be launched into the open market. Thereafter a consumer, health professional, policymaker, regulator or a member of civil society can take this product of a retail shelf, and with their smart phone scan the bar code and this will open up the certification data for that particular product. This will allow the details of the product on the retail shelf to be compared with the certified data on the register. If there is variation then it will be possible to connect digitally to alert a possible violation and this will initiate an investigation. The consequences of a violation will be removal of the product from the register. If a company at any time wishes to change marketing information relating to a specific product the material needs to be resubmitted for consideration at the authorisation centre.

The authorisation centre

Whether the process of authorisation is a government responsibility or there is an independent organisation involved needs to be considered. From an industry perspective it may be that an independent body that does not have a conflict of interest relating to infant feeding policy may be preferable. The volume of activity will be limited but the authorisation centre will have a role to play if there are claims of violation of the rules or concerns about the composition or marketing standards.

This will be a real-time information system that, as well as providing assurance to parents, will also convey a warning message to any manufacturer or retailer that the inappropriate marketing of a product is far more likely to be detected, and that the consequences will be significant, including suspension of the product.

Protection of parents from marketing initiatives

Competition between companies with approved formulas should create market pressure for companies to reduce prices. If parents are assured that available products have met the agreed

standards for both composition and marketing materials, the factors influencing their choice are likely to be brand and price. A key message from parents has been that they know that breast.is.best but they also recognise that if they have difficulties with breastfeeding they want a high quality affordable infant formula to be available.

Potential positives for industry include the regulatory process being independent, the process will bring additional clarity to their role in marketing of their products and will potentially reduce the risk of claims of Code violations. The regulatory process will need to acknowledge that there will be ongoing developments in the science of infant formula and it would be expected that in those circumstance organisations such as the Scientific Advisory Committee on Nutrition (SACN) that advises the UK Government and the European Food Standards Authority (EFSA) that advises the European Commission would be a reference for government and the authorisation centre. Finally, a reduction in industry marketing issues would hopefully reduce the tension and conflict within the infant feeding policy environment.

Government actions in response to Marketing and Pricing of Infant Formulas in the UK

Step 1	Government establishes infant formula authorisation system
Step 2	All infant formulas in the open market in UK will have complied with the authorisation process
Step 3	The formulas will be registered for the UK market and traced through the bar code or similar digital technology
Step 4	Remote checking by parents, health professionals, policymakers , civil society will provide regulation of the system
Step 5	Potential violations will be referred to and investigated by the authorisation centre
Step 6	The authorisation centre will report to government if a violation is confirmed and Government will suspend the marketing and sales of the offending infant formula
Step 7	New developments of infant formula will be considered by the Scientific Advisory Committee on Nutrition through a Sub-Committee with Special Responsibility for Infant Formulas.