

November 2024

Dear Competition & Markets Authority

Thank you again for the invitation to comment this time on your interim report in to the infant formula and follow-on formula market in the UK. This reply is on behalf of the Scottish Infant Advisers Network (SIFAN), a professional network with representatives from all territorial health boards in Scotland working in the field of infant feeding. The UNCRC is enshrined in Scottish Law and we have the best interests of infants at the core of what we do, and our priority must be infant health and wellbeing. Our priority in reviewing this report is protecting the wellbeing of infants within the families that we care for.

In general, we welcome this report and the approach you have taken, attempting to balance the interests of business and consumers with the public health risks and benefits this market impacts upon. We would note however that as Baby Friendly leads and those engaged with our employers' accreditation, we are advocates for the full implementation of the World Health Organisation's international code of marketing of breastmilk substitutes and have concerns around the effects some of your recommendations may have in practice. Indeed, we are aware that the World Health Organisation has drafted a model law as a template to support countries to fully adopt their code and would urge the devolved governments to do so.

Our comments on your specific questions are as follows:

1. What value do stakeholders derive from follow-on formula?

As discussed in the report, there is no evidence that follow on milks have any benefits babies and whilst price points may be similar, there are differences in nutrition to first milks which could be detrimental to very young infants . It is our belief therefore that follow-on milk exists wholly for the purposes of brand building and marketing, offering consumers no benefit and we have concerns that the marketing and discounts on these products may encourage parents to use an unsuitable product for the age of their baby with associated adverse outcomes.

We also reiterate our concerns about the requirement for, and efficacy of, "special" milks (e.g. hungry baby, anti-reflux, etc.) and how soft marketing and labelling may equate normal baby behaviour to clinical issues in consumers' minds, requiring these products as a solution and in some cases detracting

from the benefits of breastfeeding, we frequently see families who stop breastfeeding because of the mistaken belief that these products are somehow superior and a solution to common feeding challenges and normal unsettled infant behaviours. .

2-4. Comments regarding provisional analysis & conclusions of market outcomes.

This was an interesting and informative section. We have no additional insight into supply, retail, and pricing, however do have comments regarding product differentiation.

We agree that on-pack messaging hinders parental choice and is successfully utilised to promote nebulous differences between brands and influence families to equate price with quality. This is particularly concerning as these products are nutritionally equivalent, and that when alluded to research is sufficient to show proven benefits of ingredients, regulation adapts to include them for all products as mentioned under section 3.6. We feel this is further compounded by the cross-marketing of different stage milks with near identical packaging and it is our assessment that this is out with the intent of the law if not the actual letter.

We also believe that other subtle messaging, such as the phrase “when you choose to move on from breastfeeding” implying an inevitability of the move to formula milk, influences parents and is in part responsible for the growth in mixed feeding we are observing in Scotland’s statistics.

6-11. Comments regarding provisional views on possible remedies.

Information & supply in healthcare settings

One of the most important aspects of Midwifery and Health Visiting in Scotland, and indeed across all areas of the UK is to provide timely, impartial, evidence-based information to prospective and new parents regarding pregnancy and caring for their new family. Proposals around detailed pre-emptive information provided universally with details about infant formula brands however have inherent complications around the presumption of inevitability and the messages that sends to parents about breastfeeding. We also question if it should be a requirement of the health sector to counter

industry messaging or whether that messaging itself should be more stringently regulated. We would also note that we do not have capacity or mechanisms to remain abreast of market fluctuations to provide information suggested in section 8.18 and 8.21. Even should this become available, engaging in this way with families and families to be who have not yet made the informed choice to use infant formula would work against the principles of the WHO code and risk our Baby Friendly accreditation.

We note the consideration of balanced procurement in hospitals settings however there are limitations to this, with many hospitals having insufficient or no milk kitchens and thus offering premade formula. This is not available in the full range of brand, and in particular has not been included in supermarket own and other budget ranges. In Scottish hospitals, formula is purchased centrally and made available to boards through procurement services, disconnecting services from influences around cost and in hospital availability. Some of our members are even exploring rationalisation of brands available based on the consumer cost rather than healthcare costs, which we believe shows further the limitations of influence via balanced procurement.

Information & price in retail settings

Although we would welcome some form of health messaging on products, we would urge caution in providing information given at point of sale. A study released this month by The Food Foundation shows how even now retailers are persuaded to pass marketing on to their customers in the guise of information with several linking to branded infant formula “care lines” in their websites. If this was to be taken forward it would need to be free from commercial influence, be that manufacturer or retailer, with robust reporting and enforcement mechanisms in place. Our experiences of allowing brands to provide information to healthcare staff speaks to the usefulness of this mechanism to drive sales, access we have had to now cease due to advertising and the availability of impartial and evidence based information now via First Steps Nutrition.

We have particular concerns around measures to allow pricing to be advertised and how short term price drops on products can be used by retailers to attract custom leading to fluctuations in the market. Recognising infant formula customers are exceptionally brand loyal so may take advantage of a low price and then feel tied in to long term higher prices. Where we would welcome a permanent reduction in the price of infant formula we have the most grave concerns that temporary reductions would encourage families to use a

particular brand and store to purchase this milks, at the end of the promotion families may find themselves in the position where they can no longer afford the full price brand and have no option but purchase at the higher cost or to travel at cost given the rural nature of much of Scotland but also transport issues within even urban areas to another store. Or may resort to unsafe practices to make milk go further- for example not discarding unused milk at the end of a feed or over diluting milks, and we are concerned on the negative effect that will have on infants. The rise in cost of formula will also affect the family budget for other foods and result in poor dietary choices for other children and adults within the families.

Clarifying, monitoring and enforcing the existing regulations

We fully agree with working to make existing regulation more effective. Our members have in the past had poor experiences of contacting those tasked with enforcing regulations around retail displays and wider advertising, often with authorities not being clear about the regulations or who or how to handle breaches we also feel that protective services have a role in supporting businesses particularly small local shops to comply with regulations. We were disappointed to read in your report that the competent authority does not need to approve labelling before it goes in to use and feel that your suggestion to put this in place alongside clear pathways and guidelines at the authorities to support amendments and approval processes, is required. It is also clear that clarifying how regulations extend to modern mechanisms, particularly online behaviour, is required to ensure understanding for all and support manufacturers and retailers to adhere to the intent of the legislation.

Strengthening labelling and advertising rules

We would welcome the suite of measures suggested in this section and feel these would have significant impact for parents. Standardised labelling shows the greatest promise, ensuring the removal of any claims regarding health or otherwise indicating the superiority of the different products. If this proves to be a big step at this point, we would welcome enforcing entirely separate brand names and logos for first stage milks than from follow on and other milks, and limiting claims made to those that are tangible and independently verifiable as an initial step. We feel this would disconnect infant formula from the brand advertising that companies engage in, allowing them to continue their legitimate competition for consumers of optional products whilst restricting their ability to do so for infant formula, essential for the survival of many infants. We also feel this would limit the consequences of advertising to

undermines breastfeeding, with parents' minds less likely to equate breastmilk with follow on formula.

Price controls and public provision

We do agree that unbranded formula in healthcare settings should be seriously considered, removing the logos and branding would be welcomed and would remove any inadvertent product promotion. We do though have serious concerns about a nationalised formula brand available for retail. Whilst having unbranded formula available on wards would be in-keeping with the NHS ethos to not recommend particular brands, products or medicine unless clinically indicated, we would be concerned that to have an NHS infant formula available in the shops might signal an endorsement that does not exist.

Whilst we do recognise the arguments against price and profit capping, we would urge the CMA to continue to consider it as a way to ensure parents and babies are protected from any concerns of future profiteering.

We very much look forward to the study's finalised findings and would like to be kept apprised of outcomes and any next steps.

Yours faithfully



On behalf of SIFAN (Scottish Infant Feeding Advisors Network)