

INFANT FORMULA AND FOLLOW-ON FORMULA MARKET STUDY

Final report summary

14 February 2025

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The Competition and Markets Authority has excluded from this published version of the final report information which it considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [X]. Some numbers have been replaced by a range. These are shown in square brackets. Non-sensitive wording is also indicated in square brackets.

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Background to our market study

1. On 20 February 2024 we launched a market study into the supply of infant formula¹ and follow-on formula² in the United Kingdom. This followed our November 2023 [report on price inflation and competition in food and grocery manufacturing and supply](#) ('groceries review').
2. In that report we announced that we would carry out further work in the infant formula market, in light of concerns that weak or ineffective competition could be leading parents and carers (who we refer to collectively as parents) to pay higher prices than they need to.
3. Launching a market study allows us to use our formal information gathering powers to gain a deeper understanding of the market. It also triggers statutory time limits in relation to our work in this area. This includes a requirement to publish, within six months of the launch of a market study, our decision on whether or not to consult on making a market investigation reference. We published our [decision not to make a market investigation reference](#) on 16 August 2024, alongside an [update on our work](#).
4. During the market study we gathered extensive evidence from a wide range of sources to develop our understanding of the market. We engaged with governments, food standards agencies,³ Trading Standards Services, the Advertising Standards Authority (ASA), NHS representatives, nutrition and healthcare organisations, national competition authorities and others with an interest in the market. We issued detailed information requests to manufacturers and retailers using our compulsory powers and commissioned consumer research to understand the drivers of parents' decisions. We tested our emerging thinking, seeking views on our provisional findings and possible measures to address our emerging concerns in November 2024, when we published an [interim report](#) and invited responses to this.
5. After we published the interim report, given the importance of government policy and the regulatory framework in this market, we engaged with the UK, Northern Irish, Scottish and Welsh governments, and other public bodies, on the possible options we set out to address our concerns. We also sought additional data from market participants to update our analysis, including with respect to shares of supply, prices, and gross profit margins.

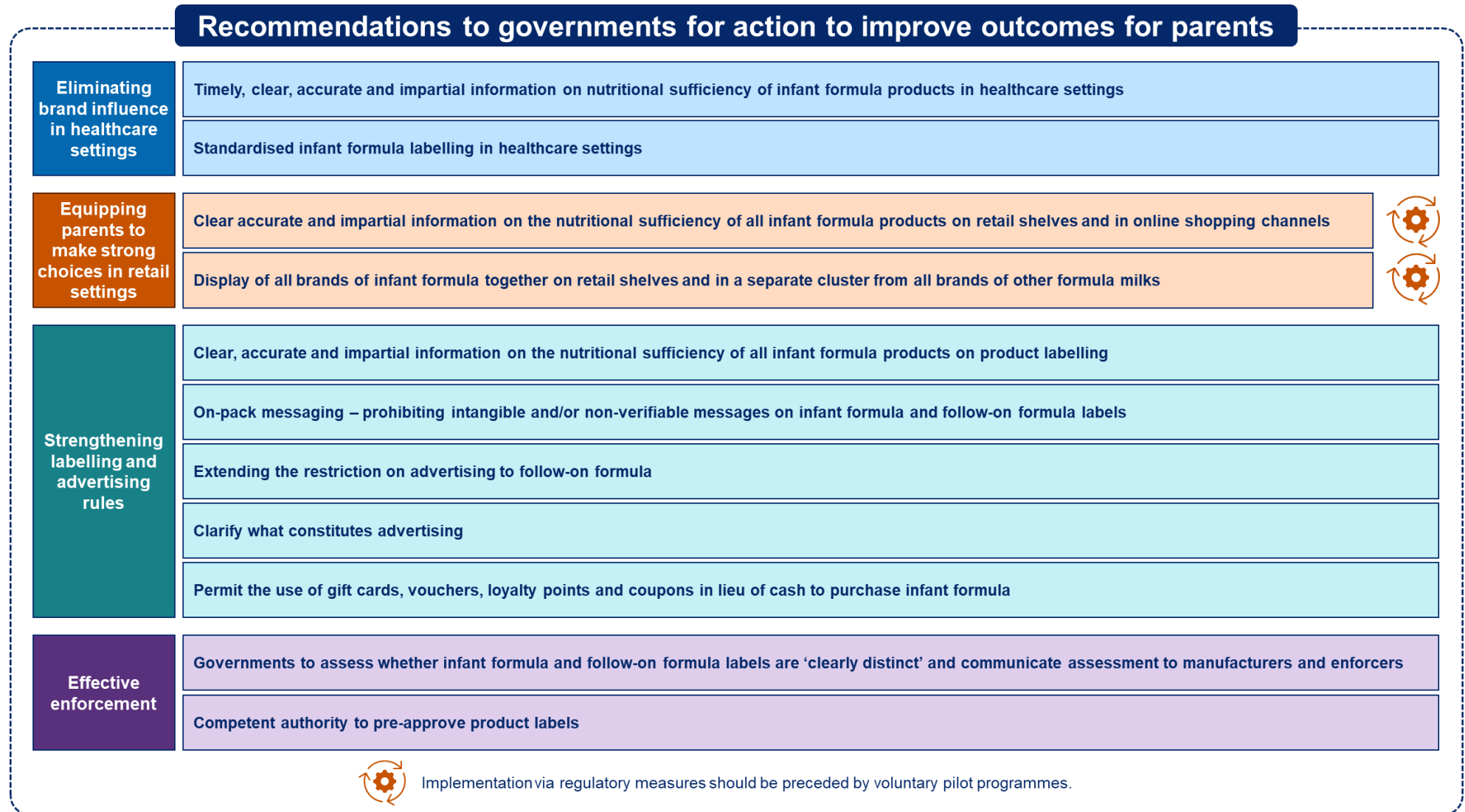
¹ Infant formula is designed for use in the first months of life and is the only substitute for breastmilk that can satisfy, by itself, the nutritional requirements of healthy babies until appropriate complementary feeding is introduced.

² Follow-on formula is a product for use by infants once complementary feeding has started (generally from six months), intended to constitute the principal liquid element in a progressively diversified diet.

³ In Northern Ireland and Scotland in the context of the Nutrition Labelling Composition and Standards Group.

6. Having carefully considered the above information in the round, our final report on the market study sets out our conclusions, and recommendations to governments for action to improve outcomes for parents in the infant formula market, as illustrated in Figure 1 below. This document provides a summary of the market study final report.

Figure 1: Overview of the package of measures



Our findings

7. Infant formula is a vital part of the weekly shop for many parents across the UK, who rely on it to give their babies the best possible start in life. Although a large proportion of parents plan to breastfeed their baby, most parents use formula milk at some point.⁴
8. This market has a number of specific features that distinguish it from other consumer goods markets. We consider that a combination of market features, namely, the regulatory framework, patterns of consumer behaviour, and the prevailing ways in which manufacturers and retailers do (and do not) compete in response to these conditions, are leading to poor outcomes for consumers.
9. Our findings are summarised as follows. First, we consider the regulatory and policy framework, consumer behaviour and the information environment in which consumer decisions are made. We then go on to assess the evidence we have reviewed on competition in this market.

Regulatory and policy framework

10. Infant formula and follow-on formula products are tightly regulated in the UK, the EU, and across many parts of the world to achieve the public health objectives of:
 - ensuring formula milks provide essential nutrients for babies and are safe; and
 - not discouraging breastfeeding.⁵
11. Nutrition law is an area of devolved competency in the UK, and responsibility for overseeing and enforcing the infant formula and follow-on formula regulations sits with each of the UK's devolved governments.
12. In this market, the regulatory framework⁶ and its enforcement (discussed below), has a considerable bearing on competition and the outcomes we observe. Notably:
 - (a) Government policy and legislation seeks to ensure that all infant formulas meet compositional standards (which includes minimum and maximum levels

⁴ Official statistics indicate that within two months of birth more than two thirds of babies are given at least some formula milk. Office for Health Improvement and Disparities (2023), experimental data, [Breastfeeding at 6 to 8 weeks after birth, Apr 22 to Mar 23](#); Public Health Scotland (2023), [Infant feeding statistics Financial year 2022 to 2023](#); and HSC Public Health Agency (2024) [Health Intelligence Briefing](#). Data is for England, Scotland and Northern Ireland.

⁵ The regulations for infant formula and follow-on formula in the UK are designed to ensure that these products provide essential nutrients for infants and are safe; provide accurate labelling to inform consumer choice and minimise the risk of consumers being misled; and ensure marketing and advertising does not discourage breastfeeding. The regulatory framework allows for growing scientific understanding and development.

⁶ [Commission Delegated Regulation \(EU\) 2016/127](#) (assimilated direct legislation).

of essential nutrients). That means that all infant formulas provide all the nutrients a healthy baby needs for development and growth.

- (b) Legislation also ensures that infant formula and follow-on formula contain safe ingredients, so they do not endanger the health of infants.
- (c) The advertising of infant formula is restricted, as are other promotional activities, including the promotion of price reductions. This is to avoid inducing the purchase of infant formula, so as not to discourage breastfeeding.
- (d) There is a requirement for the labelling, presentation and advertising of infant formula and follow-on formula to be clearly distinct from each other. Guidance indicates that as well as ensuring appropriate product use and preventing confusion between products, this provision also serves to prevent cross-promotion and indirect marketing of infant formula.
- (e) Health and nutrition claims on labelling of infant formula are not permitted.

13. We consider below how manufacturers and retailers respond to these aspects of the regulatory framework, and in turn, the outcomes this is driving in the market.

Consumer behaviour

- 14. Infant formula is an essential, non-substitutable product for parents and carers who need or choose to use it. We have heard the benefits of breastfeeding are widely understood, and that there is no evidence that pricing impacts on parents' decisions to formula feed in the first place. Indeed, the evidence we have reviewed found that a high proportion of expectant mothers intend to breastfeed and that doing what is viewed as best for their baby was the overriding motivation for parents in their decisions between breastmilk and formula.
- 15. Our evidence indicates that most parents and carers who need or choose to use infant formula experience a degree of vulnerability because most feeding decisions come with high pressure on a parent to do the best they can for their baby. Our consumer research found that 'when it comes to choosing a brand for their infant, consumers want to purchase "the best" – whatever that means to them.' There is evidence that parents who experience feelings of guilt around formula milk use as opposed to breastfeeding are particularly vulnerable, as are those making unplanned decisions to use formula milk in hospital settings and/or under time-pressure.⁷

⁷ Thinks Insight and Strategy (2024), Experiences using infant formula and follow-on formula: Qualitative research report, pp13-14, 32, 46.

16. Guilt is detrimental to consumer outcomes in this market because it puts parents at risk of spending more than they need to. Our consumer research found that the desire to purchase a premium brand is ‘felt particularly strongly amongst mothers who had hoped to exclusively breastfeed. They have heard “breast is best” and therefore feel even more guilt if they make a rational budgeting decision in their choice of formula brand.’⁸ More generally, parents often use price as a proxy for quality and so would actively choose a higher priced product. We heard that, while the reasons are complex, lower income families may feel increased stigma and judgement, which may drive some of their choices towards brands deemed higher quality.
17. The evidence we have reviewed shows that personal recommendations, followed by availability and visibility in-store, online presence, and visibility in hospitals, are the key factors influencing parents’ choice of infant formula brand. Brand awareness and reputation also play an important role in decision-making. These factors are interlinked. For example, brand awareness and reputation can be built and factor into parents’ decision-making when they receive personal recommendations or observe formula in-store, online or in hospital.
18. Parents rarely switch brands unless they experience health or feeding issues and almost four in five stay loyal to their brand of first choice. Most parents also continue to use the same brand with subsequent children.⁹
19. We consider below how outcomes in this market are shaped by the behaviour of parents buying formula milk.

The information environment

20. In addition to recommendations, and information from healthcare professionals and other sources such as parenting forums, parents may also receive or access information directly from manufacturers or retailers, which can influence their infant formula brand choice. Family, friends or others recommending a brand to parents may also be drawing on information they previously received or accessed from manufacturers.
21. In this market, manufacturers place a strong emphasis on brand building to support sales of infant formula, which is reflected in their high levels of promotional and marketing spend. In our view, key reasons for this are because:
 - Regulations limit the extent to which they can differentiate their products.

⁸ Thinks Insight and Strategy (2024), Experiences using infant formula and follow-on formula: Qualitative research report, p32.

⁹ Thinks Insight and Strategy (2024), Experiences using infant formula and follow-on formula: Qualitative research report, pp6-9, 46.

- Regulations restrict the advertisement and promotion of infant formula and prohibit the use of health and nutrition claims relating to infant formula.
 - Manufacturers have weak incentives to compete on price, knowing that most parents are generally unresponsive to changes in a product's price, and because their ability to advertise prices is restricted by regulations.
22. Important public health goals underpin these regulations, but to compete effectively a business typically needs consumers to have a certain level of awareness of its products and their features. In a situation where the advertisement of infant formula and certain product features is restricted,¹⁰ manufacturers will seek other ways to bring about a level of awareness of their products. However, in this market we are concerned that brand influence plays an outsize role in decision-making, given the specific market features, including that many parents are vulnerable and use shortcuts when making decisions (eg recommendations from family and friends, equating price with quality).
23. In response to the interim report, one manufacturer submitted that consumers' choice is highly driven by safety and trust, which is in turn driven by brand equity in the market. However, regulations ensure that infant formula and follow-on formula contain only safe ingredients, so products do not endanger the health of babies, and as such we consider that there is no additional need for branding to signal product safety. Furthermore, the consumer survey evidence we have seen did not show that safety was a driver of brand choice. Additionally, during our consumer research parents did not pro-actively raise safety as a reason for brand trust. Rather, brand familiarity and the previous experience of friends and family were the key components of trust in a brand.¹¹
24. While valued by parents, information from impartial sources appears to be limited when parents are making decisions. Our consumer research found that the NHS is a trusted source of information and parents welcome advice from healthcare professionals. While some parents felt supported by the NHS when they began to use formula, our consumer research found many examples of parents who did not feel they had received enough information from the NHS on formula-feeding, particularly ahead of the birth of their baby, as clinical guidelines recommend. Many parents wished they had been better prepared for unexpected feeding situations.¹²

¹⁰ Advertisement of infant formula is allowed in baby care and scientific publications.

¹¹ Thinks Insight and Strategy (2024), Experiences using infant formula and follow-on formula: Qualitative research report, pp23, 34.

¹² Thinks Insight and Strategy (2024), Experiences using infant formula and follow-on formula: Qualitative research report, p15.

25. In light of the above we are concerned that parents lack timely, clear, accurate and impartial information to enable them to come to an informed decision about which product(s) best meets their needs and preferences.

Compliance with regulations on advertising and marketing

Cross-promotion and indirect marketing

26. We have observed what we consider to be cross-promotion and indirect marketing in the similar branding and labelling used across formula milks sold under particular brands and sub-brands.
27. We consider that all the brands and sub-brands supplied in the UK by the four largest manufacturers use similar branding and labelling, as illustrated in Figure 2 below.

Figure 2: Branding and labelling across brands of formula milks





Sources: Danone, HIPP, Kendal and Nestle

28. In response to our interim report some stakeholders raised concerns around cross-promotion. For example:

- The Behavioural Science Workstream of the Healthy Weight Policy Research Unit, University College London, shared research it had undertaken with regards to formula milks on sale in 2020. It found that 72% of follow-on formula products were highly similar to adjacent infant formula products (adjacent = products from the same brand and product line).’ It also highlighted with regards to cross-promotion of infant formula via follow-on formula, ‘the same problem exists with regards to growing-up formulas, which is of equal concern.’
- Public Health Wales considered that the labels of follow-on milk displayed in the [interim] report demonstrates a lack of enforcement of existing regulations.
- The World Cancer Research Fund International noted that ‘labelling of infant formula is a known tool that supports brand loyalty and cross promotion.’
- Sustain, the Alliance for Better Food and Farming, told us that ‘Whilst the current legislation and DHSC guidance is that there should be differentiation between infant formula and follow-on formula [labelling], as the CMA has

noted, there is a huge lack of compliance or genuine differentiation in the market place.’

29. Despite submissions from some manufacturers that they comply with provisions within the regulations which require infant formula and follow-on formula to be clearly distinct from each other, we are concerned that there appears to be widespread non-compliance with, and underenforcement of, these provisions. This means that infant formula is being indirectly promoted via a ‘halo effect’ from follow-on formula, which may be advertised, unlike infant formula. Research commissioned by some manufacturers indicates that marketing activities for products under the same brand or sub-brand can, in some cases, boost sales of infant formula.¹³
30. We found that promotional and marketing spend on follow-on formula and growing-up milks appears to be high, particularly if its main purpose is to support sales of just these product categories.¹⁴ For two manufacturers, promotional and marketing spend amounted to [20-30%] and [10-20%] as a share of follow-on formula and growing-up milk revenues in the UK. We therefore consider that this level of spend is likely to support infant formula sales through brand awareness and reputation, as well as sales of those products being directly advertised.
31. We note 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.’¹⁵ Follow-on formula is generally priced the same as (or sometimes slightly cheaper than) infant formula. Most respondents to our interim report (aside from manufacturers) agreed with the NHS advice, with some stakeholders submitting that this product is unnecessary for babies.¹⁶ Several respondents also felt that follow-on formula is used to circumvent the infant formula marketing restrictions.¹⁷ Other stakeholders, mainly manufacturers, highlighted benefits, including that follow-on formula is designed to meet specific dietary needs of babies aged between 6 and 12 months.¹⁸
32. We have heard that the use of numbered stages on formula milks, while helping parents identify a product suited to their baby’s age, may encourage some to

¹³ They told us that this does not reflect the views or practices of their business.

¹⁴ This is because, firstly, our consumer research found that parents who have used infant formula tend to stick with the same brand when moving to follow-on formula. Therefore, advertising and marketing is unlikely to be persuading parents to switch brands at this point. Secondly, there are relatively few new consumers entering the market at the point at which follow-on formula or growing-up milks are appropriate for their baby. Survey evidence indicates that two-thirds of babies were already being fed formula at 4-5 months of age.

¹⁵ NHS, [Types of formula](#), accessed 17/09/24 NHS.

¹⁶ First Steps Nutrition Trust compiled on behalf of Baby Feeding Law Group UK’s response to the CMA’s interim report, p16, Public Health Wales’ response to the CMA’s interim report, p1.

¹⁷ Feed’s response to the CMA’s interim report, p1. Public Health Wales’ response to the CMA’s interim report, p1.

Behavioural Science workstream of the Healthy Weight Policy Research Unit, University College London’s response to the CMA’s interim report, p2.

¹⁸ Danone’s response to the CMA’s interim report, p29, Nestle’s response to the CMA’s interim report, p4, HiPP’s response to the CMA’s interim report, p2. Feed’s response to the CMA’s interim report, p1.

move through a 'feeding journey' and purchase growing-up milks without realising that cow's milk is a suitable alternative from 1 year of age.¹⁹ Although relatively few parents purchase growing-up milks, these parents are paying a price premium (compared to cow's milk).

Interpretation of the regulations

33. In addition, we have found that there are aspects of the regulations for which greater clarity is required; specifically:
- (a) What constitutes 'advertising', particularly with regards to online 'advertising', including formula milk manufacturers' websites, for the purposes of the regulations, given there is no clear definition in the legislation. This lack of clarity has made it challenging for the ASA to monitor and assess compliance with the CAP Code which states that marketing communications/adverts for infant formula are not permitted.²⁰
 - (b) When, if at all, retailers may publicise prices and reductions in the price of infant formula.
 - (c) Whether gift cards, vouchers, loyalty schemes and coupons can be used to purchase infant formula.
34. During the course of the market study, we were told that parents should be permitted to pay for infant formula with loyalty points, vouchers, store gift cards etc, and that there is uncertainty over whether the regulations permit these methods of payment in lieu of cash to purchase infant formula, or whether this would constitute an inducement to purchase, and therefore is prohibited.

The nature of infant formula supply

35. The UK formula market is supplied by four main manufacturers as well as contract manufacturers producing own-label products.²¹ The market has a highly concentrated structure, with the top three manufacturers accounting for [90-100%] of supply, and the largest manufacturer alone accounting for [50-60%], over the first 11 months of 2024.
36. Manufacturers' main route to market is via major retailers, with supermarkets the most important distribution channel. CMA analysis suggests that, in 2023, [80-

¹⁹ NHS, [Types of formula](#), accessed 23/07/24.

²⁰ The CAP Code includes specific provisions on infant formula and follow-on formula which reflect Regulation 2016/127.

²¹ There are several other manufacturers that supply the UK market; however, each of these has a very small share of supply and they are not assessed in this report.

90%] of manufacturers' aggregate infant formula sales (by revenue) were to retailers, and [60-70%] were to the five largest retailers of formula milks.

37. Manufacturers also supply infant formula to the NHS for distribution to parents in healthcare settings. This supply is small in the context of the whole market: NHS Trusts in England and Wales spent just over £1.3 million on infant formula in 2022-23, compared with annual manufacturer infant formula revenues of well over £100 million.²² However, manufacturers view supplying the NHS to be an important customer acquisition channel, given that brand visibility in hospitals is a significant factor driving brand choice and parents rarely switch infant formula brands. Manufacturers have been willing to predominantly sell to the NHS below cost.
38. The market has displayed some dynamism in the recent past. Five manufacturers (or own-label suppliers using contract manufacturers) have entered the market within the last decade: Kendal Nutricare, which entered in 2016 and supplies the Kendamil and Bonya brands; Aldi, which entered in 2016 and supplies the own-label brand Mamia; Sainsbury's, which entered in 2018 with the Little Ones own-label product (and exited in 2020); Arla, which entered in 2018 (and exited less than a year later); and Lidl, which entered in August 2024 and supplies the own-label brand Lupilu.
39. The entry and growth of Kendal in particular suggests it is possible to attract parents to a less established brand and build a significant customer base. Kendal's share of supply has risen from [0-5%] in 2019 to [20-30%] in the first 11 months of 2024, and Kendal is now the second-largest manufacturer of infant formula. However, we consider that Kendal's success is unlikely to be replicated by other potential entrants. In particular, Kendal acquired a production facility with experienced staff and, in Kendamil, created a distinctive combination of product features (such as being vegetarian, palm oil-free, and made in Britain) which has resonated with parents. Furthermore, to date, Kendal's entry has not prompted a widespread price response by incumbents.
40. Kendal is the only example of entry and expansion at substantial scale in the past decade. The evidence suggests that, while entry is possible, there are currently several barriers to entering and expanding in this market. Although not insurmountable, these barriers – when taken together in combination – significantly reduce the likelihood of disruption to incumbents. This is substantiated by the fact that none of the potential entrants we contacted currently intend to enter the market.

²² We note that NHS spend is not directly comparable with manufacturer revenues as supply to the NHS is below cost, whereas manufacturer revenues include products sold at a profit. Nevertheless, given the difference in magnitude, we consider that supply to the NHS is small in the context of the market.

41. The powerful role of brand reputation in this market, together with the need for a given infant formula product to be widely available for it to be attractive to parents, are particular barriers for own-label suppliers. At present there is one established own-label supplier (Aldi), with a share of supply of [0-5%] in the first 11 months of 2024 in infant formula (and no presence in follow-on formula). A second own-label supplier (Lidl) entered the market in August 2024 and accounted for [0-5%] of the infant formula revenue supply. Other retailers have told us that they are unlikely to consider entering the market with an own-label product.
42. Consumer behaviour (discussed above), in particular, parents' low tendency to switch infant formula product once they have found one that works for their baby, could in theory represent another barrier for an entrant seeking to build sales. Working in the opposite direction, however, is the fact that churn in the market is relatively high, as customers typically exit the market after a year or less. This means that incumbent manufacturers need to continually attract new customers, just as new entrants do.
43. While it is possible that a new entrant could expand and materially impact competition in the market, absent other significant changes in the market (eg to consumer behaviour), we consider it unlikely. Whilst it is too early to judge the longer-term impact of Kendal's new brand Bonya, we note that other newer lower-priced brands (both branded and own label) have failed to gain widespread traction with parents in spite of their price point.

Competition between manufacturers

44. To understand the extent and nature of competition between manufacturers, we have reviewed submissions and internal documents from manufacturers and retailers, as well as data on prices and margins.

Competition on price

45. The time periods for which we have obtained data (2019 to 2024) and documentary evidence (2021 to 2024) include two significant market developments. From 2019, Kendal's market share began to rise rapidly. Then, from late 2021, rising input costs had an inflationary impact across the whole economy, and infant formula retail prices began to rise with increasing frequency. The price of 800/900g infant formula powder (which is the most-sold format) increased by 18-36% (depending on brand) between December 2021 and December 2023.²³ In 2024, prices for some brands have decreased (and others

²³ Based on CMA analysis of the prices of 800g infant formula powder products (or pro-rated equivalent price for 900g products) for each of the major infant formula brands, in Tesco. We exclude SMA Advanced from this range, as its price varied more substantially between retailers at which it was sold in this time period; depending on the retailer, its price rose by between 13% and 20% from December 2021 to December 2023.

levelled off), although they remain at or above early-2023 levels for all but the cheapest brands.

46. Based on our review the evidence, including submissions from manufacturers in response to our interim report which we have carefully considered, we have found that, between at least 2021 (the date of the earliest documents we have seen) and 2023, Danone was able to plan price increases with limited regard for competitors' pricing, albeit it seemed to have considered competitors' pricing slightly more over time.
47. HiPP, Kendal, and Nestle appear to have been constrained to some degree by Danone's pricing during the period 2021 to 2024, especially its pricing of Aptamil (which is the top selling brand on the market).
48. The intensity of price competition between manufacturers has historically been low. Internal documents indicate that, for most of the period we examined (2021 to 2024), manufacturers viewed consumers as being only weakly responsive to changes in the price of infant formula. This weak sensitivity to price is consistent with the evidence (discussed above) on consumer behaviour: most parents in this market are keen to choose what they perceive to be a high-quality brand, and they often infer quality from the product's price, and hence often actively choose a higher priced product.
49. The difference in prices between brands leads to substantial differences in the cost over a baby's first year of life, such that brand choice has a sizeable financial impact on parents. Buying the current market leader Aptamil's 800g tubs at the Tesco price (as of November 2024) would cost around £700 for a baby exclusively formula-fed from birth to 12 months, based on the feeding guidance stated on the pack.²⁴ On an equivalent basis, Little Steps (one of the cheapest widely available 800g products) would cost around £400; therefore, choosing Little Steps over Aptamil – as an example – could save parents around £300 over the first year of their baby's life. Choosing Little Steps instead of Aptamil Advanced, meanwhile, could save parents around £540.
50. Our calculations of manufacturers' variable gross margins suggest that, in aggregate and weighted by revenue, they have broadly been stable in percentage terms (remaining within a range of around [50-75%] throughout the period 2019 to November 2024. We note that some manufacturers have generated variable gross margins lower than 50%). This indicates that manufacturers (in aggregate) have largely passed on cost increases to their customers. We note that infant formula manufacturers' gross margins, in aggregate and weighted by revenue, were

²⁴ Based on CMA calculations of the total volume of infant formula powder implied by the recommendations on the product packaging, assuming no formula is wasted. Prices based on average selling price at Tesco in November 2024.

among the highest of all grocery products we considered in our November 2023 groceries report.²⁵

51. Full pass-through of cost increases does not, in and of itself, imply weak competition on price between manufacturers. However, we consider that the relative stability of manufacturers' gross margins over this period (of rapid inflation) is informative in two ways:
- (a) Manufacturers have apparently not responded to Kendal's substantial growth in market share over the past few years by taking actions (ie reducing their prices) that reduce their gross margins, in aggregate. This reinforces our view that Kendal's expansion has not (yet, at least) materially increased price competition – see further discussion below.
 - (b) In a context where we consider that manufacturers' gross margins (aggregated and weighted by revenue) were not already low, they did not face sufficient pressure from retailers to cause them to accept materially reduced gross margins (thereby constraining or delaying price increases during the recent cost-of-living crisis). We consider this was due to a combination of limited ability and limited incentive on the part of retailers to do so – see further discussion of retail-level competition below.
52. In a competitive market, we would expect incumbents to respond to a successful new entrant, including through price decreases, in order to prevent the loss of customers to the challenger firm. It is possible that increased competition from Kendal has (among other factors) triggered price decreases of Aptamil in 2024, with Danone implementing a price decrease from January 2024. However, if this is the case, this response has taken time to occur and, to date, has been limited to this brand only (in terms of manufacturer-led price decreases). Furthermore, these developments have taken place during a period of increased government (including CMA) and press scrutiny of infant formula prices, such that it is possible this was a motivating factor for the price cut.
53. Looking ahead, it is possible that increased competition as a result of Kendal's expansion – including also its launch of Bonya in November 2024 – will bring more widespread and sustained downward pressure on prices. However, according to the most recent data gathered by the CMA (to November 2024) – given trends in prices and gross profit margins (in aggregate, weighted by revenue) – no such change has been discernible to date.

²⁵ However, we place limited weight on comparisons between gross margins generated by different manufacturers on different types of products as they are not directly comparable with infant formula or follow-on formula.

54. As such we continue to be concerned about the lack of widespread price competition in the supply of infant formula by manufacturers.

Competition through differentiation

55. Infant formula manufacturers seek to compete by differentiating their products. They have told us that they compete strongly on quality and innovation, that this competition has benefited parents, and that it will continue to deliver improved outcomes for babies. The biggest manufacturers invest substantial sums on R&D related to formula milks.

56. However, manufacturers are constrained in the degree to which they can differentiate their products by the regulations, which stipulate, for example, the minimum and maximum levels of essential nutrients that must be included in all formula products to ensure that they provide all of the nutrients a healthy baby needs for development and growth.²⁶

57. The regulations do allow for other ingredients to be added, provided that they are proven to be suitable (in terms of expected benefits and safety considerations) for babies. This ability to add ingredients, as well as to vary the quantities of essential nutrients included (within the thresholds specified in the regulations) is one way manufacturers can differentiate their products.

58. Over many years, the composition of infant formula has evolved due to advances in scientific evidence, with legislation on compositional standards updated to reflect this, which has led to better outcomes for infants. For example, since 2020, docosahexaenoic acid (DHA) has been mandated to be included in all infant formulas following its inclusion by Danone since the 1990s. It is our understanding that updates to the compositional requirements set out in Regulation 2016/127 have been infrequent, with the most recent assessment in 2014 leading to the inclusion of DHA in all formulas from 2020.

59. Aside from nutritional composition, other types of product differentiation include:

- the quality or provenance of ingredients (such as organic milk);
- other aspects of formula content or its production which parents value (such as being halal, kosher, or vegetarian); and
- features that are not about formula content, but instead about aspects of the product such as packaging or ease of use.

²⁶ [Regulation 2016/127](#), Article 2.

60. Additionally, manufacturers signal trustworthiness and superiority in more subtle ways, including through the use of words or phrases such as ‘inspired by research’, ‘expertise’, or ‘advanced’, or through their packaging design. The evidence we have reviewed shows parents choosing based on positive but subjective feelings about reputation. Moreover, these feelings tend to be general impressions rather than based on concrete attributes of a product as they might be in other markets. One survey we reviewed found the top three drivers of “brand desire” to be emotive rather than concrete: they were (in order): ‘closeness’, ‘trust’ and ‘reflects my values and supports my role as parent’.
61. Parents are able to assess certain types of product difference more easily than others. For example, there is a well-established process for verifying and communicating organic provenance, and trial and error will quickly establish for a parent how easy a given product is to use. We would typically encourage competition on product differences such as these, which offer genuine choice to parents.
62. However, in this market, regulations constrain the level of differentiation that is possible and most parents are likely to find it difficult to meaningfully assess information about many aspects of product quality. Therefore, our concern is that manufacturers’ efforts on communicating quality and innovation are primarily oriented to signalling their trustworthiness and superiority (as in paragraph 58). Such signalling could help manufacturers (i) to build their brand reputation in general; and (ii) to justify charging a premium on certain products/ranges (in a context in which they lack incentives to compete on price).
63. Each of the largest manufacturers offers a portfolio of different brands, with the market broadly structured across three tiers: ‘premium’, ‘standard’, and ‘value’/‘entry’. Although uptake by parents of the premium infant formula ranges is low, we consider it likely that some parents assess the value-for-money of standard products by benchmarking against the equivalent premium products (a practice known as reference pricing).
64. Manufacturers’ input cost data suggests that the raw ingredients in the ‘premium’ products do appear to cost more than those in the ‘standard’ products, and [redacted]. However, cost differences between the ‘standard’ and ‘value’ products are smaller and, in some cases, negligible. Despite limited differences in the underlying costs of the raw ingredients, the recommended retail prices (RRPs) and actual retail prices of ‘standard’ products are typically higher than those of ‘value’ products from the same manufacturer. We are concerned that this could be an outcome of the signalling we describe above.
65. In general, most responses to our interim report, including from specialists in nutrition and healthcare, academics and a public health body, said that the nutritional composition of these products does not currently vary in important

ways. Submissions to the contrary were primarily from manufacturers. This nutritional similarity is a result of government policy and legislation on nutritional composition, which has the effect of limiting the extent to which formula products can vary. As such, and in the context of our findings on how parents behave, we consider that the strong emphasis placed by manufacturers on asserting the additional nutritional benefits of their products, conveyed via the signalling we discuss above, has a disproportionate influence on consumer choice.

Competition between retailers

66. We consider that the major retailers contribute to competition through their two inter-related roles in this market:
- They are a vital route to market for manufacturers. CMA analysis suggests that, in 2023, [80-90%] of manufacturers' aggregate infant formula sales (by revenue) were to retailers, and [60-70%] were to the five largest retailers of formula milks. As such, in theory, retailers may be able to impose a constraint on manufacturers' behaviour.
 - They offer a largely similar range of infant formula major brands and products, and so can compete directly with each other to offer lower prices to parents.

Retailers' ability and incentive to constrain manufacturers

67. In the right circumstances, strong buyer power from retailers could, in theory, help compensate for weak price sensitivity among parents and exert downward pressure on prices.
68. The evidence suggests that retailers often try to validate or challenge cost price increases presented by manufacturers. They do this with reference to other manufacturers' prices, and to the prices of relevant inputs such as dairy. We have seen examples of retailers applying pressure to manufacturers with respect to pricing, and retailers' focus on pricing looks to have increased as cost-of-living pressures intensified.
69. In addition, documents we have seen indicate that retailers are often successful at securing manufacturers' agreement to additional spend to support sales, including (where permitted) funding for point-of-sales media, price promotions (although not for infant formula) and, in some cases, shelf space.
70. However, pricing data and documentary evidence taken together suggest that retailers have accepted multiple substantial price increases throughout 2022 and 2023, prior to prices stabilising or decreasing in 2024, with notably few examples of pricing pressure successfully being applied by retailers on manufacturers.

71. Retailers have told us that their bargaining power is reduced by the fact that certain infant formula products are ‘must carry’, and that strong brand loyalty means that parents would prefer to switch retailer than switch product, which puts manufacturers in a relatively strong bargaining position.
72. Overall we are of the view that, while retailers do have the ability to constrain manufacturers to some degree, they do not display the buyer power or incentives to strongly constrain prices.

Retailers’ competition with each other

73. Most retailers submitted that they monitor and take into account competitors’ pricing (based on publicly available information), amongst several other factors, when setting their own retail prices for formula milks, and there are some examples of this in the internal documents we have seen. However, the evidence we have reviewed indicates that price competition between retailers has historically been weak.
74. Pricing data shows that retailers’ prices have tended to track (usually very closely) the RRP’s that manufacturers provide. We have seen few examples of retailers choosing to absorb all or part of the successive price increases implemented by manufacturers between 2021 and 2023, in an attempt to undercut their rivals. Internal documents likewise indicate that retailers have largely accepted these cost price increases and passed them on to parents. Consistent with this, retailers’ gross margins on infant formula, in aggregate and weighted by revenue, have remained stable within a range of 18-22% for the past five years.
75. We consider that this is due to a lack of incentive on the part of retailers to compete strongly on price. There are likely to be two main reasons for this.
 - (a) First, retailers cannot advertise or promote infant formula. This means it would be difficult for a retailer to inform parents who do not normally shop with it that they could find their preferred product cheaper there.
 - (b) Second is that parents appear not to shop around for the lowest price for their preferred brand.²⁷ As discussed above, parents in this market are often time-pressured, may be at a vulnerable time in their lives, and are keen not to make decisions in this market based on saving money.
76. We have observed a small number of instances of retail-level price competition. For example, Iceland announced and implemented a price reduction on all the infant formula brands it carried in August 2023 (although this did not trigger a price

²⁷ Given that retailers’ prices have generally been similar for a given infant formula product, and therefore there would have been little benefit in shopping around, it is not surprising that most consumers have not done so.

response by other retailers around this time). In February 2024, Iceland introduced Nestle's Little Steps infant formula and priced it well below the RRP.²⁸ Retail price data and retailers' submissions suggest this latter action led to a price reduction on Little Steps by most other major retailers. In February 2024, Tesco cut its price of SMA 800g infant formula, and subsequently Sainsbury's lowered its price. In March 2024, Tesco cut its price of Cow & Gate 800g follow-on formula, and subsequently Sainsbury's and Boots lowered their prices.

77. However, overall, there are notably few such examples and in only one case – the Little Steps price cut in February 2024 – was there a widespread market response. We consider therefore that these examples are not indicative of strong price competition between retailers. Moreover, as noted above, we consider that the inability to promote price reductions, and parents' weak price sensitivity, are likely to mean that retail level price competition is weak.
78. As noted above, retailers compete on non-price aspects of competition, including the way they present and market formula products. This includes the distribution of products across and within stores, shelf space, and promotional activity.
79. We consider that it is likely that this activity is emphasised over competition on price as the key route to increase sales by both manufacturers and retailers, because of the significant influence of brand and reputation in consumer choices.

Features of a well-functioning market

80. In our view, for the many parents who use infant formula, a well-functioning market would have the following characteristics:
 - **Clarity** for parents that **all infant formula products meet the nutritional and safety needs of healthy babies** and that **cheaper products are not nutritionally inferior**.
 - **Clarity** for parents about the **features that differentiate brands and that these are not related to nutritional need**.
 - **Easy access to clear, accurate and impartial information** that enables parents to come to an early and informed decision, with relatively little effort, about which product(s) best meets their needs and preferences.
 - **Effective competition between multiple infant formula manufacturers** to offer infant formula products with features parents can easily interpret and

²⁸ Iceland's infant formula monthly sales volumes did increase substantially in 2023 and 2024; however, these price changes occurred around the same time that it began stocking a greater range of products across more stores. It is therefore not possible to isolate the effect of the price changes alone on its sales volumes.

verify, at competitive prices, and an ability for newer entrants to challenge incumbents if they offer a competitive product.

- **Effective price competition between retailers**, with parents easily able to compare retail prices for their preferred product to get the best deal, without undermining governments' objective to support breastfeeding.
- A **well-designed and robustly enforced regulatory regime** that supports governments' public health objectives without undermining – to the extent possible – the functioning of the market as set out in the preceding bullets.

81. Our market study indicates that the infant formula market does not currently display these characteristics.

Measures to address the concerns we have identified

82. We are making recommendations to the UK, Northern Irish, Scottish and Welsh governments for action to improve outcomes for parents in terms of the choices they make and the prices they pay for infant formula.

83. We have identified three potential routes to improve market outcomes:

(a) Option 1:

- (i) *Action*: Reduce regulatory restrictions in the market, in particular by allowing price promotions, and by implication some forms of advertising, in relation to infant formula.
- (ii) *Objective*: To stimulate greater price competition at both the retail and manufacturing level, bearing down on prices of infant formula products for consumers.

(b) Option 2:

- (i) *Action*: Improve the design, effectiveness and enforcement of the existing regulations to create a more balanced decision-making environment, counteracting the strong and disproportionately influential effects of branding and the vulnerabilities of consumers in this market.
- (ii) *Objective*: Help parents make purchasing choices that are more in line with their underlying preferences, empowering them to select lower-priced offerings in the market, where they wish to do so.

(c) Option 3:

- (i) *Action*: Introduce further regulations to cap infant formula prices.

- (ii) *Objective*: To place an upper limit on the amount consumers would have to pay for this vital product, and guard against future periods of rapid price inflation.

- 84. We have rejected Option 3, which would involve more interventionist regulation in the form of price controls, to set a maximum price for infant formula. This would directly limit prices but would involve significant risks, including that lower prices in the market could rise to the level of the ceiling, resulting in some parents missing out on cheaper options on the market. There would also be significant challenges in the design and implementation of such a measure. We are therefore not recommending the introduction of price controls at this time. However, governments may wish to retain this as a backstop option, if our proposed package of measures does not achieve the desired market outcomes within a reasonable timeframe.
- 85. We are not recommending Option 1 on a standalone basis at this time for two reasons.
- 86. First, it is clear that the UK, Scottish, Welsh and Northern Irish governments are committed to the public health goal of supporting breastfeeding. From our discussions with them, we also understand that they have concerns that allowing price promotions would risk undermining their important policy goals. While it is not for the CMA to assess the extent of this potential impact, we note and respect the public policy positions of the governments at this time.
- 87. Second, given the current market dynamics that we have observed, we consider that there are limitations on the extent to which such measures would lead to better outcomes for consumers without other measures to change consumer behaviour. While allowing price promotions could incentivise retailers to drop prices for certain periods, with consumers saving money, this would address only a proportion of the potential savings consumers could make in this market. Retail margins for these products are not notably high at present, and this measure would do nothing to support consumers in choosing lower-priced brands in the market, which would be a much more significant source of cost savings.
- 88. Additionally, while there is a potential argument that allowing retail price promotions would put greater incentives on retailers to push back on cost increases from manufacturers, we have found that retailer buyer power is relatively weak in this market, so this effect is likely to be limited.
- 89. We are therefore not recommending that governments pursue Option 1 at this time. However, we note that if action is taken to enable more effective consumer engagement in this market (as we set out in Option 2) and/or governments' understanding of the appropriate trade-offs between public health and consumer

goals were to shift, this may be an option that policymakers wish to explore. We stand ready to assist governments further in that case.

90. At this point, we are therefore recommending Option 2, which comprises a package of measures to sharpen the effectiveness of existing regulations to maximise the ability of parents to make choices that suit their preferences and budgets. We recommend that governments pursue this package vigorously and in full to maximise the extent to which this market can be expected to operate well for consumers, within the constraints of current public-health oriented regulation.
91. Taken as a whole, our package of mutually reinforcing measures aims to fundamentally alter the dynamics of competition in the infant formula market to bring about better outcomes for parents in general in terms of the choices they feel able to make and prices they pay for infant formula. These measures provide a necessary counterweight to the combined effects of unintended consequences of existing regulation, the strategies adopted by manufacturers, and the ways in which consumers are inclined to interact with the market. They will do this primarily by creating a situation where parents become more price sensitive and have greater confidence to select less expensive options on the market. This will in turn incentivise manufacturers to compete harder on price, bringing greater downwards pressure to bear on prices.
92. To deliver this fundamental shift, we are making a number of specific, actionable recommendations to governments, which we summarise below, falling into the following categories:
 - Eliminating brand influence in healthcare settings;
 - Equipping parents to make strong choices in retail settings;
 - Strengthening the labelling and advertising rules; and
 - Ensuring effective enforcement of current and updated regulations.

Considerations in developing the package of measures

93. Our key consideration in developing our final package of measures has been to drive better outcomes for parents in terms of the choices they make and prices they pay for infant formula without compromising the compositional standards and safety of infant formula. We have taken into account governments' wider policy objectives, including supporting breastfeeding and the incorporation of the United Nations Conventions on the Rights of the Child into the law in Scotland.
94. We have sought to arrive at a package of measures that is effective and proportionate in addressing the issues we have identified.

95. In taking the above into account we have carefully considered the feedback we have received on our interim report from governments, market participants, and other interested parties.
96. A number of the measures we are recommending will require regulatory change. As EU legislation applies with respect to Northern Ireland’s regulatory framework relating to nutrition pursuant to the Windsor Framework, there may be limitations on the extent to which some regulatory measures could be implemented in Northern Ireland outside the framework of the relevant EU legislation. We expect the impact, and ways to limit any impact, of any potential regulatory divergence across the UK internal market would be relevant factors to be considered by the UK governments should they choose to implement those recommendations.
97. Given a number of the measures will require regulatory change, which will take time to implement, we are recommending that some measures be taken forward on a voluntary basis in the shorter term, until such time as mandatory measures are in force.

Summary of the package of measures

Eliminating brand influence in healthcare settings

98. Brand visibility in hospital settings is a significant driver of decision-making for some parents. We are concerned that this outweighs the provision and influence of clear, accurate and impartial information from healthcare sources that all infant formula is nutritionally sufficient, particularly since, once parents have found a brand of infant formula that works for their baby, parents rarely switch. We are recommending two measures to improve the information environment and give parents and expecting parents confidence regarding the suitability of less expensive products.

- **Recommendation 1.1: Timely, clear, accurate and impartial information on nutritional sufficiency of all infant formula products in healthcare settings**

We recommend that UK, Northern Irish, Scottish and Welsh governments, working with the NHS in England, Scotland and Wales, Public Health Agency in Northern Ireland and other organisations as appropriate, design and implement effective policies and processes to proactively provide parents and expecting parents with timely, clear, accurate and impartial information on the nutritional sufficiency of all infant formula products.

This should include:

- (a) reviewing, with the input of parents/prospective parents and testing by behavioural scientists, existing NHS and Public Health Agency messaging on nutritional sufficiency to ensure that it is clear, persuasive and easy to remember (and therefore effective) that the

most affordable infant formulas provide all the essential ingredients that healthy babies need from a nutritional and developmental perspective, and that the legislation means that where nutrients are proven to be of benefit (by the relevant independent scientific committee), they are mandated for inclusion in all products;

(b) consistent wording on nutritional sufficiency across each nation; and

(c) providing guidance to relevant healthcare settings on the manner and timing of the provision of information to parents.

- **Recommendation 1.2: Standardised infant formula labelling in healthcare settings**

We recommend that the UK, Northern Irish, Scottish and Welsh governments, working with the NHS/NHS Supply Chain in England and Wales, NHS Scotland/NHS National Services Scotland and HSC/Public Health Agency/Procurement and Logistics Service, as appropriate, in Northern Ireland take steps to ensure that, where parents are provided with infant formula in healthcare settings, it has standardised labelling so that branded products have less influence on parents' decision-making.

We consider that there are three alternative routes to implementing this measure:

(a) relabelling branded infant formula either by decanting the contents into non-branded containers or affixing standardised labelling on top of branded labelling, building on initiatives already in place in some healthcare settings to decant infant formula into brand free bottles;

(b) directly procuring their own white-label infant formula from a contract manufacturer; or

(c) procuring a white-label infant formula from a branded manufacturer.

Equipping parents to make strong choices in retail settings

99. Parents may receive or access information from retailers which can inform their choice of infant formula brand. Once they have chosen a brand, they are subsequently unlikely to switch.

100. The prominent provision of information on nutritional sufficiency – both in store and online – and making it easier to make price comparisons between infant formula products in stores will help parents make more informed decisions on what brand of infant formula to use.

- **Recommendation 2.1: Clear, accurate and impartial information on the nutritional sufficiency of all infant formula products on retail shelves and in online shopping channels**

We recommend that the UK, Northern Irish, Scottish and Welsh governments:

(a) introduce regulatory measures to require that all physical retail settings prominently display specified information that all infant formula products are nutritionally sufficient in close proximity to infant formula products available for sale on retail shelves. That information should be consistent across the four UK nations.

(b) recognising that it will take some time to introduce regulatory measures, as an interim measure to deliver more immediate impact we recommend that governments work in collaboration with each other and other organisations as appropriate (including relevant bodies such as the British Retail Consortium (BRC)) to implement a voluntary pilot programme to this effect. This will help test and, if necessary, refine the measure before mandatory implementation.

(c) introduce regulatory measures to require that all online retailers of infant formula should aid parents' decision-making by prominently displaying clear and concise specified information on nutritional sufficiency on appropriate online pages.

- **Recommendation 2.2: Display of all infant formula brands together on retail shelves**

To make it easier for parents to compare the price of infant formula by displaying different brands all together side by side, we recommend that:

(a) the UK, Northern Irish, Scottish and Welsh governments, working in collaboration with each other, introduce a regulatory measure to require retailers above a certain size threshold to display all brands of infant formula together on retail shelves and in a separate cluster from all brands of follow-on formula and other formula milks.

(b) recognising that it will take some time to introduce a regulatory measure, and in order to benefit from the opportunity to improve the design of the measure through market testing and feedback, we recommend that governments, working in collaboration with each other and other relevant organisations (such as the BRC), implement a voluntary pilot programme to display all brands of infant formula together on retail shelves and in a separate cluster from all brands of follow-on formula and other formula milks.

Strengthening labelling and advertising rules

101. Our finding that brand awareness and reputation plays an outsize role in decision-making means that parents' decisions are typically not always based on objective, tangible and verifiable information, and as such, they may pay more for infant formula than they otherwise would. To address this, and to provide clarity for parents that all infant formula products meet the nutritional needs of healthy babies we recommend the introduction of labelling and advertising rules which go beyond the current regulations.

102. We are also recommending clarification of what is and is not permissible within the existing regulations.

- **Recommendation 3.1: Clear, accurate and impartial information on the nutritional sufficiency of all infant formula products on product labelling**

We recommend that the UK, Northern Irish, Scottish and Welsh governments, working in collaboration with each other, should revise the infant formula and follow-on formula regulations or introduce other regulatory measures so that there is a requirement for manufacturers to display information on nutritional sufficiency directly and prominently on the labelling of their infant formula products.

- **Recommendation 3.2: Prohibiting intangible and/or non-verifiable messages on infant formula and follow-on formula labels**

To ensure that parents are presented with information that is easy to interpret and assess, we recommend that the UK, Northern Irish, Scottish and Welsh governments revise the infant formula and follow-on formula regulations or introduce other regulatory measures to restrict the use of intangible and/or non-verifiable messages on infant formula and follow-on formula labelling by providing that only specified and prescribed information or categories of information is permitted on labelling.

- **Recommendation 3.3: Extending the restriction on advertising to follow-on formula**

To dampen the ‘halo effect’ and role of brand awareness and reputation in parents’ choice of infant formula brand which we have identified, we recommend that the UK, Northern Irish, Scottish and Welsh governments, revise infant formula and follow-on formula regulations or introduce other regulatory measures to restrict the advertisement of follow-on formula, in line with the existing restrictions on the advertisement of infant formula.

We are conscious that some cross-promotion may continue via products such as growing-up milks. We therefore recommend that following its introduction, governments closely monitor the effectiveness of this measure, and consider incorporating growing-up milk within the advertising restrictions should there be evidence that infant formula is being cross-promoted through these products. We consider this to be a proportionate approach, which will also allow governments to assess the impact of the measures we are recommending in the round.

- **Recommendation 3.4: Clarify what constitutes advertising**

We recommend that the UK, Northern Irish, Scottish and Welsh governments, working with the ASA, provide further clarification and examples on what constitutes advertising, particularly digital advertising, including social media, for the purposes of the infant formula and follow-on formula regulations, updating the regulations, CAP and BCAP Codes and/or guidance as necessary.

This will be particularly important given we recommend that the restrictions on advertisement of infant formula be extended to follow-on formula.

We note that for this measure (and our recommendation to restrict the advertisement of follow-on formula) to effectively support a reduction in the role of brand awareness and reputation in parents' decision-making, sufficient and consistent monitoring and enforcement will be necessary.

- **Recommendation 3.5: Permit the use of gift cards, vouchers, loyalty points and coupons in lieu of cash to purchase infant formula**

We recommend that the UK, Northern Irish, Scottish and Welsh governments amend, as necessary, the guidance to the infant formula and follow-on formula regulations (and, if necessary and feasible, amend the infant formula and follow-on formula regulations) to ensure that parents can use gift cards, vouchers, loyalty points and coupons in lieu of cash to purchase infant formula.

In designing and implementing this recommendation, governments will need to ensure that these methods of payment are not used as vehicles to raise brand awareness and reputation. In particular, they should not be used to advertise infant formula or follow-on formula (in line with Recommendation 3.3).

Effective enforcement of current and updated regulations

103. We are concerned that all the products we have examined do not appear to comply with the regulations and DHSC guidance requiring infant formula and follow-on formula to be clearly distinct. This is in part due to a lack of clarity, but also due to ineffective enforcement. It is important that, in advance of changes to the regulatory regime (recognising that will take time), that the current rules are effectively enforced, and that robust enforcement continues with any regulatory changes.
104. More broadly, a robustly enforced regulatory regime with high levels of regulatory compliance is crucial not only for babies and parents, but also for ensuring that manufacturers and retailers compete on a level playing field.

- **Recommendation 4.1: Effective enforcement**

Noting that a regulatory measure to restrict the advertising of follow-on formula will take time to implement, we recommend that the UK government, working with governments in Northern Ireland, Scotland and Wales, assesses whether the labels of infant formula products currently on the UK market are compliant with Article 6(6) of the infant formula and follow-on formula regulations and related DHSC guidance. These govern the presentation and labelling requirements for infant formula and follow on formula and requires them to be clearly distinct from one another. The UK government should then, at

a minimum, communicate its assessment of compliance to enforcers and manufacturers and update its guidance if clarification is required regarding interpretation of the regulations.

We note that it would ultimately be for the courts to determine whether regulatory breaches have occurred. However, in the short-term this action would clarify, for both manufacturers and enforcers, competent authorities' views on whether the products currently on the market comply with the requirement for infant formula and follow-on formula labels to be clearly distinct. Updating DHSC guidance, if needed, would also ensure that potential entrants to the market are clear on what DHSC considers the regulations require in this regard.

- **Recommendation 4.2: Strengthening the competent authority role**

We recommend that the UK, Northern Irish, Scottish and Welsh governments strengthen the competent authority role²⁹ by introducing a pre-approval process for infant formula product labels.

This would ensure that only products that are compliant with the regulations are placed on the market and could help to reduce subsequent calls on local authority Trading Standards Services' resources.

Next steps

105. We consider that implementing this package of measures is essential to drive improved outcomes for parents. We therefore strongly encourage governments to act on our recommendations, vigorously and in full. We note however that these options are aimed at shifting widespread and deep-seated patterns of consumer behaviour. While we believe that this package has a strong chance of achieving this, the extent to which it will do so is inherently uncertain. It remains open to governments to consider, additionally, removing some regulatory restrictions including on price promotions should they wish to revisit the public policy position in terms of any impact on breastfeeding. We note in this regard that we have not seen any evidence that infant formula prices influence the decision of whether or not to breastfeed.
106. If, having implemented our recommendations, governments consider that the impact on consumer outcomes is insufficient, it remains open to governments to consider the backstop option of introducing price controls.

²⁹ Regulations currently provide that no food business operator may place an infant formula on the market unless they have given prior notice to the competent authority where the product is being marketed. It is the responsibility of individual businesses to ensure their compliance with the law. In our view, the absence of a pre-authorisation process means that products can be placed on the market before the competent authority has reviewed the material submitted which may reveal concerns about regulatory compliance.

107. Following publication of our final report, we stand ready to engage with governments and others to explain the recommendations, and to facilitate and support their implementation.