



To: Elisabeth Ribbens – Guardian global readers’ editor

Cc: Jack Simpson – Guardian Business reporter and John Collinridge – Guardian Business editor

17 August 2024

Dear Elisabeth,

RE: Complaint about misleading and inaccurate headline in the Guardian Business on 16 August 2024
Rules on baby formula ads push up costs for parents, UK regulator says

I am writing to you from First Steps Nutrition Trust¹, a small, independent public health nutrition charity providing evidence-based information about eating well from pre-conception to 5 years, aimed at health care professionals and policy makers. First Steps is the current Secretariat for the Baby Feeding Law Group (BFLG)-UK² which now comprises 38 key organisations and independent expert members, and has been advocating for 27 years for government and policymakers to take action to prevent inappropriate marketing of infant formula and other breastmilk substitutes.

We are writing to submit a complaint about the Guardian Business article with the headline ***Rules on baby formula ads push up costs for parents, UK regulator says***³ that was written by Jack Simpson and published on Friday 16 August 2024, 12:51 BST, online. We believe that the current headline is inaccurate and misleading, therefore breaching the first part of the Guardian’s Editorial Code of practice, namely that of 1. Accuracy. The byline (*“Investigation shows restrictions on makers from promoting price reductions softens competition”*) is more accurate. The Guardian Business article is based on an update published by the Competition and Markets Authority (CMA) on 16 August 2024⁴. Nowhere in the CMA market study update does it say that the regulations restricting infant formula marketing are responsible for increasing infant formula costs in the UK.

The 16 August 2024 CMA update states: *“The CMA has identified significant concerns that the **combined** effect of the current regulatory framework, the behaviour of manufacturers and suppliers and the needs and reactions of people buying formula, are resulting in poor market outcomes.”* This indicates three main reasons for inappropriately high infant formula prices including 1. the current regulatory framework (and not the marketing restrictions themselves); 2. the behaviour of manufacturers and suppliers; and 3. the needs and reactions of people buying formula. The headline stating that rules on formula ad push up costs focuses on one aspect of the marketing restrictions and ignores other aspects of the regulatory framework and the other two factors.

¹ First Steps Nutrition Trust. <https://www.firststepsnutrition.org/>

² Baby Feeding Law Group (BFLG) UK. <https://www.bflg-uk.org/about-us/#who-we-are>

³ <https://www.theguardian.com/business/article/2024/aug/16/rules-on-baby-formula-ads-push-up-costs-for-parents-uk-regulator-says>

⁴ <https://www.gov.uk/cma-cases/infant-formula-and-follow-on-formula-market-study#full-publication-update-history>

The comprehensive 3-page **CMA Infant and follow-on formula market study August 2024 update**⁵, states (point 6): *“For public health reasons, the advertising of infant formula is restricted, and other promotional and commercial activities are also restricted to avoid inducing the purchase of infant formula. Since price reductions cannot be promoted, this has the effect of softening competition on price. We are also considering whether the regulations around labelling and marketing of infant formula are being enforced effectively.”* Therefore, the headline chosen has interpreted the regulatory impact of “weak competition” to mean that marketing restrictions push up price. This is not what the CMA have said. The CMA have said that there is weak competition in the sector, and that the currently regulatory framework is a problem. They have also said that it is unclear whether the regulations are being effectively enforced. First Steps has published reports and research articles illustrating that the regulations are not being effectively enforced. We have submitted many complaints about violations of the regulations which have not been adequately resolved, illustrating that the regulations are not being effectively enforced. This is why the CMA have stated that “the current regulatory framework” is one of the factors contributing to high prices, which is quite different from stating that marketing restrictions are pushing up infant formula prices. The CMA also stated that the regulatory framework for infant formula is important to support public health objectives.

Alternatives for a more accurate headline for this article could be:

- Competition watchdog highlights major issues in regulatory framework and market for formula products
- Competition watchdog warns that infant formula manufacturer and supplier practices may lead to poor market outcomes
- Competition watchdog confirms that consumers are paying too much for infant formula

On the same day as your article, a media piece appeared in the Telegraph, with a headline that we believe to be much more accurate: ***Baby formula makers face profiteering claims***⁶.

Unfortunately, some organisations and individuals in the UK are campaigning for current infant formula legislation to be weakened. We have compiled a briefing document to clarify misconceptions about the UK law on the marketing of infant formula⁷ and we encourage you to read this.

In addition to the misleading headline, the first sentence of the article states: *“Strict rules on the advertising of baby formula are pushing up costs for parents in the UK, the competition watchdog has found, as it attempts to tackle “historically high” prices for the products.”* This is also inaccurate, as the UK has some of the weakest rules in the world about advertising of infant formula, as documented in a May 2024 global status report on national implementation of the International Code of Marketing of Breast-milk substitutes⁸ which shows that UK legislation scores just 40/100 compared to World Health Organization guidance.

We hope you will give careful consideration to this important matter and consider a more accurate headline.

Yours sincerely,

Dr Katie Pereira-Kotze, Senior Nutritionist, First Steps Nutrition Trust

Email: katie@firstsepsnutrition.org

⁵ https://assets.publishing.service.gov.uk/media/66bdee5cc32366481ca4914c/August_2024_update.pdf

⁶ <https://www.telegraph.co.uk/business/2024/08/16/baby-formula-makers-face-profiteering-claims/>

⁷ https://www.bflg-uk.org/s/BFLG-UK-Misinterpretations-about-infant-formula-marketing-in-the-UK_25Jan2024_Final.pdf

⁸ <https://www.who.int/publications/i/item/9789240094482>