



Office of Commissioner
Rebecca Kelly Slaughter

United States of America
FEDERAL TRADE COMMISSION
Washington, D.C. 20580

STATEMENT OF
COMMISSIONER REBECCA KELLY SLAUGHTER JOINED BY
CHAIR LINA M. KHAN AND COMMISSIONER ALVARO M. BEODYA

*Regarding FTC Staff Report:
“Market Factors Relevant to Infant Formula Supply Disruptions”*

March 13, 2024

Early 2022 saw a shortage of infant formula across the United States. Today, FTC staff have published a report describing various competition factors that contributed to the fragility of our infant formula supply, while recognizing the need for policymakers to carefully balance these considerations against other priorities beyond the scope of the FTC’s authority. We unequivocally support the mission of the Special Supplemental Nutrition Program for Women, Infants, and Children program (“WIC Program” or “WIC”). It is essential. We write separately to highlight key elements of the report that we hope will strengthen the program for years to come.

First, this report underscores the heightened dangers of market consolidation in critical sectors. The temporary loss of a major supplier, combined with supply chain difficulties brought on by the COVID-19 pandemic, stretched the infant formula market thin. Apart from breastmilk, formula is the only source of nutrition for infants, making them extremely vulnerable to market disruptions.¹ Families often have little choice when it comes to infant formula brands and can be highly sensitive to price hikes and supply disruptions. Fewer suppliers in the marketplace may cause increased burden and anxiety should one supplier become unavailable. Further, more data is needed on the impact of market concentration on families who require medically-necessary specialty formula to address allergies, metabolic disorders, and other serious medical conditions.² This information is important because specialty formulas can have even fewer manufacturers and more sensitive supply chains, with disruptions causing adverse effects on particularly vulnerable infants.

Second, this report shows that building resilient markets should be an important factor as we design government programs. WIC is vital for getting formula and other nutrition to infants and families. More than half of the routine infant formula³ sold in the United States is purchased by

¹ U.S. FOOD & DRUG ADMIN., FDA EVALUATION OF INFANT FORMULA RESPONSE, 7 (Sep. 2022), *available at* <https://www.fda.gov/media/161689/download>.

² The term “specialty formula” refers, in this report, to formulas needed to address a specific medical condition. Some industry and government entities use the term to refer to premium branded products that do not address medical conditions.

³ In this report, the term “routine infant formula” refers to formulas that are not intended to address specialized infant medical needs.



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participants in the WIC Program.⁴ However, the WIC Program requires that state agencies purchase all routine infant formula from a single manufacturer in exchange for rebates. This results in cost savings for states and the federal government and allows the Program to cover more participants but leaves each state dependent on a single infant formula manufacturer. Single-supplier contracts also risk foreclosing competition among infant formula manufacturers or erecting barriers for new suppliers who want to enter the infant formula market. As a result, the single-supplier WIC contract mechanism can make it more likely that a lone contaminant outbreak or incident will have outsized effects that lead to serious formula supply disruptions.

This report makes clear that the factors that contributed to the 2022 formula shortage are complex and continue to characterize America's infant formula markets today. As a result, the Commission's assessment of the competition impacts of concentration and single-supplier contracting makes a valuable contribution to ongoing policy analyses that seek to make infant formula markets more resilient in the future.

We thank staff for their valuable work on this report.

⁴ *Infants in USDA's WIC Program consumed an estimated 56 percent of U.S. infant formula in 2018*, USDA ERS, <https://www.ers.usda.gov/data-products/chart-gallery/gallery/chart-detail/?chartId=103970> (last updated May 23, 2022).