# WHO Compliance Panel - Summary for Implementing and Monitoring the International Code of Marketing of Breast-milk Substitutes in New Zealand: The Code in New Zealand (Ministry of Health 2007)

# 1 July 2015 - 30 June 2016

*Meetings of the Panel*

The Compliance Panel convened four times between 1 July 2015 and 30 June 2016. Meetings were held in November 2015, February 2016, May 2016 and June 2016.

*New complaints*

From 1 July 2015 to 30 June 2016, the Ministry received 10 formal complaints alleging a breach of the Infant Nutrition Council Code of Practice for the Marketing of Infant Formula in New Zealand (INC Code of Practice).

**Complaint number 08-2015-08**

The first complaint, lodged in August 2015, was against GMP Dairy for advertising Cowala infant formula on the Baby Show website (the website). The advertising was from at least August 2014 and remained on the website under ‘Past Shows/Auckland 2014’. The complainant alleged that the advertising breached Articles 4.2, 4.3, 5.1, 5.5 and Article 8.2 of the INC Code of Practice. GMP Dairy’s response to the complaint was that they were unaware that the product information they provided to the Baby Show organisers was for the website. On learning this, GMP Dairy had the information removed from the website. The complainant was not satisfied with the response and referred the complaint to the Panel.

The Panel determined that GMP Dairy was in breach of Articles 4.2, 4.3 and 5.1 of the INC Code of Practice, but that there was insufficient information to determine a breach of Article 5.5 and Article 8.2. The marketing of Cowala infant formula was directly to the public (a breach of Article 5.5) and did not include information required under Articles 4.2 and 4.3. The Panel’s decision was sent to affected parties on 16 December 2015.

In January 2016, the complainant lodged an appeal against the Panel’s decision in relation to not finding GMP Dairy in breach of Articles 5.5 and 8.2. In February 2016, GMP Dairy lodged an appeal against the Panel’s decision in relation to finding GMP Dairy in breach of Articles 4.2, 4.3 and 5.5 of the INC Code of Practice.

The Adjudicator referred the complaint back to the Panel to re-determine Articles 4.3 and 5.5. The Panel upheld its decision that GMP Dairy had breached Articles 4.2, 4.3 and 5.1, and that there was insufficient information to determine a breach of Articles 5.5 and 8.2 of the INC Code of Practice. The Panel’s decision was sent to affected parties on 15 July 2016.

**Complaint number 10-2015-09 and 10-2015-10**

In October 2015, two complaints were lodged about the same infant formula marketer for two different online banner advertisements for toddler milk products. The complainant considered the advertisements were marketing infant formula because there was a link from the banner ad to the marketer’s formula website which contained information about infant formula. The marketer’s response to the complaint was that the banner ads are out of scope because they are for toddler milk, not infant formula. The complainant was not satisfied with the response and referred the complaint to the Panel.

The Panel dealt with the complaints separately. After consideration, the Panel did not uphold either complaint against the INC Code of Practice. The Panel’s decisions were sent to affected parties on 23 March 2016.

**Complaint number 10-2015-11**

In October 2015, a complaint was lodged about educational material on an infant formula marketer’s product website, as well as its information services. The complainant considered that the infant formula marketer had breached Articles 4.1, 4.3, 5.5 and 8.2 of the INC Code of Practice. The marketer rejected the allegations that it had breached the INC Code of Practice.The complainant was not satisfied with the response and referred the complaint to the Panel.

After consideration, the Panel did not uphold the complaint against the INC Code of Practice. The Panel’s decision was sent to affected parties on 23 March 2016.

**Complaint number 10-2015-12**

In November 2015, a complaint was lodged about an online video advertorial for a toddler milk product on YouTube. The complainant considered that the advertorial was marketing the entire formula range, including infant formula, and alleged that it breached Articles 4.1, 4.2, 4.3, 5.1 and 8.2 of the INC Code of Practice. The marketer’s response to the complaint was that the advertorial is out of scope because it is for toddler milk, not infant formula. Furthermore, the video had been removed from YouTube. The complainant was not satisfied with the response and referred the complaint to the Panel.

The Panel was unable to determine the complaint because the advertorial had since been removed from YouTube. Affected parties were notified of the outcome of the complaint on 23 June 2016. Subsequently, the marketer provided a copy of the advertorial to the Panel which the Panel determined was out of scope of the INC Code of Practice.

**Complaint number 10-2015-13**

In November 2015, a complaint was lodged about material posted on an infant formula marketer’s social media page. The complainant considered the material breached Articles 4.1, 4.2, 4.3, 5.5 and 8.2 of the INC Code of Practice. The marketer denied that the page was within the scope of the Code, however, had made some changes to the site in response to the complaint. The complainant was not satisfied and referred the complaint to the Panel.

The Panel could not assess the complaint because the material that was the subject of the complaint had either been altered or deleted. The Panel acknowledged that the marketer had been responsive to receiving a complaint against it and this is the ideal outcome for a self-regulatory process. Affected parties were notified of the outcome of the complaint on 23 June 2016.

**Complaint number 10-2015-14**

In November 2015, a complaint was lodged regarding product information on an infant formula marketer’s website. The complainant alleged the information breached Articles 4.1 and 8.2 of the INC Code of Practice. The marketer rejected the allegations that it had breached the INC Code of Practice. The complainant was not satisfied with the response and referred the complaint to the Panel.

The Panel determined that the complaint was out of scope of the INC Code of Practice as it was about health claims and labelling of formula products. The Panel’s decision was sent to affected parties on 23 June 2016.

**Complaint number 10-2015-15**

In November 2015, a complaint was lodged concerning educational material on an infant formula marketer’s website. The complainant alleged the website breached Articles 4.1, 4.3, 5.5 and 8.2 of the INC Code of Practice. The marketer rejected the allegations that it had breached the INC Code of Practice, however, had made amendments to the website to avoid any potential uncertainty. The complainant was not satisfied with the response and referred the complaint to the Panel.

After consideration, the Panel did not uphold the complaint against the INC Code of Practice. There were a number of passages that were the subject of complaint that had been amended. The Panel could only make a decision on the information that remained unchanged. The Panel’s decision was sent to affected parties on 23 June 2016.

*Complaints still in progress as at 30 June 2016*

**Complaint number 05-2016-18**

In May 2016, a complaint was lodged about online advertisements for an infant formula marketer’s product website via Google search results. The complainant alleged the ads breached Articles 4.2, 4.3, 5.1 and 5.5 of the INC Code of Practice. The marketer rejected the allegations that it had breached the INC Code of Practice. The complainant was not satisfied with the response and referred the complaint to the Panel.

**Complaint number 05-2016-19**

In May 2016, a complaint was lodged about infant formula related webpages on an infant formula manufacturer’s global company website. The complainant alleged the website breached Articles 4.1, 4.2, 4.3, 8.2 and 9.1 of the INC Code of Practice. The manufacturer rejected the allegations as the website is not marketing a branded infant formula product. The complainant was not satisfied with the response and referred the complaint to the Panel.

*Marketing practices of companies who do not belong to the Infant Nutrition Council*

From 1 July 2015 to 30 June 2016, the Ministry received correspondence about two instances of marketing practices by infant formula companies who do not belong to the Infant Nutrition Council. The marketing practices reported included promoting infant formula on the Baby Show website and marketing infant formula on a daily deals website.

In the case of the company that was promoting infant formula on the Baby Show website, the information was amended to remove all reference to infant formula shortly after the Ministry was alerted to it. The Ministry responded to the second complaint by sending a letter (from the Director of Public Health) to the companies (daily deal site and the infant formula manufactuer) letting them know their marketing practices had been drawn to the attention of the Ministry of Health. The letters provided information about the Code in New Zealand and encouraged the companies to align with New Zealand’s standards for marketing infant formula by not advertising infant formula for infants under the age of six months.

*Other related work*

**Infant feeding in emergencies**

The Ministry completed its work on infant feeding in emergencies. This work was commenced in 2014 in response to issues arising from the Christchurch earthquake and to align with the World Health Assembly’s 2010 resolution on infant and young child feeding in emergencies (WHA63.23). The Ministry has developed a position statement on infant feeding in an emergency. The position statement, along with advice for health practitioners, emergency responders, and parents and caregivers, on infant feeding in emergencies, was published on the Ministry’s website in December 2015.

**Use of ‘The Code of Practice for Health Workers Online Learning Tool’**

Approximately 700 health workers have used the Ministry’s online learning tool since its launch in April 2015. The Ministry developed an online education tool about the Code of Practice for Health Workers to increase awareness and knowledge of the Code. The course is designed for all health workers (GPs, midwives, lactation consultants, dietitians, and pharmacists) and aims to educate health workers about their responsibilities under the Code and make them aware of New Zealand’s voluntary, self-regulatory system for implementing the International Code. The course can contribute to Health Practitioners Continuing Education requirements.

**United Nations Convention on the Rights of the Child (UNCROC)**

The Ministry contributes regularly to Ministry for Social Development (MSD) reporting and work on the United Nations Convention on the Rights of the Child (UNCROC). The Ministry has provided information on:

* breastfeeding statistics
* initiatives to support and promote breastfeeding
* New Zealand’s self-regulatory process for implementing the WHO International Code of Marketing of Breast-milk Substitutes.

The Ministry provided information on the latest breastfeeding statistics.

<http://www.health.govt.nz/publication/indicators-well-child-tamariki-ora-quality-improvement-framework-march-2016>