**Summary for 34th meeting (22 June 2021):**

The Compliance Panel (The Panel) met via videoconference to discuss two complaints.

The complaint decisions from the 34th meeting have been finalised.

* **Complaint against Zuru (Haven) (03-2021-01).** This complaintcontained 11 images and/or text from posts on Zuru’s Haven Baby Facebook page. The Panel considered each example in relation to Articles 4 and 5.1.

Article 5.1: Marketing to the general public

* + Example 1: The Panel agreed that Zuru has breached Article 5.1 as the use of the phrase ‘infant formula’ is marketing formula to the general public.
  + Example 1: The Panel agreed that Zuru has not breached Article 5.1 in relation to the use of this phrase.
  + Example 2: use of the phrase ‘find your own formula’. The Panel agreed that Zuru has not breached Article 5.1 because it is not unreasonable to consider the company’s interpretation.
  + Example 2: The Panel agreed that it is inappropriate to use the images but it is not a breach of Article 5.1 because it is not linked to text or images of infant formula or infants. Zuru should be advised to follow the INC guidelines on advertising content.
  + Example 3: The Panel noted its previous discussion on this phrase and concluded that Zuru has not breached Article 5.1 in relation to the use of this phrase in this example.
  + Example 4: The Panel agreed that this post did not breach Article 5.1 because it is not advertising infant formula and does not refer to infant formula.
  + Example 5: The Panel agreed that the images used in Example 5 do not breach Article 5.1 because the images are not linked to text or images of infant formula or infants aged under 12 months. Zuru should be advised to follow the INC guidelines on advertising content.
  + Example 6: use of the phrase ‘Haven Baby’ in the post title. The Panel:
    - agreed that a baby is a very young child aged under 12 months (not a child aged three years) and that the word ‘baby’ does not specifically exclude infants aged under 12 months
    - accepted that the use of the word ‘baby’ alone is not a breach of the INC Code of Practice, but noted that the context in which the word ‘baby’ is used is important
    - noted that the INC discussed the brand name ‘Haven Baby’ with Zuru, and agreed that it is an unwise choice of brand name because of the potential for breaches of the INC Code of Practice (depending on the context)
    - agreed that it does not have jurisdiction to comment on the brand name, Haven Baby (as a stand-alone phrase), but that specific content published under ‘Haven Baby’ could potentially breach the INC Code of Practice (either directly or by reasonable inference that infant formula is being marketed) and alleged breaches for specific content are within the Panel’s jurisdiction
    - agreed that this example breaches Article 5.1 because it is reasonable to consider ‘milk’ refers to infant formula because of the proximity of the word ‘milk’ to the phrase ‘Haven Baby’, without clarification that the product is toddler milk
    - agreed that Zuru should be advised to specify that products are ‘toddler milk’.
  + Example 7: The Panel clarified that the post discusses maternal health and wellbeing. It does not discuss infant formula and therefore this post does not breach Article 5.1. The Panel will request that the Ministry of Health review the Haven Baby website and Facebook page and provide evidence-based advice to Zuru about maternal nutrition for its consideration. It also noted that Zuru should consider only including content about toddler nutrition on website + Facebook pages.
  + Example 8: The Panel noted its previous discussion on the use of images of bottles and teats. It agreed that the images used in Example 8 do not breach Article 5.1 because the images are not linked to text or images of infant formula or infants aged under 12 months. Zuru should be advised to follow the INC guidelines on advertising content.
  + Example 9: The Panel noted that the post does not advertise infant formula. It agreed that Zuru has not breached Article 5.1 in relation to the use of this phrase.
  + Example 10: It agreed that, in this context, the use of the phrases ‘first few months’ and ‘your new baby’ do not relate to the marketing of infant formula and that Zuru has not breached Article 5.1 in relation to the use of this phrase in this example.
  + Example 11: The Panel agreed that Zuru has breached Article 5.1 as the use of the phrase ‘infant formula’ is marketing formula to the general public.

Article 4: Information + education

* + Example 1: The Panel agreed that Zuru has breached Article 4.1, 4.2 and 4.3 because the information to be provided under Article 4 was not available. It has not breached Article 4 for the use of the phrase ‘little tummies’ because this phrase does not advertise infant formula.
  + Examples 2, 3, 4, 5, 6, 7, 8, 9 and 10: The Panel agreed that Article 4 is not applicable to this post (i.e., it does not meet the definition of informational and educational materials provided by the marketers of infant formula).
  + Example 11: Zuru accepted that the use of the phrase ‘infant formula’ is a breach of Article 4.1, 4.2 and 4.3 because use of the phrase ‘infant formula’ is marketing formula to the general public and the information to be provided under Article 4 was not available.
* **Complaint against Zuru (Haven) (03-2021-03)** The Panel found that Zuru breached Article 5.1 because the video refers to infant formula. The Panel considered the complaint in relation to Article 4. The Panel found that Zuru did not breach Article 4 because it is not trying to provide information and education about infant formula (i.e., these posts do not meet the definition of informational and educational materials provided by the marketers of infant formula).