**Summary for 37th meeting (30 November 2021):**

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

The complaint decisions from the 37th meeting have been finalised.

* **Complaint against Danone (06-2021-05**) The Panel considered the complaint in relation to Article 5.1. The Panel found that Danone had breached Article 5.1 because the video refers to infant formula. It was noted however that in their complaint response letter, Danone had accepted the breach and had removed the video.
* **Complaint against Fonterra (06-2021-07)**
	+ The Panel noted this was not a breach of Article 4, but also noted that Fonterra had removed this content from the site.
	+ Article 5.1: Marketing to the general public
* Use of “paediatric brand” and “your little one” (i.e., alleged promotional language which does not exclude infants and/or infant formula products): the Panel agreed that Fonterra has not breached Article 5.1 in relation to the use of these phrases. It was noted that the term ‘paediatric’ and ‘your little one’ does not exclude toddlers.
* Use of “paediatric nutrition experts”, “early development” and “full brand”: the Panel agreed that Fonterra has not breached Article 5.1 in relation to these phrases because these do not exclude toddlers (i.e., not infants alone).
* “A full range of formulas” does not exclude infant formula, however it is a general statement and does not highlight a specific product. The Panel agreed that this is not a breach of Article 5.1, but noted that it was unwise to refer to “formula” instead of “toddler milk”.
* References to NeoPro1 and NeoPro2: the Panel agreed that Fonterra had breached Article 5.1 when listing these products. It acknowledged that Fonterra had removed the reference.
* **Complaint against Zuru (Haven) 06-2021-09** The Panel found that Zuru breached Article 5.1 because the webpage is a Haven webpage, it makes reference to babies and in turn gives the impression that formula is referring to infant formula.
* **Complaint against NIG Nutritionals 06-2021-16** Discussion took place on this complaint, given the response from NIG that this complaint had previously been addressed and action had been taken.
* **Complaint against NIG Nutritionals 06-2021-21** The Panel considered each example in relation to Articles 5.1 and 5.5, noting that text identified on “Why You’re Seeing this Ad”.

The Panel agreed that advertisements must comply with the INC Code of Practice and inclusion of the phrase `infant Formula’ in a Facebook `why am I seeing this ad’ tag use does not breach Article 5.1 of the INC because Facebook controls this wording and it is not an INC member company (therefore Article 5.1 complaints about this issue are out of scope). Article 5.5 relates to seeking direct contact with parents or pregnant women. The Panel did not consider that there was a breach of article 5.5.

**Corrections made to the WHO’s 2020 Status Report on the National Implementation of the Code of Marketing of Breast-milk Substitutes**

* This needs to be addressed with the Ministry for Primary Industries. The Panel raised concerns on the inaccuracies including recognising a voluntary code within New Zealand. Extract from 25 August 2020 Minutes – detailing the action:
* *The WHO has released its 2020 Status Report on the National Implementation of the Code of Marketing of Breast-milk Substitutes. Both New Zealand and Australia have been classified as having no legal measures in place regarding infant formula; however, this is not correct (i.e. the Food Standards Code contains a range of mandatory requirements regarding the manufacture of infant formula and a voluntary code with a robust complaints system). Neither Ministry was asked to provide content to inform the report and it is likely that the report was prepared only by review of the Ministry of Health’s website. The Ministry of Health and the Ministry of Primary Industries have submitted additional content to the WHO on the Food Standards Code and have asked that the report be corrected to reflect this data.*