**Summary for 38th meeting (22 February 2022):**

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

The complaint decisions from the 38th meeting have been finalised.

* **Complaint against Fonterra (06-2021-07)** This complaint 06-2021-07 was considered at the WHO Code meeting on 30 November 2021. A draft determination was prepared; however, in circulating the draft to the Panel further clarification was sought on the consistency of the no breach decision. The Panel agreed that the context of this general statement was not advertising infant formula and confirmed their no breach decision.
* **Complaint against NIG Nutritionals 06-2021-16** This complaint contained content regarding an alleged breach of Article 5.1 of the INC Code including the wording of “infant formula” in the Shop Now button with Baby Steps Products. This complaint was seen on 31 May 2021. Following a review of previous NIG Nutritionals complaints, the Panel considered this issue had been addressed in response to previous complaint 11-2020-02. In relation to that complaint (11-2020-02), the advertisement was sighted in November 2020, a response was received from NIG Nutritionals on the 16 February 2021 and a determination that NIGH was in breach was issued on 8 April 2021.

The Panel found that this matter had been dealt with in the context of the previous complaint 11-2020-02 and that no further determination was required.

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

The WHO produced 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 covering the marketing of infant formula). Neither the Ministry in New Zealand or the Department in Australia 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.

New Zealand’s 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.