# 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 2014 - 30 June 2015

*New complaints*

From 1 July 2014 to 30 June 2015, the Ministry received four formal complaints. All of these complaints alleged a breach of the INC Code of Practice.

**Complaint number 07-2014-04**

The first complaint lodged in July 2014 was about an infant formula manufacturer advertising its infant formula products on a Chinese Community website. The complainant considered the advertising breached the INC Code of Practice by advertising infant formula directly to the public. The manufacturer responded to the complaint stating they had not arranged the advertising and had asked for it to be removed.The complainant was satisfied with the response and so the complaint was closed.

**Complaint number 07-2014-05**

The second complaint lodged in July 2014 was against New Image Group (Baby Steps brand) for an online video advertisement for its Baby Steps goat milk infant formula product range. The video could be viewed on both YouTube and on the Baby Steps website. The complainant considered the video breached Articles 1, 4.2, 4.3, 5.1 and 11.1 of the INC Code of Practice. New Image Group accepted that the video on YouTube was a breach. The complainant was not satisfied with the company’s response and referred the complaint to the Compliance Panel (the Panel).

The Panel determined that New Image Group was in breach of Articles 4.2, 4.3 and 5.1 but not Articles 1 and 11.1 of the INC Code of Practice for posting the video on YouTube. The Panel did not consider the video on the Baby Steps website was a breach because the viewer has to accept a breastfeeding disclaimer before the video will play. The Panel recommended that New Image Group take down the video advertisement on YouTube. The Compliance Panel’s decision was sent to affected parties on 22 December 2014.

**Complaint number 10-2014-06**

The third complaint lodged in October 2014 was against New Image Group (Baby Steps brand) for an advertorial titled “Goat Milk Infant Formula to NZ Mothers” in elocal (an online magazine) and for information on the Baby Steps product website. The complainant alleged that the advertorial and website information breached Articles 1, 4.2, 4.3, 5.1 and Article 8.2 of the INC Code of Practice. New Image Group responded to the complaint stating that the advertorial was a PR release and had been published without their approval. The complainant was not satisfied with the company’s response and referred the complaint to the Panel.

The Panel determined that New Image Group was in breach of Articles 4.2, 4.3, 5.1 and 8.2 but not Article 1 of the INC Code of Practice for the advertorial in elocal. The Panel requested that the advertorial be removed. The Panel did not find New Image in breach of the INC Code of Practice in relation to the Baby Steps website because there is a disclaimer which must be accepted before information about their infant formula products can be accessed. The Compliance Panel’s decision was sent to affected parties on 13 March 2015.

**Complaint number 10-2014-07**

The fourth complaint lodged in October 2014 was against New Image Group (Baby Steps brand) for an advertorial titled “Goat milk based formula” on DIY Father website and for information on the Baby Steps product website. The complainant alleged that the advertorial and website information breached Articles 1, 4.2, 4.3, 5.1 and Article 8.2 of the INC Code of Practice. New Image Group responded to the complaint stating that the advertorial was placed on DIY Father website without their approval. The complainant was not satisfied with the company’s response and referred the complaint to the Panel.

The Panel determined that New Image Group was in breach of Articles 4.2, 4.3, 5.1 and 8.2 but not Article 1 of the INC Code of Practice for the advertorial on DIY Father website. The Panel requested the advertorial be removed. The Panel did not find New Image in breach of the INC Code of Practice in relation to the Baby Steps website because there is a disclaimer which must be accepted before information about their infant formula products can be accessed. The Compliance Panel’s decision was sent to affected parties on 13 March 2015.

*Complaints carried over*

Three complaints from the previous year (1 July 2013 – 30 June 2014) were carried over.

**Complaint number 04-2014-01**

A complaint was lodged in April 2014 concerning promotional information on the NuZtri website. The complainant considered the website content breached Article 4 of the INC Code of Practice. The Panel determined that NuZtri was in breach of Article 4.1 and 4.2 of the INC Code of Practice and recommended that NuZtri seek professional assistance to rewrite the information on their website. The Compliance Panel’s decision was sent to affected parties on 31 October 2014.

**Complaint number 06-2014-02**

A complaint was lodged in June 2014 against Fresco Nutrition for an editorial advertising Fresco Goat milk formula on the Kidspot website and for information on the Fresco website. The complainant alleged that Fresco Nutrition had breached Articles 1, 4.1, 4.2, 4.3, 5.1, 5.5, 8.2, and possibly 8.1 of the INC Code of Practice. The Panel determined that Fresco was in breach of Articles 4.1, 5.1, 5.5 and 8.2 of the INC Code of Practice. The Panel did not find Fresco in breach of Articles 1, 4.2, 4.3 and 8.1. The Panel noted that the editorial had been removed from the Kidspot website. The Panel requested that Fresco amend the information on its website that is related to a breach of Articles 4.1 and 8.2. The Compliance Panel’s decision was sent to affected parties on 22 December 2014.

**Complaint number 06-2014-03**

A complaint was lodged in June 2014 against New Image Group for an editorial advertising Baby Steps goat milk formula on the Kidspot website and for information on the Baby Steps website. The complainant considered New Image Group had breached Articles 1, 4.1, 4.2, 4.3, 5.1, 5.5, 8.2 and possibly 8.1 of the INC Code of Practice. The Panel determined that New Image Group was in breach of Articles 4.3, 5.1, 5.5 and 8.2 of the INC Code of Practice 2012. The Panel did not find New Image Group in breach of Articles 1, 4.1, 4.2, and 8.1. The Panel noted that the editorial had been removed from the Kidspot website. The Panel requested that New Image Group amend the information on its website that is related to a breach of Article 8.2. The Compliance Panel’s decision was sent to affected parties on 22 December 2014.

*Appeals*

No appeals were received between 1 July 2014 and 30 June 2015.

*Appeals carried over*

There were two appeals from the previous year (1 July 2013 – 30 June 2014) that were carried over and they concerned the same complaint.

In August 2013, a complaint [complaint no. 10-2013-02] was lodged against Heinz Wattie’s for a Heinz Nurture Gold advertisement aired on TV1. The complainant considered the advertisement breached Articles 1 and 5.1, and possibly Article 8.1 of the INC Code of Practice. The Panel determined that Heinz Wattie’s Ltd was in breach of Article 5.1. In February 2014 the Ministry received appeals against the Panel’s decision from both Heinz Wattie’s Ltd and the complainant. The Adjudicator referred the complaint back to the Panel for redetermination. The Panel upheld its decision that Heinz Wattie’s Ltd was in breach of Article 5.1 and did not find Heinz Wattie’s Ltd in breach of Articles 1 and 8.1.

*Marketing practices of companies who do not belong to the INC*

From 1 July 2014 to 30 June 2015, the Ministry received correspondence about five instances of marketing practices by infant formula companies who do not belong to the INC. One of the complaints also involved a health care provider. The marketing practices reported included advertising infant formula on a daily deal site; promoting infant formula at a Baby Show; promotion and distribution of samples of Stage 1 infant formula at a supermarket; promoting infant formula at a showroom; and selling discounted infant formula, past its expiry date, via a health care provider.

In four cases, the Ministry responded to these complaints by sending a letter (from the Director of Public Health) to the companies 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 the majority of marketers who have committed to not advertise infant formula for infants under the age of six months. The Ministry of Health also advised the CEO of INC, so that the INC could contact the companies and encourage them to join the INC. In the case where a health provider was implicated in the complaint the Ministry contacted the relevant District Health Board.

Two of the complaints also raised concerns about food safety and breaches of the Food Standards Code. These were separately investigated by the Ministry for Primary Industries.

In one case it was not appropriate to write to the company as it was not selling its product in New Zealand and was solely manufacturing infant formula for export to China.

*Other*

**Authorisation of the New Zealand Code of Practice for the Marketing of Infant Formula**

On 2 April 2015, the New Zealand Commerce Commission authorised the Infant Nutrition Council Code of Practice for the Marketing of Infant Formula in New Zealand (INC Code of Practice). The INC asked the Commission to authorise its Code under section 58 of the Commerce Act, as restrictions on advertising and marketing may lessen competition. The Commission decided that the public benefits arising from higher breastfeeding rates outweigh any lessening of competition from the arrangement, and granted the Authorisation.

**Infant feeding in emergencies**

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)[[1]](#footnote-1) the Ministry initiated work on infant feeding as part of national emergency preparedness plans. As a result of this work the Ministry has revised its position statement and developed four documents to provide advice on infant feeding in emergencies for parents/caregivers, health practitioners, and emergency responders. This work is due to be completed in 2015 and will be published on the Ministry of Health website. www.health.govt.nz

**Code of Practice for Health Workers online learning tool**

The Ministry has developed an online educational module about the Ministry’s Code of Practice for Health Workers. The aim of the online course is to raise awareness of the Code of Practice for Health Workers and increase health workers’ knowledge of how to comply with it. The course has been approved by the Midwifery Council of New Zealand and can be used by health practitioners to meet their continuing competency requirements. The course was launched in April 2015 and is available on Learn Online ([learnonline.health.nz](http://learnonline.health.nz/))

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

**Reporting on the implementation of the International Code in New Zealand**

In September 2014 the Ministry of Health reported on the status of the implementation of the International Code of Marketing of Breast-Milk Substitutes (the Code) in New Zealand to the World Health Assembly.

1. *World Health Assembly Resolution 63.23* (2010) [↑](#footnote-ref-1)