**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 2013 – 30 June 2014**

*New complaints*

From 1 July 2013 to 30 June 2014, the Ministry received five formal complaints. All of these complaints alleged a breach of the INC Code.

**Complaint number 09-2013-01**

The first complaint lodged in September 2013 was about an infant formula company marketing ‘from birth formula’ to parents and pregnant women at the Auckland Baby Show on 23-25 August 2013. The complainant considered the advertising breached Articles 4.3 and 5.5 of the INC Code of Practice.

The company responded to the complaint stating the breach was not intentional and that they have modified their marketing practices accordingly. The complainant was satisfied with the response and so the complaint was closed.

**Complaint number 10-2013-02**

The second complaint lodged in October 2013 was about a television advertisement for an infant formula brand that aired on TV1 on 28 August. The complainant considered the advertisement breached Articles 1 and 5.1 of the INC Code of Practice and queried whether the infant formula company had complied with Article 8.1. The company refuted the complaint as they did not consider there had been a breach of the INC Code. The complaint was referred to the Panel.

The Panel determined the infant formula company was in breach of Article 5.1 but not Articles 1 and 8.1 of the INC Code of Practice. The Panel recommended that in future the company need better oversight of the content of their advertisements to ensure compliance with the INC Code of Practice. The Compliance Panel’s decision was sent to affected parties on 19 December 2013. The company was told they had 20 working days to lodge an appeal.

**Complaint number 04-2014-01**

The third complaint was lodged in April 2014 about an infant formula company promoting infant formula on their website. The complainant considered the advertisement breached Article 4 of the INC Code of Practice.

**Complaint number 06-2014-02**

The fourth complaint was lodged in June 2014 about an infant formula company advertising infant formula products on their own and on an external website. The complainant considered the advertisements 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.

**Complaint number 06-2014-03**

The fifth complaint was lodged in June 2014 about an infant formula company advertising infant formula on its own and on an external website. The complainant considered the advertisements 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.

*Appeals*

From 1 July 2013 to 30 June 2014 the Ministry received two appeals. Both appeals were in relation to complaint 10-2013-02 as both the respondent [appeal number 10-2013-02a] and the complainant [appeal number 10-2013-02b] appealed the Compliance Panel’s decision. For both appeals, the Adjudicator referred the complaint back to the Panel for redetermination.

There was one appeal from a complaint made the previous year (1 July 2012 – 30 June 2013) that was carried over. In September 2012, a complaint [complaint no. 09-2012-01] was lodged about an advertisement for infant formula in the 4 July 2012 edition of *New Zealand Doctor.* The Panel determined that the company was not in breach of the INC Code. The complainant appealed this decision on 27 June 2013.

The appeal [appeal number 09-2012-01] was sent to the Adjudicator on 3 July 2013. The Adjudicator upheld the Panel’s decision. Affected parties were advised of the outcome on 25 October 2013. The complaint is now closed.

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

From 1 July 2013 to 30 June 2014, the Ministry received correspondence about four instances of marketing practices by infant formula companies who do not belong to the INC. The marketing practices reported included promoting infant formula at a Baby Show, advertising infant formula on banners, billboards and in magazines.

In all 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.

*Other*

The Ministry updated the complaints procedure and Terms of Reference. These were adopted by the Panel at their 16th meeting in February 2014, and were published on the Ministry’s website on 9 April 2014.

**Commerce Commission**

The Infant Nutrition Council is in the process of making an application for authorisation of the INC Code under the Commerce Act 1986. The Ministry has offered to support the INC with the application process.

**Infant feeding in emergencies**

In response to issues arising from the response to 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. The work includes the Ministry's undertaking to revise its position statement and to provide advice on infant feeding in emergencies for parents/caregivers, health practitioners, and emergency responders.

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

Work has commenced to develop an online educational module about the Ministry’s Code of Practice for Health Workers. The aim of the module will be to raise awareness of the Code of Practice for Health Workers and increase health workers’ knowledge of how to comply with it.

**Health Select Committee report Inquiry into improving child health outcomes and preventing child abuse**

The Health Select Committee (HSC) report was tabled in Parliament on 18 November 2013, and included 130 recommendations, with three recommendations relating to breastfeeding and/or infant formula. The Government response is available on <http://www.parliament.nz/resource/en-nz/50DBHOH_PAP25992_1/33af84276a8645b14543e16c411e6b2e881afa1e>

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

**Ministry Secretariat for WHO Compliance Panel – November 2014**

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