

<b>COMPLAINT NUMBER</b>	20/413
<b>ADVERTISER</b>	Kellogg (Aust.) Pty Ltd (Kellogg)
<b>ADVERTISEMENT</b>	Kellogg's cornflakes Television
<b>DATE OF MEETING</b>	28 October 2020
<b>OUTCOME</b>	Not Upheld No further action required

### **Summary of the Complaints Board Decision**

The Complaints Board did not uphold a complaint about a television advertisement for Kellogg's cornflakes. The Board said the advertisement did not undermine the health and well-being of individuals and the portion size depicted in the advertisement was appropriate for the man shown eating cornflakes.

### **Advertisement**

The television advertisement for Kellogg's cornflakes shows a man sitting in an armchair eating a large bowl of cornflakes. He is talking to a woman sitting in an armchair next to him. He says: "My perfect bowl of cornflakes is a salad bowl ... two minutes flat I reckon I could finish this..."

### **Summary of the Complaint**

The Complainant is concerned the advertisement is promoting over-eating to an ethnic group which is already over-represented in obesity and diabetes statistics. The Complainant said cornflakes are not healthy, especially in large quantities.

### **Issues Raised:**

- Social Responsibility
- Health and well-being

### **Summary of the Advertiser's Response**

The Advertiser defended the advertisement and said it doesn't encourage excessive consumption and the portion size depicted is not excessive, given the actor's age and stature. Kellogg's cornflakes have a 3.5 health star rating out of 5.

## Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following codes:

### ADVERTISING STANDARDS CODE

**Principle 1: Social Responsibility:** Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

**Rule 1(h) Health and well-being:** Advertisements must not undermine the health and well-being of individuals.

### Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 19/008, which was No Grounds to Proceed and 19/102, which was Upheld.

The full versions of these decisions can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

**Decision 19/008** concerned a television advertisement for KFC opens with a woman sitting at an office desk wearing a telephone headset. She answers a call and says “Your call is important to us,” then she says “Please hold the line for... (she breaks into a smile) 15 minutes”. The camera then pans backwards to reveal a pack of KFC Popcorn Chicken on the desk in front of her. The voiceover then says “Put everything on hold with a KFC snack box.”

The Chair of the Complaints Board said the issue of the race of the actor was not relevant as the scenario would work equally well if the actor was of a different ethnicity and the focus of the advertisement was on the extreme, humorous scenario. The Chair ruled there was no apparent breach of Principle 1 or Rule 1(c) of the Advertising Standards Code. The advertisement did not reach the threshold to cause serious or widespread offence and had been prepared with a due sense of social responsibility.

**Decision 19/102** concerned Facebook and Instagram advertisements which show a photo of a breakfast bowl filled with at least eight Cookie Time biscuits and milk. To the right of the photo is a comment from Cookie Time Cookie Bar Queenstown which says: “The struggle is now over to find the perfect breakfast”.

The Complaints Board agreed the advertisements undermine the health and well-being of individuals. This is because a bowl of biscuits and milk is not a healthy breakfast option and the serving size shown in the photo exceeds the recommended serving size of three biscuits.

### Complaints Board Discussion

#### *Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement was cornflakes can be an enjoyable meal and the man in the advertisement enjoyed his cornflakes in a salad bowl with milk.

#### *Does the advertisement undermine the health and well-being of individuals?*

The Complaints Board said the advertisement did not undermine the health and well-being of individuals. The Board said the portion size depicted in the advertisement was appropriate for the man shown eating the cornflakes in the advertisement.

The Complaints Board noted that Kellogg's cornflakes are a breakfast cereal with a health star rating of 3.5. The Board took into account information provided by the Advertiser that the cereal contains 2.5 grams of sugar per serve (about 3/4 tsp sugar) and is low in fat and saturated fat. The Advertiser confirmed the man's cereal bowl contained two cups of cornflakes, plus milk.

*Was the advertisement socially responsible?*

The Complaints Board said the advertisement was socially responsible, taking into account context, medium, audience and product. The Board agreed the ethnicity of the man was not material in this advertisement, which is part of a series of advertisements depicting a range of different people enjoying cornflakes. The Complaints Board noted that the advertisement was humorous and a real life non-scripted situation. The humour came from juxtaposing a smaller sized mother eating her small bowl of cornflakes with her larger sized adult son and his larger bowl.

The Complaints Board said the advertisement was not in breach of Principle 1 or Rule 1(h) of the Advertising Standards Code.

### **Outcome**

The Complaints Board ruled the complaint was **Not Upheld**.

No further action required.

### **APPEAL INFORMATION**

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website [www.asa.co.nz](http://www.asa.co.nz). Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.

## APPENDICES

1. **Complaint**
  2. **Response from Advertiser**
  3. **Response from Media**
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### Appendix 1

#### COMPLAINT

Television Ad Details:  
Choice TV Mysteries at the Museum 2020-08-31 6.20pm

Complaint Details: Ad showed obese Pacific Islander male sitting next to his Mother discussing his favourite way of eating his cornflakes. He had a salad bowl full of cornflakes. Next the ad said "What's your favourite way of eating Kellogg's cornflakes?" Cornflakes are not healthy, especially in large quantities. This advert is promoting overeating, to an ethnic group which is already over represented in obesity and diabetes statistics. Appalling is an appropriate word to describe this advert.

### Appendix 2

#### RESPONSE FROM ADVERTISER, KELLOGG

We refer to your letter to Kellogg (Aust.) Pty Ltd (**Kellogg**) notifying Kellogg of a complaint received in relation to our advertising – in particular, complaint reference number 20/413 (the **Complaint**).

Thank you for providing the opportunity to respond to the Complaint. Set out below is Kellogg's response, together with the information requested at Appendix A and supporting documents. At the outset, Kellogg would like to acknowledge that it is committed to adhering to, and promoting advocacy of, the Advertising Standards Authority's Codes. We agree that advertisers must act with a high level of social responsibility towards consumers. This is a matter that Kellogg treats with a high degree of diligence in its advertising and marketing communications.

As you will see in our response set out below, Kellogg respectfully disagrees with the contentions made in this complaint and respectfully submits that the advertisement complies with the requirements of the Advertising Standards Authority's Codes in all respects.

#### Background

By way of background, the advertisement referred to in the Complaint is a television commercial that is part of a wider campaign showcasing how a diverse range of Australian and New Zealand consumers enjoy their cereal. This includes people of all shapes, sizes, orientations, ethnicities and gender. The intention is to celebrate diversity and showcase the various ways that people enjoy their cereal.

It is important to note that the ads themselves use real people. They are not actors, there is no script, and what is being said are genuine portrayals of how that person loves to eat their cereal. The advertisements use crockery and cutlery from their kitchen as opposed to staged props. The jovial music and light-hearted conversations are intended to portray the relaxed and humorous theme of the campaign.

Kellogg notes further that the foods shown across this campaign are healthy core cereals such as Corn Flakes, Rice Bubbles and Just Right. All of these products meet the Food Standards Australia and New Zealand nutrient profiling scoring criteria meaning that they are suitable to make health claims based on their nutrient profile.

To provide further context on the campaign, a link to the full advertisement showcasing each individual in the campaign is set out at **Appendix A**. We also set out in **Appendix A** the advertisement relating to the Complaint.

### **The Advertisement**

The advertisement in question is set in a family home and shows a mother and her adult son enjoying their perfect bowl of Kellogg's Corn Flakes. The mother, who is small in stature, is enjoying a smaller bowl of cereal whilst her son, who has a similar build to a large rugby player, is enjoying a larger bowl of cereal. Light-hearted and jovial music plays in the background to indicate a comedic setting. The son states matter-of-factly, and in line with the humour of this ad, what his perfect bowl of Corn Flakes is. There is light-hearted and comedic banter between mother and son about the son's perfect bowl of Corn Flakes and the advertisement ends with the mother laughing at her son. [Photo of advertisement removed]

It is important to note again that this advertisement is not scripted and is a genuine portrayal of how the mother and son interacted on the day and how the son eats his cereal.

### **The Complaint**

The complainant is of the view that the advertisement is promoting over-eating with an ethnic group 'already over-represented in obesity and diabetes statistics'. Further, that Corn Flakes are not healthy and particularly in large quantities.

### **The Advertising Standards Code**

The Complaint is made under the Advertising Standards Code (**Code**) and more specifically, Principle 1, Rule 1(h).

*Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.*

*Rule 1 (h) Health and well-being: Advertisements must not undermine the health and well-being of individuals.*

*Guidelines under Rule 1(h):*

*.....*

*Advertisements for food or beverages must not:*

- *Condone or encourage excessive consumption or show a quantity of food or beverage that exceeds the portion size that would be appropriate for consumption by the person or people of the age depicted in the advertisement; or*

Kellogg respectfully disagrees with the contentions made in this complaint and does not consider that the Advertisement breaches Principle 1, Rule 1(h). Kellogg draws the Board's

attention to the following factors that Kellogg submits demonstrates that the advertisement is not in breach.

**The advertisement does not *encourage* excessive consumption and the product portion depicted is reasonable given his age and stature.**

The Complainant alleges that the advertisement is promoting over-eating. We respectfully disagree.

The Guideline under Rule 1(h) makes it clear that excessive consumption, or the quantity of food, is considered in light of what would be '*appropriate for consumption by that person ... of the age depicted*'.

We submit that the amount shown is an appropriate amount of food, and is not excessive, given his age and stature.

According to the Australian and New Zealand NRVs<sup>1</sup>, the recommended average energy intake for a man of such stature and age, is approximately 10-11,000kJ per day. The average kilojoule intake for this man would be higher if he was involved in above average physical activity. However, as the data below will demonstrate, even without such above average physical activity, the amount of food shown in the advertisement is the appropriate and necessary amount of food in order to provide for the energy intake requirements of the person depicted in the advertisement. This is so having regard also to the nutrient profile of the food shown in the advertisement, Kellogg's Corn Flakes. As stated earlier in our response, Kellogg's Corn Flakes is a healthy core cereal that meets NPSC and, as such, is eligible to carry health claims.

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<sup>1</sup> NHMRC & MOH. Nutrient Reference Values Australia New Zealand, 2006.

## Adults

Table 3 - Estimated energy requirements of adult using predicted BMR x PAL

Age yr	BMI = 22.0 <sup>a</sup>		BMR MJ/d	Physical activity level (PAL) <sup>b</sup> Males MJ/day						BMR MJ/d	Physical activity level (PAL) <sup>b</sup> Females MJ/day					
	Ht (m)	Wt (kg)		Male	1.2	1.4	1.6	1.8	2.0		2.2	Female	1.2	1.4	1.6	1.8
19-30	1.5	49.5	-	-	-	-	-	-	-	5.2	6.1	7.1	8.2	9.2	10.2	11.2
	1.6	56.3	6.4	7.7	9.0	10.3	11.6	12.9	14.2	5.6	6.6	7.7	8.8	9.9	11.1	12.2
	1.7	63.6	6.9	8.3	9.7	11.0	12.4	13.8	15.2	6.0	7.2	8.4	9.6	10.8	12.0	13.2
	1.8	71.3	7.4	8.9	10.3	11.8	13.3	14.8	16.3	6.5	7.7	9.0	10.3	11.6	12.9	14.2
	1.9	79.4	7.9	9.5	11.1	12.6	14.2	15.8	17.4	7.0	8.4	9.7	11.1	12.5	13.9	15.3
	2.0	88.0	8.4	10.1	11.8	13.5	15.2	16.9	18.6	-	-	-	-	-	-	-
31-50	1.5	49.5	-	-	-	-	-	-	-	5.2	6.3	7.3	8.4	9.4	10.4	11.5
	1.6	56.3	6.4	7.6	8.9	10.2	11.4	12.7	14.0	5.5	6.5	7.6	8.7	9.8	10.9	12.0
	1.7	63.6	6.7	8.0	9.4	10.7	12.1	13.4	14.8	5.7	6.8	8.0	9.1	10.3	11.4	12.5
	1.8	71.3	7.1	8.5	9.9	11.3	12.7	14.2	15.6	6.0	7.2	8.3	9.5	10.7	11.9	13.1
	1.9	79.4	7.5	9.0	10.4	11.9	13.4	14.9	16.4	6.2	7.5	8.7	10.0	11.2	12.5	13.7
	2.0	88.0	7.9	9.5	11.0	12.6	14.2	15.8	17.3	-	-	-	-	-	-	-

Taking then the Macronutrient Distribution range, it is recommended that the male person depicted in the advertisement consume the following:

- 25% Protein
- 20% Fat
- 55% Carbohydrate

Based on the serving in the bowl, the associated nutrient intake would look as follows:

	Per serve shown in the advertisement	Recommended intake for age and height in 80kg male at 1.9cm tall	% DI based on 10,000kJ	% DI with 1 cup reduced fat milk
Energy	1120kJ	10,000kJ	11.2%	17%
Protein	5.4g	147g	3.7%	10.5%
Fat	0.8g	54g	1.5%	8.2%
Saturated fat	0.6g	24g	2.5%	12.2%
Carbohydrate	57.4g	320g	17.9%	22.2%

Sugars	5g	102g	4.9%	18.3%
Added Sugars	5g	58g (10% energy)	8.6%	8.6%
Dietary fibre	2.8g	30g	9.3%	9.3%
Sodium	338mg	2300mg	14.7%	20.1%

Together with milk, and based on the man eating all of the food shown in the advertisement, the man would be consuming approximately 1700kJ per day with an associated 15.5g protein, 4.4g fat, 71g carbohydrates, 18.8g sugar (of which 5g is contributed by the Corn Flakes and the remainder is contributed by the milk), 2.8g dietary fibre and 460mg sodium.

The data shows that no values exceed more than 22.2% of the recommended daily intake, with his daily intake of energy from the product with milk being only 17%. He is still able to consume 83% of his daily energy intake from other foods.

We respectfully submit that the amount of food depicted in the advertisement is appropriate for the person depicted in the advertisement and that the advertisement is not encouraging excessive consumption.

Further to the above, we also submit the following to support that the advertisement does not undermine the health and well-being of individuals:

- The advertisement celebrates the light-hearted and loving relationship between a mother and her adult son sitting together and eating a nutritious breakfast cereal that meets the nutrient profile requirements to be able to make health claims.
- A reasonable consumer would not interpret this advertisement to suggest any *encouragement* of excessive consumption. The advertisement does not show any scenes of excessive amounts of Corn Flakes or excessive eating. There is one scene of the male person eating and he is seen to be placing one spoon of food into his mouth and eating it in the normal way.
- The discussion between the mother and son is humorous, light-hearted and tongue in cheek.
- The advertisement does not contain any messaging about frequency of consumption and as set out above, based on recommended dietary guidelines, the amount of food shown in the advertisement is appropriate for the male person shown in the advertisement.

### **Corn Flakes is a nutritious breakfast cereal**

The food depicted is not *unhealthy* as the complainant suggests. Kellogg's Corn Flakes is a nutritious breakfast cereal which can be evidenced by:

- meeting the nutrient profiling scoring criteria established by Food Standards Australia New Zealand meaning the product is legally permitted to make health claims. This indicates it has a healthy nutrient profile;
- only containing 2.5 grams of sugar per serve (about 3/4 tsp sugar);
- being low in fat and saturated fat;
- containing 25% of the recommended daily intake (RDI) for various beneficial vitamins and minerals including riboflavin, niacin, vitamin B6, folate and iron and 15% RDI for zinc; and
- having a 3.5 health star rating out of 5.

**Nutrition Information**  
(AVERAGE)  
Servings per package: 6  
Serving size: 35g (1 metric cup†)

	quantity per serving	% daily intake per serving	per serve with 1/2 cup skim milk	quantity per 100g
<b>ENERGY</b>	560 kJ	<b>6%</b>	750 kJ	1590 kJ
<b>PROTEIN</b>	2.7 g	<b>5%</b>	7.3 g	7.6 g
<b>FAT, TOTAL</b>	0.4 g	<b>0.5%</b>	0.5 g	1.0 g
- SATURATED	0.3 g	<b>1%</b>	0.4 g	0.8 g
<b>CARBOHYDRATE</b>	28.7 g	<b>9%</b>	35.2 g	82.1 g
- SUGARS	2.5 g	<b>3%</b>	9.0 g	7.2 g
<b>DIETARY FIBRE</b>	1.4 g	<b>5%</b>	1.4 g	4.1 g
<b>SODIUM</b>	169 mg	<b>7%</b>	226 mg	485 mg
		<b>% RDI*</b>		
RIBOFLAVIN (VIT B2)	0.42 mg	<b>25%</b>	0.68 mg	1.21 mg
NIACIN	2.5 mg	<b>25%</b>	2.6 mg	7.1 mg
VITAMIN B6	0.4 mg	<b>25%</b>	0.4 mg	1.1 mg
FOLATE	50 µg	<b>25%</b>	56 µg	142 µg
<b>IRON</b>	<b>3.0 mg</b>	<b>25%</b>	<b>3.1 mg</b>	<b>8.6 mg</b>
ZINC	1.8 mg	<b>15%</b>	2.3 mg	5.1 mg

In addition, the New Zealand Dietary Guidelines recommend the following minimum servings of the four food groups. In an 80kg male aged 31-50 years, these are likely to be higher to reach the necessary energy requirement.

Food group	Minimum Number of Serves for Average Diet per Day
Breads and Cereals	6 servings
Meat, poultry fish, legumes	2 servings of nuts and legumes a day and 1 serving of meat, poultry, fish, eggs
Fruit and Vegetables	3 servings of vegetables and 2 servings of fruit
Dairy	2 servings a day

The man in the advertisement will be consuming a maximum one third of his required grain serves and at least one serve of dairy from the two food groups (consumed with milk) at breakfast. This is entirely reasonable and does not promote overconsumption.

## Conclusion

For the reasons outlined above, we respectfully request that the Board dismiss the Complaint. Kellogg submits that the advertisement has been prepared with a due sense of social

responsibility. The representation of the portion sizes is appropriate and proportionate to the people depicted. There has been no undermining of the health and well-being of individuals, particularly as the product is not unhealthy and does not exceed daily intakes of nutrients at the amount depicted.

Kellogg is pleased to have had the opportunity to respond to this complaint and to confirm its support for the Advertising Standards Authority and the codes to which Kellogg upholds.

### **Appendix 3**

#### **RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU**

##### **Complaint 20/413 Kelloggs NZ Key number KELL5029K17 Classification GXC**

This commercial was approved by CAB on 31/07/20 with a 'GXC' classification. Crucially, this GXC classification prevents the commercial from playing during children's programming times. The commercial shows an adult male with a large bowl cereal, explaining how much he enjoys eating cornflakes.

There are no markers to indicate that the commercial is aimed at a child audience, and such an audience is automatically restricted by the GXC classification.

Principle 1, Rule 1(h) of the Advertising Standards Code states that portions should be appropriate for the person depicted in advertisement. The crux of the complaint then lies on whether a large, adult male eating a meal of slow-release carbohydrate grains with protein and calcium-rich milk represents a manifestly unhealthy practice.

In CAB's opinion, a bowl of cereal, eaten by an adult, categorically unseen by child audiences, isn't a health breach that requires censure. We hope the complaint is not upheld and eagerly await the outcome of the Board's decision.