



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0076/16</b>
<b>2</b>	<b>Advertiser</b>	<b>Kellogg (Aust) Pty Ltd</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>09/03/2016</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.5 - Language Inappropriate language

## DESCRIPTION OF THE ADVERTISEMENT

The advertisement opens on a series of women looking at themselves in the mirror in various everyday moments (dressing room, exercise studio, bathroom, etc), as a voiceover states that “7 out of 10 women have an I hate my body moment every single week”. A super appears clearly on screen referencing the substantiation: “Galaxy National Opinion Research Survey, Australia, January 2016”.

A diverse range of individuals (body type, ethnicity, age, and more) in different situations are shown – a bride, a woman with disability, women playing sport, etc. The accompanying voiceover states, “That’s a lot of women, looking in the mirror, wanting to change something: boobs, skin, arms, legs, hips, hair”. The voiceover then states, “Let’s be perfectly imperfect”. The very quick sequence of images is a celebration of women enjoying themselves in different situations, including playing sport, jumping in a swimming pool, eating food, playing music, dancing and there is a male/female couple kissing followed by a female/female couple kissing. A series of scenes with women looking into the mirror confidently then appear. The accompanying voiceover states, “Let’s take a good long look in the mirror, at the good, and not so good”, the advertisement then focuses in on a woman’s face “...and proudly own it all”. The “K” from the Special K logo appears over the face of the woman as we pan out to the branded end frame.

## THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

*The tone of the ad seemed ok where it encouraged women to have a positive outlook on life and stop being negative about their own appearance however the add was ruined where it showed two women kissing. Why it did one can only wonder perhaps it was trying to support a particular agenda (eg desensitising the public) however regardless, that physical act doesn't have anything to do with a breakfast cereal product that anyone in our society might choose to purchase and enjoy. The ad should consider the well being of the younger generations of children and families as well as everyone else.*

*I object to the kiss. Must we have the lesbian message shoved in our faces all the time. My 7 year old boy doesn't need that happening in his lounge room.*

*The ad was shown during family viewing time and included two women kissing as a couple in an attempt to normalise this behaviour.*

## **THE ADVERTISER'S RESPONSE**

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

*I refer to your letter regarding the above complaint received by the ASB in relation to a Special K television advertisement.*

*Prior to addressing the substantive issues, Kellogg would like to confirm its long-standing support for the ASB and its commitment to uphold the relevant Codes together with its own internal guidelines.*

### *Description of Advertisement and Summary of Complaint*

*Kellogg has broadcasted a 30 second and 60 second version of the Special K advertisement. The 30 second advertisement is a cut down version of the 60 second advertisement. To ensure all aspects of the advertisement are considered by the Board, we have responded by reference to the 60 second version.*

*The Special K Australia advertisement features a diverse set of real women as opposed to actors, who authentically struggle with doubt and work to "own it" in their daily lives.*

*The advertisement opens on a series of women looking at themselves in the mirror in various everyday moments (dressing room, exercise studio, bathroom, etc), as a voiceover states that "7 out of 10 women have an I hate my body moment every single week". A super appears clearly on screen referencing the substantiation: "Galaxy National Opinion Research Survey, Australia, January 2016". The advertisement then shows a fast sequence of images to elaborate on this: the first woman in this sequence adds padding to her bra, the second pulls*

*on her stomach and a bride puts her face in her hands in despair. A diverse range of individuals (body type, ethnicity, age, and more) in different situations are shown – a bride, a woman with disability, women playing sport, etc. The accompanying voiceover states, “That’s a lot of women, looking in the mirror, wanting to change something: boobs, skin, arms, legs, hips, hair”. We then focus in on a woman working out in front of a TV, where the reality of the woman working out is contrasted against the ‘perfect’ looking woman on the TV screen. At the same time, a voiceover and text on screen states that, “We believe that all women can change something more important than the size of our bums – we can change our perspective”.*

*We then go back to one of our lead characters looking in the mirror in her swimming costume as the glass shatters in front of her, the next scene is of the bride turning from the mirror as the glass shatters behind her. At this point the voiceover is talking to women changing their perspective, “Let’s focus on stuff we can actually change, instead of stuff we can’t”.*

*The voiceover then states, “Let’s be perfectly imperfect”. The very quick sequence of images is a celebration of women enjoying themselves in different situations, including playing sport, jumping in a swimming pool, eating food, playing music, dancing and there is a male/female couple kissing followed by a female/female couple kissing. A series of scenes with women looking into the mirror confidently then appear. The accompanying voiceover states, “Let’s take a good long look in the mirror, at the good, and not so good”, the advertisement then focuses in on a woman’s face “...and proudly own it all”. The “K” from the Special K logo appears over the face of the woman as we pan out to the branded end frame.*

*The purpose of the advertisement is to empower and inspire women to change their perspectives of themselves and their bodies in a positive way, recognising and celebrating individual diversity.*

*In summary, the complaints allege the following:*

- *“the brief scene showing two women kissing” in the advertisement was “offensive”, and “an attempt to normalise this behaviour”;*
- *the advertisement was shown during programs intended for general audience viewing, which was not suitable; and*
- *the advertisement “showed women touching their breasts while wearing bras and words such as ‘Boobs’ were used”.*

*The complaints therefore raise issues under section 2 of the AANA Code of Ethics (AANA Code).*

### *3) AANA Code of Ethics*

*Section 2.1 of the AANA Code provides:*

*Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental*

*illness or political belief.*

*The majority of the complaints relate to the scene in the advertisement showing two women kissing. The scene appears at the 48 second mark and is very brief (less than 1 second in the context of the 60 second advertisement). Additionally, in keeping with the purpose and theme of the advertisement as a whole, the scene is depicted in a positive and celebratory manner.*

*Kellogg acknowledges that there may be some members of the public that will be offended by a scene depicting two women kissing. We respectfully submit that whilst some individuals may be offended, the advertisement does not depict the scene in a way that vilifies a person or section of the community, including on account of religion or sexual preference. A scene briefly portraying two women kissing, in the context of an advertisement that celebrates the reality of female diversity, cannot be regarded as discriminating against or vilifying consumers with religious or other beliefs in a manner contrary to the AANA Code.*

*We draw the Board's attention to a number of complaints that have featured similar themes, including:*

- Case 0026/15 television advertisement for Lynx deodorant showing, amongst other things, two men embracing and kissing on the lips. The Board "noted that while some people may find this inappropriate, the Board noted that the kiss is fleeting and in today's society it is not inappropriate to show gay intimacy", and held that the advertisement did not breach s 2.1 of the AANA Code.*
- Case 259/02 outdoor advertisement for Levi jeans showing a passionate kiss between two women in a change room. The Board stated that "while it may offend some individuals and particular groups, the advertisement portrayed a legal activity as might be witnessed in any public place". The Board also noted that tolerance is a feature of prevailing community standards, and dismissed the complaint.*

*For the reasons above, we contend that the scene is appropriate and in context given the purpose of the advertisement, celebrating and championing diversity, individuality, inner strength and confidence. We further consider that the scene and the advertisement as a whole is consistent with prevailing community standards and complies with s 2.1 of the AANA Code.*

*Sections 2.2 and 2.4 of the AANA Code provide:*

*2.2 Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.*

*2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.*

*Kellogg submits that the scene of the two women kissing, and indeed the scene immediately preceding it featuring a male/female kiss, does not breach sections 2.2 and 2.4 of the AANA Code. While in keeping with the theme of the advertisement the kisses are passionate, the participants are fully clothed and depict behaviour commonly seen in public places in Australia. The scenes are relatively short, are not gratuitous in the context of the advertisement, and are in line with the advertisements "W" CAD classification.*

*In addition to the scene showing two women kissing, one of the complaints refers to “women touching their breasts while wearing bras” and words such as “boobs”.*

*We consider that the images shown throughout the advertisement are not overly graphic, and the women are not portrayed in an immodest or overly sexual manner. There are a range of images in the advertisement, including women participating in sport, music and work, and the women shown are largely fully clothed, with only a few scenes where the individual is partially clothed. There is no full nudity in the advertisement. All scenes are very brief, and none of the women are shown in a sexually suggestive or explicit manner. The images of the females in a bra are very modest, and none of the images or scenes are likely to be considered sexually suggestive by consumers.*

*We draw the Board’s attention to a number of complaints that have featured similar themes, including:*

- Case 432/07 print advertisement for Rexona Dove Pro-Age product, featuring a naked woman seated, and covering her breasts with her hands. In dismissing the complaint, the ASB held that the image was “unlikely to be considered sexually suggestive” and that the woman was “not posed in a sexually suggestive or explicit manner”.*
- Case 300/05 print advertisement for the Dove brand, featuring six “real” women of various sizes in their underwear, much in the same vein as the Special K advertisement. The ASB held that the advertisement did not breach s 2 of the AANA Code as the women were not depicted in “an immodest or overly sexual” manner.*
- Case 0047/15 television advertisement for the “50 Shades of Grey” film, featuring scenes from the movie including a man and woman embracing with the woman's arms raised above her head. The ASB held that the advertisement did not breach s 2 of the AANA Code. The Board noted that “whilst we see the main character wearing a blind-fold this scene is very fleeting and is only mildly sexualised”. In addition the Board “acknowledged that some members of the community would prefer that this type of movie was not promoted on television at times when children could view it but considered that overall the content of the advertisement was not inappropriate in the context of the relevant broad audience”. Whilst we consider that the Special K advertisement does not contain any material that is even mildly sexual in nature, we have included this Complaint by way of example to demonstrate the ambit of the Board’s views regarding these provisions of the AANA Code. In our view, the Special K advertisement falls well within these parameters.*
- Case 0026/15 television advertisement for Lynx deodorant (also referred to above) showing two men embracing and kissing on the lips. The Board “considered that as the kiss is not sexually suggestive the advertisement was not inappropriate and did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and did not breach s 2.4 of the Code”.*

*Kellogg considers that the content of the advertisement does not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people. The individuals are not depicted in a gratuitous manner and the intent behind the advertisement is a celebration of diversity. The advertisement handles sex, sexuality and nudity with sensitivity to the relevant audience, noting the CAD classification and broadcast placement.*

*Accordingly, we submit that the advertisement does not breach sections 2.2 and 2.4 of the AANA Code.*

*Section 2.3 of the AANA Code provides:*

*Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.*

*The advertisement does not present or portray violence. Accordingly, s 2.3 of the AANA Code does not apply.*

*Section 2.5 of the AANA Code provides:*

*Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.*

*One of the complaints refers to language used in the advertisement, including the word “boobs”. In our view, the language used in the advertisement is consistent with common parlance, and is appropriate in the circumstances, including for the relevant audience and medium. The advertisement was rated “W” by CAD, and at all times has complied with the broadcast times for that classification. While the term does refer to a part of the female anatomy, the term “boobs” is not an offensive or obscene word, and indeed, is a word commonly used by young children,*

*Accordingly, we submit that the advertisement does not breach s 2.5 of the AANA Code.*

*Section 2.6 of the AANA Code provides:*

*Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.*

*The advertisement does not raise health or safety issues.*

*In respect of whether the advertisement is in line with prevailing community standards generally, we note that the consumer response on social media to the advertisement has been overwhelmingly positive, particularly the fact that by portraying a diverse range of women in such a positive manner, the advertisement recognises the reality that women are indeed unique and individual in terms of body type, ethnicity, sexual preferences, disability and more. In addition, consumers commonly stated that they felt the advertisement was empowering for women. The overwhelming majority of consumers responded by saying that they support the advertisement.*

*Conclusion*

*For the reasons stated above the complaints should be dismissed in their entirety.*

*Kellogg is pleased to have had the opportunity to respond to this complaint and to confirm its support for the ASB and the codes to which Kellogg is subject.*

## **THE DETERMINATION**

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainants’ concern that the advertisement depicts two women kissing which is not appropriate and that the reference to boobs is not suitable for children.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.

The Board noted this television advertisement features different women analysing the parts of their bodies they are uncomfortable with before we see them acting happy and confident whilst undertaking various activities.

The Board noted the complainants’ concerns over the depiction of two women kissing one another. The Board noted that this scene is very brief and considered that the overall tone of the advertisement is of women behaving confidently and there is no undue focus on this particular scene, which is very fleeting.

The Board acknowledged that some members of the community might be uncomfortable with images of women kissing women, but considered that all the depictions of kissing in the advertisement are very brief and are not shown to lead to any further intimacy. Consistent with previous determinations against similar complaints concerning men kissing in cases 0487/12 and 0026/15, and of women kissing in cases 0062/16 and 0074/16, the Board considered that in this instance a brief depiction of a woman kissing a woman was not sexualised and in the context of depictions of confident women and loving relationships this scene was not gratuitous or inappropriate.

The Board noted in one scene we see a woman exercising in front of a television and considered that although the focus is on the woman’s bottom swinging from side to side her actions are clearly in the context of exercising in an attempt to change a body part. The Board noted that the exercise the woman is performing is mimicking the exercise performed by the woman on the television screen she is watching and considered that this scene is not sexualised and is appropriate in the context of an advertisement focusing on empowering women who want to change their bodies.

The Board noted the advertisement had been rated ‘W’ by CAD and considered that overall the content did treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad audience which would include children.

The Board determined that the advertisement did not breach Section 2.4 of the Code.

The Board then considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant

audience and medium). Strong or obscene language shall be avoided”.

The Board noted that the Macquarie Dictionary defines the word ‘boob’ as a colloquial term meaning ‘a woman’s breast’. The Board considered this definition is consistent with its own views of how many women refer to their breasts.

The Board noted that when the word ‘boobs’ is used we see a woman looking at her reflection in a mirror and pushing her hands up to her chest, and that this is immediately followed by a list of other body parts accompanied by images of women touching each body part. The Board considered that this reference to ‘boobs’ is a factual reference and considered that the accompanying image is not sexualised and there is no undue focus on the word.

The Board noted that it had previously dismissed similar complaints about the use of the word ‘boobs’ in advertising in cases 0176/12, 0185/12 and 0361/13 and considered that consistent with these previous determinations, the use of the term ‘boobs’ in the current advertisement is consistent with the common Australian vernacular and is not strong, obscene or offensive language. The Board considered that in the context of women talking about their own bodies the reference to boobs is appropriate in the circumstances.

The Board determined that the advertisement did not breach Section 2.5 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaints.