

## Case Report

1. Case Number :	0290-24
2. Advertiser :	Kellogg (Aust.) Pty Ltd
3. Product :	Food/Beverages
4. Type of Advertisement/Media :	Internet
5. Date of Decision:	20-Nov-2024
6. Decision:	Dismissed

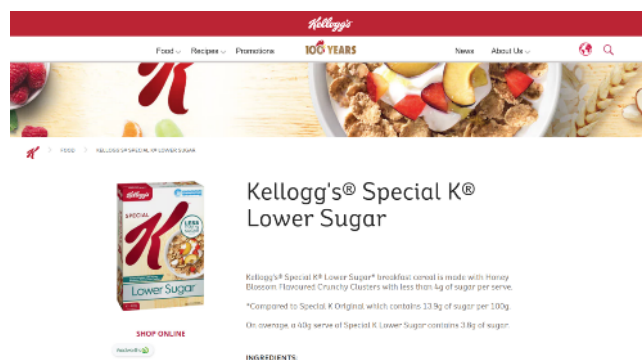
### ISSUES RAISED

AANA Food and Beverages Code\2.1 Not misleading or deceptive

### DESCRIPTION OF ADVERTISEMENT

This internet advertisement features a box of Special K with the text "Kellogg's Special K Lower Sugar." The advertisement also features the text "Kellogg's Special K Lower Sugar\* breakfast cereal is made with Honey Blossom Flavoured Crunchy Clusters with less than 4g of sugar per serve.

\*Compared to Special K Original which contains 13.9g of sugar per 100g. On average, a 40g serve of special K Lower Sugar contains 3.8G of sugar."



### THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

*This cereal is marketing, using misleading comparisons.*

*The Kelloggs website states:*

*\*Compared to Special K Original which contains 13.9g of sugar per 100g.  
On average, a 40g serve of Special K Lower Sugar contains 3.8g of sugar.*

*But this is not comparing like with like, and without closer inspection, the lower sugar is startling.*

*However, this is not comparing like with like, it should compare a 40g serve with a 40g serve, or a 100g with a 100g.*

*For example:*

*\*Compared to Special K Original which contains 13.9g of sugar per 100g.  
On average, 100g of Special K Lower Sugar contains 9.5g of sugar.  
(All of a sudden, that sugar marketing ploy loses a little gloss.)*

*Or*

*\*Compared to Special K Original which contains 5.56g of sugar per 40g.  
On average, a 40g serve of Special K Lower Sugar contains 3.8g of sugar.*

*I am upset because, as helping a newly-diagnosed loved one tackling diabetes, at first reading I was about to rush out and buy this cereal, until I realised the comparison difference in weight.*

## **THE ADVERTISER'S RESPONSE**

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

*Prior to addressing the substantive issues, Kellanova Australia would like to confirm its long-standing support for Ad Standards and the Advertising Standards Community Panel, and Kellanova Australia's commitment to uphold the relevant Codes.*

*Comments in relation to the complaint*

*The essence of the complaint is that the Advertiser's website page [https://www.kelloggs.com.au/en\\_AU/products/special-k-lower-sugar-honey-blossom-flavoured.html](https://www.kelloggs.com.au/en_AU/products/special-k-lower-sugar-honey-blossom-flavoured.html) is misleading in its comparison statement. However, the complainant is selective in its quotation of the page, the full text of which relevantly reads -  
Kellogg's® Special K® Lower Sugar*

*Kellogg's® Special K® Lower Sugar\* breakfast cereal is made with Honey Blossom Flavoured Crunchy Clusters with less than 4g of sugar per serve.*

*\*Compared to Special K Original which contains 13.9g of sugar per 100g.  
On average, a 40g serve of Special K Lower Sugar contains 3.8g of sugar.*

The key claim being made for the product is 'lower sugar', with the complained text simply being the substantiation for this claim.

This claim is regulated by Schedule 4 of the ANZ Food Standards Code <https://www.legislation.gov.au/F2015L00474/latest/text> which requires, for a reduced sugar claim, that "The food contains at least 25% less sugars than in the same amount of \*reference food."

Reference food is a defined term: "reference food, in relation to a claim, means a food that is: (a) of the same type as the food for which the claim is made and that has not been further processed, formulated, reformulated or modified to increase or decrease the energy value or the amount of the nutrient for which the claim is made; ..." - Standard 1.1.2 clause 2(3), ANZ Food Standards Code.

The appropriate reference food for a reduced sugar variety of Special K cereal is therefore Special K Original cereal, being the 'same type of food' that 'has not been .. formulated .. to decrease ... the amount of the nutrient for which the claim is made.' The question then arises as to whether the lower sugar product has the requisite 25% less sugars than the reference food. To put the sugar content in tabular form -

<b>Food</b>	<b>Serve Size</b>	<b>Per serve</b>	<b>% reduction</b>	<b>Per 100g</b>	<b>% reduction</b>
Original	40g	5.6g		13.9	
Lower Sugar	40g	3.8g	32.1%	9.5	31.7%

The claim 'lower sugar' is therefore expressly permitted by Commonwealth, State and Territory laws for this food compared to Special K Original cereal, and for that reason cannot be said to be misleading or deceptive.

The wording of the complaint seems to turn on the fact that the comparison statement on the website uses a per serve sugar declaration for the Lower Sugar product and a per 100g declaration for the comparison food.

We note that the website copy clearly states the weight of a serve, being 40g: "On average, a 40g serve of Special K Lower Sugar contains 3.8g of sugar", making it clear that a serve is not 100g. We submit that it would be difficult to be misled in this way given the clarity in both statements.

We respectfully submit that this falls well below any threshold for being false or misleading. In fact, based on the website, the complainant acknowledges they realised the difference in stated reference quantity and was not misled, and in the complaint is able to accurately state the various sugar levels of the two foods per serve and per 100g.

Moreover, this is a website that is easily navigable for consumers, and one click on the web page complained of, will display the Nutrition Information Panel for the Special K

*Lower Sugar cereal. On the same website, a consumer can obtain the Nutrition Information Panel for Special K Original cereal. The full nutrition information is available on the same website for both products, clearly stating the amount of sugar on a per 40g serve basis and per 100g basis. It should further be noted that the serving size for both products is the same at 40g. These factors further reduce the likelihood that anyone might be misled by the web page.*

*For completeness, there is nothing in the Advertisement that contravenes other provisions in section 2 of the AANA Code of Ethics. In particular, the Advertisement contains no material that is or could reasonably be seen to be -*

- discriminatory or vilifying (section 2.1)*
- exploitative or degrading (section 2.2)*
- violent (section 2.3)*
- portraying sex, sexuality or nudity (section 2.4)*
- offensive in its language (section 2.5)*
- contrary to health or safety (section 2.6).*

*Further the material is clearly distinguishable as advertising, appearing on the product page of the company website (section 2.7). The advertisement is not directed at, nor would it appeal to, children nor does it make environmental claims.*

*Kellanova Australia submits that the Advertisement does not mislead or deceive consumers in relation to the sugar content of the food, nor does it offend any other provision of any other applicable AANA Code, and accordingly, that the complaint should be dismissed.*

## **THE DECISION**

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Food and Beverages Advertising Code (the Food Code).

The Panel noted the complainant's concern that the advertisement is misleading.

The Panel viewed the advertisement and noted the advertiser's response.

### **Section 2.1 Advertising for Food or Beverage Products must not be misleading or deceptive or likely to mislead or deceive.**

The Panel noted the Practice Note for this Section of the Code includes:

*"In determining whether advertising for food or beverage products is misleading or deceptive or likely to mislead or deceive, the Community Panel will consider the likely audience for the advertising, including whether the*

*advertisement is directed at the public at large or a more targeted audience. The Community Panel will consider whether or not an Average Consumer within the target audience would have been misled or deceived or likely to be misled or deceived by the advertisement.”*

The Panel considered that an average consumer in the target audience for this advertisement would likely be adults interested in finding out information on the ingredients and nutrition benefits of various products.

The Panel considered that an average consumer in this target audience would be able to recognise that the comparison on the website is being made between two different product weights and would be able to do the math to find the difference in the amount of sugar between the two products.

The Panel considered that while it would be best practice for the advertiser to have this information readily available and not to require consumers to do the maths themselves, the information provided on the website is factual and unlikely to mislead or deceive the average consumer in the target audience.

### **Section 2.1 Conclusion**

The Panel concluded that the advertisement did not breach Section 2.1 of the Food Code.

### **Conclusion**

Finding that the advertisement did not breach any other section of the Food Code the Panel dismissed the complaint.