



## Case Report

1	Case Number	0039/16
2	Advertiser	PVH Brands Australia Pty Ltd
3	Product	Lingerie
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	24/02/2016
6	DETERMINATION	Dismissed

### ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - general

### DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for Tommy Hilfiger underwear features Rafael Nadal in a locker-room setting, changing down to his underwear before placing a towel around his lower body and heading to the showers (sound of water/shower is heard in background). Rafael cheekily grins and shakes his head before walking away.

### THE COMPLAINT

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

*This ad is basically a strip tease.*

*In addition, it was screened during a program (the Australian Open Tennis) that is being promoted as a family show.*

*I am appalled and offended that our family have to watch a strip tease just because they are watching a sporting program that is supposed to be as high class as the tennis.*

*I personally saw this ad twice on the evening of the 28th January and once so far on the evening of the 29th January (tonight). I was completely unaware that such explicit advertising would be permitted during the tennis and now feel that my children have been violated when they have been watching the tennis earlier this season without my supervision - how many times has this ad been imposed on them?*

*Please remove this ad from our viewing. While you may not see an actual penis, you do see pubic hair, butt cracks and the overall actions and attitudes of a stripper. It is far too explicit*

*for our viewing! Please remove it immediately before more people are exposed.  
It does however stay on long enough to show lower abdomen pubic hair.  
It is not appropriate to show this content on tv, ever.  
Good rule of thumb, if normally the only place another person would see this would be in a medical facility, change room or bedroom, its not appropriate for advertising.*

## **THE ADVERTISER'S RESPONSE**

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

### *Comprehensive Response*

*The Fall 2015, Tommy Hilfiger Underwear global advertising campaign, featured tennis superstar Rafael Nadal as the celebrity face for the new underwear range.*

*The digital video/television commercial for the campaign includes Rafael Nadal in a locker-room setting, playfully changing down to his underwear before placing a towel around his lower body and heading to the showers (sound of water/shower is heard in background). Rafael cheekily grins and shakes his head within the commercial to indicate whilst he may be about to take a shower in a locker-room that the viewer will not be seeing him out of his Tommy Hilfiger underwear. This campaign features the new Tommy Hilfiger Icon product which is a men's short leg trunk underwear style with a bold elasticized waist, clearly emblazoned with the Tommy Hilfiger logo – the product is the focus of the commercial and being underwear the angles are primarily on lower half of Rafael's body for the duration of the commercial.*

*The television commercial media placement was specifically planned to coincide with the Australian Open Tennis broadcast - a period of the year where the global talent is in Australia given his status as a grand slam tennis player.*

*The Fall 2015 global media campaign was produced under the creative direction of Tommy Hilfiger, whom has enjoyed a long-standing friendship with Rafael Nadal.*

*We make a number of over-arching points:*

- (a) Tommy Hilfiger has a strong heritage of iconic and campaigns that highlight the products we sell in a bold impactful way.*
- (b) Rafael Nadal is over 18 and features in underwear available in stores within Australia.*
- (c) Rafael Nadal appears alone in the advertisement. He is clearly in control of his actions within the advertisement. The reason for Rafael Nadal undressing is to shower (as evidenced by the sound of water/shower and locker-room setting). The commercial is not erotic. There is no nudity.*

*In reference to Section 2 of the Code of Ethics, we note that the preliminary assessment only relates to subsection 2.4. However, including for the reasons set above, we have dealt with each part of Section 2 as referenced in your letter for completeness.*

*2.1 We do not believe that the male character featured in the ad is discriminated against nor any area of the community is vilified by the creative.*

*2.2 The commercial is neither exploitative nor degrading.*

*2.3 There is no suggestion of violence.*

*2.4 The male is clothed in our product (the underwear) and no sensitive areas of the body are shown. The ad is not overtly sexualized and the imagery is initially playful and suggestive and ultimately ends modestly, and is not inappropriate in the context of a fashion advertisement or locker-room setting. The imagery is consistent with advertisements for underwear used on television by a range of advertisers. These products are not aimed at or sold to children and placement meets the CAD P rating time-periods. The advertisement is appropriate for today's consumer and attitudes, and treats sex, sexuality and nudity with sensitivity to the relevant and targeted audience of 25-40 year-olds. We took reasonable steps with media placement to ensure this campaign appeared within suitable broadcast hours specifically on a network broadcasting tennis to coincide with the male talents profession and visibility within the local market.*

*2.5 As no words are spoken we believe the visual language used is not contravening the code and is not offensive.*

*2.6 The ad does not contravene the standards on Safety and Health.*

*Thank you for the opportunity to respond.*

## **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’ concerns that the advertisement features a man performing a striptease and revealing pubic hair and a portion of his buttocks and is not appropriate for airing during the tennis where children can view it.

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

The Board then 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 that this television advertisement features the tennis player, Rafael Nadal, in a changing room preparing to shower and that we see him strip down to his Tommy Hilfiger underpants.

The Board noted the complainants’ concerns over the strip tease performed by Nadal. The Board noted that Nadal is aware that he is being filmed whilst stripping off and considered that he appears in control and playful. The Board noted the locker room setting for the advertisement and considered that whilst it is not common to watch someone strip off in a

locker room in the Board's view the manner in which Nadal removes his clothing is cheeky rather than sexualised and in the context of a sports star promoting underwear the depiction of Nadal showcasing the product in a sports environment is not inappropriate.

The Board noted the complainants' concerns that Nadal's pubic hair is visible. The Board noted that Nadal does appear to be about to lower his underwear and the camera angles change rapidly to give the impression that he is pulling his underwear down but considered that whilst the hair on Nadal's stomach is visible his pubic hair is not actually revealed. The Board noted the final scene where Nadal walks away from the camera with a towel around his waist and considered that whilst there is a hint of his intergluteal cleft visible above the top of the towel the scene is very fleeting, the amount of cleft visible is very small and the level of detail is not excessive or inappropriate,

The Board noted the advertisement had been rated 'PG' by CAD and considered that the level of nudity was not inappropriate in the context of the relevant PG audience which would include children and overall the content is not sexualised or inappropriate.

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

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