



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0050/11</b>
<b>2</b>	<b>Advertiser</b>	<b>Nique</b>
<b>3</b>	<b>Product</b>	<b>Clothing</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Billboard</b>
<b>5</b>	<b>Date of Determination</b>	<b>23/02/2011</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.3 - Sex/sexuality/nudity      Treat with sensitivity to relevant audience

### DESCRIPTION OF THE ADVERTISEMENT

The shop signage and A-frame at the front of the store are the same. The image is a photograph of a young adult in the process of taking off her t-shirt. Above the image is the text 'sale store'

### THE COMPLAINT

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

*The t-shirt is almost off. The bottom half of her breasts is exposed.*

### THE ADVERTISER'S RESPONSE

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

*Nique is a Melbourne brand with four retail stores. The brand has been established for over ten years and it's distributed all over Australia and more recently internationally. It is predominately aimed at the 18-30 market who respond to advertising and marketing that is more directional and less conservative.*

*As the Graphic Designer and Director of the company I can offer a rationale for thinking behind our choice of image but I appreciate the purpose and authority of the ASB and if it is deemed inappropriate then I am more than happy to comply with your decision. We have three successful stores in thriving strips across Melbourne but our Hawthorn store is a quiet strip and in a less desirable position. Therefore we designed signage which spoke to our audience and arrested the gaze of passers-by on the other side of road. I acknowledge that it isn't a conventional image and therefore I'm happy for the board to review its suitability and advise us of your appraisal.*

## **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 nudity.

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

The Board considered whether the advertisement was in breach of section 2.3 of the Code. Section 2.3 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone”.

The Board noted the advertisement is for a clothing shop and features a woman in the process of removing her top: her arms are raised above her head and we can see the bottom curve of her breasts. The woman is visible from the waist upwards.

The Board considered that the advertisement was not overtly sexualised. The Board noted that the advertisement is featured on the signage above the shop window, as well as on an A frame outside the shop, and is able to be seen by children, but considered that overall the advertisement is not sexually explicit, graphic or inappropriate.

The Board determined that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and that it did not breach section 2.3 of the Code.

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

