



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0228/10</b>
<b>2</b>	<b>Advertiser</b>	<b>Nick Mascitelli Imports Pty Ltd</b>
<b>3</b>	<b>Product</b>	<b>Clothing</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Print</b>
<b>5</b>	<b>Date of Determination</b>	<b>09/06/2010</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

A male and female model are leaning against a window embracing in an hug. She is wearing a grey woollen cardigan. The male model is fully clothed.

### THE COMPLAINT

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

*The enclosed advertisement (for a leather jacket!) is a crude play on the brand name and I think it is quite disgusting - especially regarding the use of the half-naked girl. It was on the inside cover of an enclosed magazine (Sport & Style) which came enclosed with The Age.  
The standards at The Age are slipping - they must be desperate for advertising revenue.*

### THE ADVERTISER'S RESPONSE

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

*Replay is a widely distributed international denim retailer for men and women. The advertising is high fashion, therefore aspirational. The female model is wearing the trend*

*driven 'no pants' look - therefore her bare thighs are shown but we didn't believe this to be offensive.*

## **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 complainant’s concerns that the advertisement is sexually suggestive and inappropriate for the product.

The Board viewed 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: “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 denim clothing for men and women and depicts the upper halves of a man and woman leaning against a window whilst embracing.

The Board considered that the image was still and that there was no sexual activity or nudity depicted, other than the couple touching each other. The Board considered that the advertisement, although mildly sexualised, was not inappropriately sexual for print advertising. The Board determined that the advertisement did treat sex, sexuality and nudity with sensitivity to the product and relevant audience and 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.