



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0293/12</b>
<b>2</b>	<b>Advertiser</b>	<b>Unilever Australasia</b>
<b>3</b>	<b>Product</b>	<b>Toiletries</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>25/07/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.1 - Discrimination or Vilification Race
- 2.2 - Objectification Exploitative and degrading - men
- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.5 - Language Inappropriate language

### DESCRIPTION OF THE ADVERTISEMENT

Advertisement depicts an infomercial style scenario with a presenter and guest appearance by Sophie Monk who is a tennis player. She goes on to show how the lynx product can clean a variety of dirty balls. Members from the audience partake in the challenge of getting their balls cleaned.

### THE COMPLAINT

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

*I object to the time slot which greatly increases the chances that children were exposed to this advertisement. The entire ad is offensive. It is absolutely disgraceful on Prime Television to see an advert using a metaphor for male testicles. It is very clear what they are saying and is not one bit appropriate. It needs to be removed off TV. The Lynx Company has always used sex to sell but this is on a whole new level. There advertisement focuses far too much on 'balls' and the implied meaning. It's amusing at the beginning but goes too far to the point that the ad loses its focus and just becomes crass and offensive and does not advertise the product. The references to balls, hairy balls and ball sacks are ridiculously childish and*

*distasteful. The program that this commercial aired during is one of a high quality nature. I feel that ONE HD tarnished the reputation of this show by airing such a sexist, racist and in my opinion offensive commercial during the show. When did it become okay to talk about playing with testicles on TV? The ad is crass, vulgar and just plain pathetic. It's not funny and is offensive to women. The wording in this is not as discrete as the advertiser thought it would be but I also find the use of women as the ones who are advertising the product a bit objectifying to women and listening to the ad is rather offensive when you repeatedly hear the word balls and ball sack and play with balls all day mentioned. It's demeaning in the way that it uses women to talk indirectly about balls and uses them as a lure to get people to buy the product.*

## **THE ADVERTISER'S RESPONSE**

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

*We note that the Board has already reviewed the original (longer) version of the Amended Commercial (Ref. 0231/12, 0240/12, 0246/12 and 0247/12) and found that it complied with sections 2.2, 2.4 and 2.5 of the AANA Code of Ethics. With regard to section 2.1 of the Code of Ethics the Board considered that the longer version of the commercial was not demeaning to men and that it did not discriminate against men or women or on the account of race, but it did find that the commercial contained a negative depiction of an older person and that this depiction did amount to discrimination against older men. In light of the board's determination, Unilever took steps to amend the original version of the commercial, removing all references to, and negative depictions of, older people. As such, the scene featuring the older man 'Mr Gilbert' was no longer shown. In amending the commercial Unilever complied fully with the determination of the Board and, from our perspective, we do not see any reason for why the Board should now depart from its previous decision and reassess its initial ruling on the remaining scenes that were found to be compliant with the Code of Ethics. Our detailed response to the new complaints is as follows: Lynx is a brand that communicates to its target audience in a fun, tongue-in-cheek way that we know to be relevant to them. Lynx also has a proud history of award winning commercials which both entertain and surprise consumers. The Amended Commercial continues this tradition of tongue-in-cheek entertainment by using innuendo and double entendre comedic techniques to advertise Lynx Shower Gel and the Lynx Body Buffer. Lynx strives to create amusing marketing campaigns and promotions, and the men and women featured in our advertising are always in on the joke. In essence, Lynx advertisements are about the importance of good hygiene to support health and wellbeing. Good hygiene, feeling and appearing clean and the use of fragrance helps boost the confidence of young men who often find themselves daunted by the dating game. Men generally don't feel comfortable discussing their personal hygiene openly and thus campaigns around men's hygiene and health resonate better with all men, and young adults in particular, when they use humour as a way to talk about important issues. We believe that the audience understands the playful nature of the Amended Commercial and the use of innuendo in relation to sports balls. Unilever is a responsible advertiser and has numerous internal review processes, including review by Unilever's Legal and Corporate Relations Departments to critique all advertisements to ensure compliance with legal and ethical considerations. We carefully choose programming that is consistent with the themes and content of our advertising. Unilever takes the AANA Code of Ethics seriously and we have taken great care to ensure that the Amended Commercial complies with the Code of Ethics. When developing our media schedule for Lynx campaigns, we carefully choose*

programming that is consistent with the tone of our advertising and that is directed to an appropriate audience. 1. *The Amended Commercial* The Amended Commercial promotes Lynx Shower Gel and the Lynx Body Buffer. It is set in a TV studio with a mixed female and male audience and features a female presenter. The set is designed to resemble that of popular advertorial television shows. A second woman, named "Amber Jones", is introduced as former champion of a fictitious tennis tournament, "The Tasmanian International". The tennis star starts talking about dirty sports balls and the difficulties of cleaning them properly. A young man is called on stage as a volunteer to clean dirty sport balls using Lynx Shower Gel and the Lynx Body Buffer. He demonstrates how to clean golf balls using Lynx Shower Gel together with the Lynx Body Buffer. Men in the audience then proceed to throw dirty tennis balls, cricket balls, and a sack with soccer balls on stage to have them cleaned. The presenter and "Amber James" comment on the cleaning process while the male volunteer cleans the dirty sports balls with Lynx Shower Gel using the Lynx Body Buffer. Throughout the Amended Commercial the presenter and the tennis star use innuendo associated with dirty sports balls to encourage good hygiene practices among men as a way to improve their self-confidence. 2. *Compliance with AANA Code of Ethics 2.1* Award winning concept of the Amended Commercial A different version of the Amended Commercial was aired in the United States of America in 2010 and is still available on Youtube. The US version of the commercial has won multiple awards including the Cannes Gold Lion in 2010 for Best Internet Film, the Andy's Awards 2011 (Bronze) for Personal Products and the Webby's award in 2010 for Best Viral Marketing Campaign. We have taken great care to change the script of the US version to ensure it reflects prevailing community standards in Australia and is compliant with the AANA Code of Ethics. For example, in the US version the female tennis star is shown cleaning the dirty sports balls. In the Australian Amended Commercial this has been changed to a male volunteer to avoid any unintended suggestion of sexism or discrimination of females in the Amended Commercial. Some of the language and expressions used in the US version were also changed to be more in line with Australian community standards and reflect socially acceptable vernacular, while some scenes were shortened or removed completely. 2.2 *Programming* (a) TV CAD provided the Amended Commercial with an "MA" (Mature Adult) (CAD reference AW768TCA) rating whereby the Amended Commercial is suitable for viewing by persons aged 15 and over only, and the Amended Commercial may be broadcast: - Between 9.00pm and 5.00am on any day, except in G or PG programs or sport - Starting at or continuing past 8.30pm - Starting before and continuing past 8.30pm - In a break preceding a program which starts at 8.30pm (If the program continues past 10.30pm, this restriction ceases to apply.) Unilever has taken great care to ensure that the Amended Commercial has been placed in programming as prescribed in the CAD approval. The TV media buying is targeted at the young adult male audience and as such the spot placements are amongst programming that is targeted at its intended audience on the channels ONE, 7Mate and Eleven during programs like "Punk?d", "Rude Tube" or "Family Guy?". The Amended Commercial is consistent with content, themes and style of humour the audience would be exposed to during this type of programming. (b) *Internet* The Amended Commercial also aired on Youtube, on [www.lynxeffect.com.au](http://www.lynxeffect.com.au) and on the Lynx facebook site where consumers who find the humour that is used in Lynx advertisements amusing and relevant can make a conscious decision to view the ad. 2.3 *Positive consumer feedback* We monitor responses to the Amended Commercial on Youtube and news media outlets and note that the Amended Commercial has received an overwhelmingly positive response. The Amended Commercial has been viewed over 18,000 times on Youtube and has a positive rating of about 92% (figures as at 17 July 2012). 2.4 *Section 2.1 of the Code of Ethics* Under Section 2.1 of the Code of Ethics 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 gender.*

*(a) No discrimination against women We submit that the Amended Commercial does not portray women in a way that discriminates against or vilifies a person or section of the community on account of gender. In particular, the Amended Commercial is not sexist or sexual, and the women in the Amended Commercial are not portrayed as sexual objects. In adapting this advertisement for the Australian audience we have ensured that neither the female presenter nor the female tennis star are shown to be cleaning the sports balls. The women talk about cleaning balls in the context of sports balls and then invite a male volunteer from the audience to assist with cleaning process. At no point during the Amended Commercial are the two women shown cleaning sports balls, or touching sports balls in a way that could be interpreted as sexual or otherwise inappropriate. The words "Feel just how clean those balls are, Stephanie" - "Stephanie: (feeling the balls) Wow. I could play with these balls all day" relate to two golf balls that were cleaned by the male volunteer. At all times when the women are talking about cleaning balls the correlating visuals are of a variety of sports balls and the context of the Amended Commercial makes it clear that all references to balls are references to sports balls. The Amended Commercial shows the audience being impressed with the cleaning power of Lynx Show Gel and the Lynx Body Buffer on dirty sports balls. In fact, the Amended Commercial is showing the presenter and the tennis star as two empowered women who are leading the audience through the TV show without appearing in a sexualised way. Unilever conducted a consumer survey in which 500 Australian women between the age of 16 and 64 were shown the original commercial and then asked about their opinion. 82% of the surveyed women did not feel that the original commercial is discriminating against women:*

*(b) No discrimination against men The Amended Commercial also does not portray men in a way that discriminates against or vilifies a person or section of the community on account of gender. One of the complainants states that the Amended Commercial is demeaning to men. We submit that although the Amended Commercial refers to „balls? this does not happen in a sexist or sexual way. All references to "balls? are clearly made in connection with sports balls. The use of innuendo does also not lead to a discrimination against men. Lynx Shower Gel is a body wash that is meant to be used for the whole body including men?s testicles. We do not believe that it is demeaning to men when an advertisement of shower gel and a washing tool that are meant to be used for the whole body references specific body parts. It is our view that this light-hearted reference to the word "balls" in the context of sporting equipment is in line with prevailing community standards and any associated innuendo is used to engage the target audience around good hygiene practices which are important for health and wellbeing in a humorous and non-threatening way. We do not believe the word "balls" can be interpreted as a discriminatory to men in this context. The intention of the TVC is to advertise the Lynx Shower Gel and Body Buffer by promoting good hygiene and healthy behaviour. The fact that some of the men in the audience of the mock TV sales show are shown holding dirty or deflated sports balls does not create the impression that the testicles of men in general are dirty or deflated. We strongly believe that men understand the innuendo and the humour intended and that the video shows men feeling more confident after the sports balls have been cleaned.*

*(c) No discrimination on the account of race Some complainants argue the fact that a man of African- American appearance man in the audience throws a sack of soccer balls on the stage to have it cleaned is discriminating against African American people. We submit that the Amended Commercial and in particular this scene is in no way discriminating against any minority groups in the Australian population including people of African American descent and that it does not convey a negative impression of people of a specific ethnicity or race. The Amended Commercial shows both white men and black men throwing sport balls on stage to have them cleaned. The African American actor in the audience was*

not chosen to imply that African American men have bigger testicles than for example Caucasian men. The sport balls range in size and include golf balls, tennis balls, cricket balls and soccer balls. In no way does the Amended Commercial create the impression that the size of the sport balls shown are representative of the size of the testicles of the respective men in the audience who are holding these sport balls, or that the skin colour of these men is of any relevance in this context. (d) No discrimination on the account of age The Amended Commercial does not contain any references to older people. The original commercial contained a scene with an older "Mr Gilbert" which was held to be discriminating against older people. This scene was removed completely and does not appear in the Amended Commercial. 2.5 Section 2.2 of the Code of Ethics Under section 2.2 advertising or marketing communication should not employ sexual appeal in a manner which is exploitative or degrading of any individual or group of people. According to the Practice Notes to the Code of Ethics the term "exploitative" means "clearly appearing to purposefully debase or abuse a person, or group of persons, for the enjoyment of others, and lacking moral, artistic or other values". "Degrading" means "lowering in character or quality a person or group of persons". We submit that the Amended Commercial does not contain any visuals or words that could be interpreted as objectifying women in the way described above. Objectification generally refers to the practice of regarding a person merely as an object with no regard to the person's personality, and a sexual objectification would require that a woman is regarded simply as an object of sexual gratification or who is sexually attractive to provide pleasure for men with no regard for the person's personality. The fact that Sophie Monk has appeared in men's magazines also does not make the Amended Commercial discriminating against women. Sophie Monk was chosen to appear in the TVC because she is popular amongst the target group of young adult men. The fact that Sophie Monk has appeared in magazines for men does not make the Amended Commercial itself discriminating. In the Amended Commercial Sophie Monk is presented as a professional tennis player wearing a style of sports clothes that are commonly worn by tennis players including world class female tennis players who are frequently shown on television. The Amended Commercial does not show Sophie Monk in a sexualised way but as a celebrity in a fictitious TV sales show commenting on the cleaning power of Lynx Shower Gel and Body Buffer products while wearing a commonly used sports outfit. We also submit that Sophie Monk and the female presenter do not touch the sports balls in a sexualised way that would imply that they would want to touch men's testicles or "play" with them. We note that some of the complainants appear to have viewed the US version of this advertisement which shows the female tennis star cleaning sport balls and the female presenter holding two golf balls in one hand. The US advertisement was launched in 2010 and has not been endorsed by Unilever Australia Ltd. 2.6 Section 2.4 of the Code of Ethics Under section 2.4 advertising and marketing communication shall treat sex, sexuality and nudity with sensibility to the relevant audience. We submit that the Amended Commercial does not contain any references to sex, sexuality or nudity. The Amended Commercial makes clear that all statements containing a reference to balls are made in reference to sports balls. Some men in the audience wear sports clothes, e.g. tennis clothes or cricket clothes and throw tennis, cricket and soccer balls on the stage. The messages that no one wants to play with dirty sports balls when they are dirty and "I could play with them all day" are a means promote the issue of men's hygiene and good health in a humorous way that is accepted by and relevant to men. We have ensured that the video shows a male volunteer cleaning the sports balls and that the female presenter and tennis star are not cleaning the balls or touching them in a sexualised way. The theme of the Amended Commercial is firmly set in the realms of a funny advertorial television show with themes consistent with the style of themes that viewers of the television programming and cinema releases around which the advertisement has been placed would be regularly exposed

*to. The Amended Commercial is entirely appropriate with respect to the programme time zones and its audience. We submit that, in light of the prevailing community standards, the Amended Commercial does treat sex and sexuality with sensibility to its audience and is not likely to cause serious or widespread offence. We believe that the audience understands the humour intended. 2.7 Section 2.5 of the Code of Ethics Under section 2.5 advertising and Marketing communication shall only use language which is appropriate in the circumstances (including appropriate for the relevance audience and medium). Strong or obscene language shall be avoided. The Amended Commercial describes sports balls in different ways. As stated above, on each occasion the presenter or the tennis star talk about cleaning a particular sports ball the relevant visual of the sports ball is shown in the Amended Commercial. Examples: When the words “No-one wants to play with them when they’re dirty, that’s why you have to keep your balls clean” and “Well how can guys clean their balls properly - so they’re more enjoyable to play with?” are spoken a dirty soccer ball and the Lynx Body Buffer are shown. The question “Can it clean these filthy balls?” is asked by a man in the audience holding dirty tennis balls. The response “Chuck those hairy balls down here” refers to these tennis balls. Tennis balls have a soft surface that can be, and is commonly described as fluffy or hairy. Another man in the audience is holding a sack of soccer balls asking the question “What about my ball sack?”. The term ball sack is commonly used by the public and by manufacturers of sports balls to describe a bag or a net of sports balls, for example for soccer balls or rugby balls. We submit that the audience understands that the language used in the Amended Commercial is language that is commonly used in relation to sports ball in the media and by the general public. The language is uses in a light hearted and humorous way manner that is consistent with modern Australian vernacular. The fact that the same words may be used by some parts of the community to describe male testicles does not make this language inappropriate. Lynx Shower Gel is a body wash that is designed to clean the whole body including men’s testicles. The same applies to the Lynx Body Buffer. The fact that double entendre is used does not make the language inappropriate. Double entendres are generally used to convey a delicate message without using vulgar or obscene words. The main issue is if the message behind the double entendre is inappropriate and not if the words are inappropriate as the words are words that are used every day by the general public and in the media. Double entendres are widely used in film and TV to convey a message. Even if the word “balls” was used without the use of double entendre we believe that it is not inappropriate and conflicting with the prevailing community standards as it is widely used vernacular by younger generations, in the media and on the Internet. The Practice Notes to the AANA Code of Ethics state that words which are innocuous and in widespread and common use in the Australian vernacular are permitted (provided they are used in a manner consistent with their colloquial usage, for example with gentle humour, and not used in a demeaning or aggressive manner). The Practice Notes list the following words as examples: “bugger”, “shit”, “pissed-off”, “crap”, “bloody”, “cheap bastard”, “bum”, “honk if you did it last night”. We submit that the language used cannot be classified as strong or obscene language that is inappropriate in the circumstances or language would generally be considered to be offensive. There may be some viewers who may feel offended by a low-level use of innuendo and double entendre but the language used is well within the prevailing community standards and the standards set by the AANA Code of Ethics. 3 Conclusion We submit that the context of the Amended Commercial and the language used are well within prevailing community standards and that Amended Commercial complies with the Code of Ethics.*

## **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 discriminatory towards, and stereotypes, a range of men from different demographics, that it objectifies women, is demeaning to men, contains inappropriate sexualized scenes and dialogue of a sexual nature and features inappropriate language. The Board also noted complainant concerns that the advertisement is vulgar and in bad taste. The Board reviewed the advertisement and noted the advertiser’s response and noted that this was a modified version of the previously considered case 0231/12. The Board noted that the advertisement was previously considered on TV (0231/12), Pay TV (0246/12), Cinema (0247/12) and on the Internet (0240/12) and was upheld on the basis that the advertisement breached section 2.1 in relation to older men. The Board noted that this modified version of the advertisement has had the upheld material removed. The Board first considered whether the advertisement was in breach of section 2.1 of the Code. Section 2.1 of the Code states that 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 Board noted complaints that the advertisement stereotypes several different types of men and is discriminatory towards men. The Board considered that the advertisement does depict a number of stereotypes about men from different ethnic or professional backgrounds. The Board considered however that the depictions were not offensive or demeaning to any person or section of society. The Board considered that the advertisement did not discriminate against men. The Board also considered complainants’ concerns that the advertisement is demeaning of men by suggesting that they are unclean and are motivated by the suggestion that women will pay attention to them sexually if they use the advertised product. The Board considered that the advertisement is most likely to convey an impetus to men to use the product and would not be taken as a serious suggestion that men would use this product for the purpose of sexual gratification. The Board considered that the advertisement is not demeaning to men. The Board considered whether the advertisement discriminated against women. The Board noted complainants’ concerns that the women are depicted in a demeaning manner. The Board considered that the advertisement is sexually suggestive but that the depiction of the women and their relationship to the sports presentation style scenario is evident and the advertisement is not suggestive of the women themselves being available to clean the genitalia of men. The Board considered that the advertisement does not discriminate against women. Based on the above the Board determined that, in this instance, the advertisement did not depict material that discriminated against or vilified a person or section of society and did not breach Section 2.1 of the Code. The Board considered whether the advertisement complied with Section 2.2 of the Code which states, “Advertising or Marketing Communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.” The Board noted the complainants’ concerns that the depictions of the women cleaning the balls, continually making sexually suggestive references to ‘balls’ and holding and playing with the balls in a sexually suggestive manner is demeaning to and objectifying of women as is the depiction of the women in the ‘infomercial’ style. The Board considered that the women are depicted in a mock ‘infomercial’ in a manner which is consistent with how such infomercials appear. The Board also considered that the depiction of Sophie Monk as a tennis pro, attired in tennis wear, was consistent with the sporting scenario depicted in the advertisement. The Board considered that these images are not objectifying of the women as the women are presented as active presenters and participants in the fake advertisement. The Board noted that the women are fully covered by their outfits and considered that the images do not contain inappropriate nudity and do not employ sexual appeal in a manner which is

exploitative and degrading of any individual or group of people. The Board considered the women's role as 'ball cleaners' and the repetitive references to dirty balls. The Board considered that while these comments are double entendres, the presence of actual sports balls mitigates the comments and does not therefore breach of section 2.2. In the Board's view the advertisement did not use the women's sexual appeal in a manner which is exploitative and degrading of the women. 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 the use of the term "balls" is a double entendre intended to be humorous. The Board accepted that 'balls' is a common vernacular reference to men's genitals. Some members of the Board expressed concern that the frequency of the reference to balls, dirty balls, clean balls, and playing with balls increased the sexually suggestive tone of the advertisement to a concerning level. The Board noted that the television advertisement was classified with an 'MA' rating and was able to be broadcast between 9pm and 5am on all days. The Board noted that in this instance the advertisement can be viewed online and noted that it was unlikely to be sought out by children. The Board considered that the double entendres were suggestive but that there was no actual nudity or sexual activity. The Board considered that the sexual references were appropriately sensitive for the mature audience. The Board determined that the advertisement did not contain strong sexual references and treated sex, sexuality and nudity with sensitivity to the relevant audience and 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 and strong or obscene language shall be avoided." The Board noted the advertisement features the words, "Balls" and the various descriptors of balls and considered that in conjunction with the sports presentation setting and the use of a variety of actual sporting balls, the language is not inappropriate. The Board considered that the use of the term 'balls' is an accepted reference to men's genitals in Australia and would not be considered strong or obscene. Although the frequency of the reference increased the suggestive effect of the word, the Board considered that the advertisement did not use strong or obscene language and determined that the advertisement did not breach Section 2.5 of the Code. The Board noted significant concern from complainants that the advertisement is in poor taste and is crude. The Board noted that the only grounds on which a complaint can be upheld are those specified in the Code of Ethics. Finding that the advertisement did not breach any sections of the Code, the Board dismissed the complaints.