



Case Report

1	Case Number	0034/17
2	Advertiser	Anytime Fitness
3	Product	Sport and Leisure
4	Type of Advertisement / media	Poster
5	Date of Determination	08/02/2017
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

The poster features a picture of a person in gym clothing along with the following statements:

“F*CK UNFIT! THIS IS MY YEAR. BEAT THE EXCUSES. SMASH OVER 1,100 WORKOUTS WITH OUR ANYTIME FITNESS APP. GET STARTED WITH A 7-DAY FREE TRAIL. JOIN IN-CLUB AND DOWLOAD IT TODAY #ANYTIMEWORKOUTS”.

The poster also features contact details for the nearest Anytime Fitness Gym, Terms and Conditions of the 7-day free trail and the Anytime Fitness Marks.

The mirror decal features the following statement:

“F*CK UNFIT! THIS IS MY YEAR #ANYTIMEWORKOUTS”.

THE COMPLAINT

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

*I am not happy with there being #F*ck all over their walls and find it offensive they think its acceptable to have this in their inspire quotes. I find it unnecessary.*

THE ADVERTISER'S RESPONSE

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

Advertisement

It is not entirely clear as to which specific advertisement this complaint refers to, however some Anytime Fitness Clubs are currently displaying posters and mirror decals in their premises and we are of the view that it is likely that the complaint is referring to these advertisements.

Anytime Fitness Network

Anytime Fitness is a franchise system that involves the development and operation of 24/7 fitness clubs using certain trademarks, systems and other intellectual property. The franchise system is owned by Anytime Fitness LLC of Minnesota, USA. We, Anytime Australia Pty Ltd have the rights, in Australia, to grant Anytime Fitness franchises to others (franchisees) who operate Anytime Fitness clubs using the system; we are therefore considered the Australian Franchisor. It is important to note the following characteristics of a franchise model:

- Each franchise is independently owned and operated; and*
- Anytime Australia is a separate legal entity and does not own or operate any Anytime Fitness clubs on its own account.*

Despite the above, we, in conjunction with our marketing agency, have developed, and made available to our franchisees, the relevant advertising campaign and the material the subject of the complaint. Accordingly, we consider it appropriate for us to respond to the complaint (particularly in circumstances where the complaint does not identify the particular relevant club displaying the subject advertisement).

Applicable Codes

The complaint raises issues under Clause 2.5 of the AANA Advertiser Code of Ethics ('the Code') which we address in our response below. Anytime Fitness is of the view that Clauses 2.1, 2.2, 2.3, 2.4 and 2.6 of the Code, together with the AANA Food & Beverage Advertising & Marketing Communications Code, are not relevant to the advertisement.

The AANA Code of Advertising & Marketing Communications to Children does not apply as the advertisement is not directed primarily to children and is not a product targeted toward and having principal appeal to children. Anytime Fitness Clubs do not allow minors to join if under the age of 16 and minors aged 16 and above can only join approved Clubs with the permission of their parent or legal guardian.

Campaign Context

*The posters and mirror decals to which the subject complaint appears to relate form part of the wider "F*ck Unfit" campaign which was launched by Anytime Fitness on 9 January 2017. The campaign is due to run until 11 February 2017. The F*ck Unfit campaign is designed to inspire a fitter Australia by challenging the fundamental health problem of being unfit. Approximately two thirds of Australians are overweight or obese; as Australian's largest gym chain, Anytime Fitness considers itself morally obligated to take positive action to address this issue. This emotive marketing campaign challenges Australia to become fitter and healthier with the support of Anytime Fitness and the Anytime Workouts app, which is a digital workouts tool Anytime Fitness launched to all its members alongside the campaign. Anytime Workouts features over 1,100 workouts and 2,700 exercises and is accessible*

*exclusively to members via the Anytime Fitness app. Anytime Fitness seeks to motivate and equip Australians with the necessary resources to take the nagging, pessimistic internal dialogues about getting fit and flip them into positives by saying “F*CK UNFIT!”. Underpinning this is the message that with Anytime Fitness you’re not just a part of a gym, but you’re part of the largest fitness community in Australia with people who’ve overcome those same negative voices. Our cultural and commercial ethos centers upon a bona fide commitment to improving the nation’s health.*

The advertisement

The relationship between the campaign, Anytime Fitness’ goal to inspire a fitter, healthier Australia and the launch of the app is clearly expressed throughout the campaign materials, including the posters and decals.

The in-club communication does not contain inappropriate, strong or obscene language. Anytime Fitness understands that the word ‘fuck’ may be considered obscene and inappropriate in certain contexts to some members of the community. However, whilst the campaign alludes to the word it does not appear in any of the advertisements in full as the ‘u’ has been replaced with a ‘’. The context of the relevant advertisement is the internal promotion of fitness and wellbeing to existing adult members or customers of a physical fitness center. The word is used in a motivational way to inspire positive change for the betterment of the viewer’s, and the ultimately the nation’s, health.*

Anytime Fitness does not condone overt or unnecessary swearing. Instead the campaign is meant to allude to a strong statement that we’re making in the face of health problems which plague our communities. Our goal was not to swear to offend or just for the sake of it.

*Further, the phrase “F*ck Unfit” is not used in a sexual or aggressive manner and instead is used in a motivational manner, intended to inspire people to take control of their fitness goals and highlight the Anytime Workouts app which members can use to make their fitness goals a reality. We firmly believe, and respectfully submit, that there is a significant public interest in combatting Australia’s overweight and obesity crisis and that the advertisement ought to be considered in light of its purpose of advancing this public interest.*

Anytime Fitness is of the opinion that if you view the posters and decals in the context of the Anytime Fitness brand, the intended audience, the goal to create a fitter and healthier Australia, the launch of the Anytime Workouts app and the motivational tone used throughout, the overall use of the language cannot be deemed strong, obscene or inappropriate.

Importantly, the posters and decals are only displayed inside Anytime Fitness Clubs, meaning that the only people who view the posters and decals are members, potential members and employees. As noted above minors under the age of 16 are not allowed to join Anytime Fitness and minors over the age of 16 can only join approved clubs with the permission of their guardian. Accordingly, children are not viewing the posters or decals. Given the closed audience who are exposed to the posters and decals and the age bracket of the audience, we are of the view that the language cannot be deemed obscene or inappropriate in these circumstances.

*Anytime Fitness became aware of the ASB’s determination in regard to SBS Corporation’s “F*CK, THAT’S DELICIOUS” advertisement just prior to commencing the F*ck Unfit campaign. In an effort to conform with the ruling, Anytime Fitness amended the components*

*of its external advertising that had a higher possibility of being viewed by children. Specifically, “F*ck Unfit” was changed to “F*?# Unfit” for certain mediums in order further conceal the word. However, Anytime Fitness are of the view that in circumstances where the campaign is being displayed to a closed off audience such as in the Anytime Fitness Clubs, further concealment is not necessary.*

*For the reasons stated above, Anytime Fitness is of the view that the posters, mirror decals and other advertising material which forms part of the F*ck Unfit campaign does not breach the Code and the complaint should be dismissed.*

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 features strong language which is offensive and not appropriate for display inside a gym.

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

The Board 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 (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided”.

The Board noted that there are four versions of the poster advertisement for Anytime Fitness with each version featuring a different person wearing workout gear but all versions feature the phrase, “F*CK UNFIT!”, as well as two versions of a mirror decal, also with the phrase, “F*CK UNFIT!”

The Board noted the use of the F word with an asterisk replacing the letter ‘u’. The Board noted it had previously upheld a similar complaint in case 0513/13 where:

“The Board noted that the asterisks did not obscure the meaning of the word, and in the context it was clear what the word was meant to be. The Board also noted that the name of the product being advertised was a television show called ‘F*ck, That’s Delicious’.

The Board noted that it had previously upheld similar complaints about outdoor posters featuring the names of bands (“Holy Fuck” in case 0032/11, “Fuck the Reaper” in case 0362/11 and “Starfuckers” in case 0009/15).

The Board noted that the current advertisement was part of a series of large, outdoor posters which would be seen by a broad audience, including children. The Board considered that the meaning of the word in the advertisement was clear enough that most young children would be able to read and understand it...

...The majority of the Board considered that community standards research had shown that the word ‘fuck’ is still considered to be obscene by most members of the community, and that

this was not appropriate to be used in advertising in a public medium.”

In the current advertisement the Board noted the advertiser’s response that the intended audience was adults but considered that as children under the age of 16 may be members of the gym with their parents’ permission the actual audience is not restricted to people over 16.

The Board noted the advertiser’s response that the phrase “F*CK UNFIT!” is intended to be motivational and considered that while this may be the case, in the Board’s view many people still find references to the F word to be strong and obscene. The Board noted that the phrase, “F*CK UNFIT!” is very clear in each version of the advertisement and considered that most children would be able to read it and understand it, and in the Board’s view, many adults would find this phrase to be strong, obscene and not appropriate in the context of large posters inside a gym.

Consistent with its recent determination for the same advertisement when used on flyers in case 0033/17, the Board considered that the language in the advertisement was too strong for a broad audience that would include children and is not appropriate in the circumstances.

The Board determined that the advertisement did breach Section 2.5 of the Code.

Finding that the advertisement did breach Section 2.5 of the Code, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

We refer to your letter of 13 February 2017 and acknowledge the ASB’s decision on this matter.

The advertising campaign concluded on 11 February 2017 and our franchise network have been advised to discontinue use of all marketing materials and advertisements associated with the campaign. We will advise our franchise network of the ASB’s decision.

We wish to clarify an error in the Board’s comments. The Board stated “that as children under the age of 16 may be members of the gym with their parents’ permission the actual audience is not restricted to people over 16”. This is incorrect. As noted in our initial response to the complaint “minors under the age of 16 are not allowed to join Anytime Fitness and minors over the age 16 can only join approved clubs with the permission of their guardian”. Accordingly, the audience was restricted to people over the age of 16.

We request that you also publish our comments above regarding the error when publishing our response to the Board’s determination.

