



## Case Report

1	Case Number	0035/17
2	Advertiser	Anytime Fitness
3	Product	Sport and Leisure
4	Type of Advertisement / media	Internet-Social-FB
5	Date of Determination	08/02/2017
6	DETERMINATION	Upheld - Modified or Discontinued

### ISSUES RAISED

2.5 - Language Inappropriate language

### DESCRIPTION OF THE ADVERTISEMENT

This Facebook advertisement consists of a post which included a video and the caption: “It’s time. You know what to do. Say f\*ck unfit and change your life. Try our 10-day free trial FckUnfit“

The video has a female voice over that talks about inner voices and excuses not to get fit. Text which matches what the voice over is saying appears on screen along with pictures of people at the gym and in exercise clothes. The voice over says “This year join five-hundred-thousand voices that say...” the voice over cuts off and the text “F\*CK UNFIT!” appears. The video goes on to give more information about the gyms.

### THE COMPLAINT

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

*The campaign uses the title 'F\*CK UNFIT'. This is now used in the text content of related advertising by gyms in the franchise and as an associated hashtag. I object to this as it is offensive and clearly seeks to make use of the word 'FUCK' in its advertising. The word 'FUCK' is barely disguised with a '\*' but it leaves little to the imagination. If this form of advertising is allowed it is only a short way away from the entire word 'FUCK' being allowed for use in general advertising. I believe that this advert fails acceptable standards of decency in our community.*

## 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 whether there is any specific social media post that this complaint refers to. The advertising campaign "F\*ck Unfit" has been promoted on Facebook, Instagram, Twitter, LinkedIn, YouTube and our website ([www.anytimefitness.com.au/fck-unfit/](http://www.anytimefitness.com.au/fck-unfit/)).*

*The website features a picture of a person in gym clothing along with the following statement:*

*"F\*CK UNFIT! THIS IS MY YEAR. Those inner voices, the ones that give you hundreds of reasons not to get fitter and healthier. It's time to tell them where to go. Whether you're a beginner or a fitness fanatic, all too often those negative voices stop you from reaching your goals. Join a community 500,000 voices strong and say f\*ck unfit, enough is enough today!"*

*Users are then directed to a short video. The video has been shared on Facebook, Twitter, Instagram and YouTube. "F\*ck Unfit" features in the images of the video, but is never spoken.*

*Similar wording and images to those used on the website are being shared on Twitter, Facebook and Instagram using the hashtags #FckUnfit, #AnytimeWorkouts and #AnytimeFitnessAustralia.*

*An example Twitter post is as follows: "F\*ck unfit. Beat the excuses to make this your year. Get started with a 7 day free trial at #AnytimeFitnessAustralia and say #FckUnfit".*

*An example Facebook post is as follows: "Say f\*ck unfit with Anytime Fitness and smash over 1,100 workouts with the Anytime Workouts app. Get started with a free 7-day trial #FckUnfit #AnytimeWorkouts".*

### *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. We have also used components of the campaign on our own website and social media channels. Accordingly, we consider it appropriate for us to respond to the complaint (particularly in circumstances where the complaint does not identify any*

*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 guardian.*

### *Campaign Context*

*The website, video and social media posts to which the subject complaint relates 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 on the website, video and various social media posts.*

*The website, video and various social media posts do not contain inappropriate, strong or obscene language. Anytime Fitness understands that the word 'fuck' may be considered obscene and inappropriate 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 advertisements is the promotion of a physical fitness center to adult Australians and the word is used in a motivational way to inspire positive change for the betterment of the viewer's, and 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 website, video and various social media posts 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.*

*Whilst the website, video and various social media posts are online and viewable by the general public, the intended audience is not children and the posts were not designed to attract children. Importantly, many of the relevant social media advertisements were promoted to restricted audiences aged 18 and over, which greatly limits the probability of children viewing the material. Further, the majority of followers on our social media pages and visitors to our website are current and potential Anytime Fitness members, meaning that they are over the age of 16. Anytime Fitness intends to attract members predominately from the 18-35 year old age bracket. Accordingly, the content shared on the website, social media posts and in the video are targeted at this demographic. Further, Anytime Fitness is of the view that given the use of the ‘\*’, together with the context, style and delivery format, as well as the product to which the advertisements relate, even if young children were to view the advertisements, they are unlikely to associate the word with an offensive or swear word.*

*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 to the Anytime Fitness social media following such further concealment is not necessary, particularly as the language used is not uncommon online or on social media.*

*For the reasons stated above, Anytime Fitness is of the view that the website, video, various social media posts 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.

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 this Facebook advertisement is a short video which is captioned, "...Say f\*ck unfit and change your life. Try our 10-day free trial FckUnfit". The Board noted that the video features a female voiceover talking about excuses we use to not get fit, along with images of people working out, and when she says, "F\*ck unfit" the volume drops so we don't hear the full words, but they are printed onscreen.

The Board noted the use of the F word with an asterisk replacing the letter 'u'. The Board noted it had previously upheld similar complaints about the mail and poster advertisements in the same campaign in cases 0033/17 and 0034/17.

In the current advertisement the Board noted the advertiser's response that the intended audience was adults but considered that Facebook is targeted to children aged 13 and over therefore the actual audience would be broader.

The Board noted the advertiser's response that the phrase "F\*CK UNFIT!" is intended to be motivational rather than offensive. A minority of the Board noted the advertisement's placement on Facebook and considered that in the context of this restricted audience, and the intention of encouraging adults to go to the gym, the reference to the F word is not inappropriate in the circumstances.

The majority of the Board however considered that while the audience may be narrower than that of the flyers and posters, 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 clearly in each version of the advertisement and considered that children aged 13 and over 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 advertising for gymnasium membership.

Consistent with its recent determination for the same advertisement (0033/17 and 0034/17), the Board considered that the language in the advertisement was too strong for a broad audience that could 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.