



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	<b>Case Number</b>	<b>0230/18</b>
2	<b>Advertiser</b>	<b>Smith's Alternative</b>
3	<b>Product</b>	<b>Food / Beverages</b>
4	<b>Type of Advertisement / media</b>	<b>Outdoor</b>
5	<b>Date of Determination</b>	<b>09/05/2018</b>
6	<b>DETERMINATION</b>	<b>Upheld - Modified or Discontinued</b>

## ISSUES RAISED

2.5 - Language Strong or obscene language

## DESCRIPTION OF THE ADVERTISEMENT

This outdoor advertisement was an A-frame chalkboard outside the business with the text "Fuckday 20 Apr" and then a list of the shows on int he venue that day.

## THE COMPLAINT

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

*Offensive language*

## THE ADVERTISER'S RESPONSE

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

*Staff "did not rush out to see what the issue was" partially because they were dealing*





*with an overflowing dishwasher. Also, proprietors and staff of Smith's hold a different opinion on what constitutes offensive language. No other complaints were received. No other comments on the wording of the board were received.*

*2.1 Discrimination or vilification: The advertisement did not discriminate against or vilify a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.*

*2.2 Exploitative or degrading: The advertisement did not employ sexual appeal.*

*2.3 Violence: The advertisement did not present or portray violence.*

*2.4 Sex, sexuality and nudity: The advertisement did not employ sex, sexuality or nudity.*

*2.5 Language: The proprietors and staff of Smith's Alternative do not agree with the complainant that the language was obscene or offensive.*

*2.6 Health and Safety: The advertisement did not depict material contrary to Prevailing Community Standards on health and safety.*

*2.7 - Distinguishable as advertising: The advertisement was displayed outside the place of business.*

## **THE DETERMINATION**

The Ad Standards Community Panel ("Panel") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Panel noted the complainant's concern that the advertisement contains offensive language.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel noted the outdoor advertisement was an A-frame chalkboard which featured the text "Fuckday 20 Apr" and detailed events happening at the venue.

The Panel 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 Panel considered that the advertisement is for an 'alternative' venue, was in a CBD location and was not near a school or playground, and although the



advertisement was on a public street is was unlikely to be seen or read by children.

The Panel note the Practice Note for the Code includes advice that: “The “f” and “c” words are generally not permitted. Non- verbal representations of the “f” word are also not permitted”.

The Panel considered the word ‘fuckday’ was the first word written on the chalkboard and that it would be immediately visible to anyone walking past the venue.

The Panel considered that they had previously upheld complaints about an A-frame advertisement which featured the word ‘f\*ck’ in case 0041/17, in which:

“The Board noted the advertiser’s response that the intended audience was adults but considered that the advertisement’s placement on an A-Frame on the pavement outside Anytime Fitness locations means that the audience will be broad and will include children.

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 a clear reference to the word ‘fuck’ and considered that most young 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 outdoor advertising.”

Consistent with the determination in case 0041/17, in the current advertisement the Panel considered that ‘fuck’ is a word that many people in the community would find offensive an inappropriate in an outdoor medium, even if it was in a location unlikely to be seen by children.

The Panel considered the word ‘fuck’ used in full did constitute strong and obscene language and did breach Section 2.5 of the Code.

Finding that the advertisement breached 2.5 of the Code, the Panel upheld the complaint.

## **THE ADVERTISER'S RESPONSE TO DETERMINATION**

Complaint Upheld - Advertising Discontinued

