



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0276/18
2	Advertiser	Brand Collective
3	Product	Clothing
4	Type of Advertisement / media	Email
5	Date of Determination	20/06/2018
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

2.5 - Language Strong or obscene language

DESCRIPTION OF THE ADVERTISEMENT

This email advertisement contained a picture of a pair of shoes and the text "we're fucking back". The word "fucking" had a line through it.

THE COMPLAINT

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

This ad when opened uses highly offensive language that I do not believe is acceptable to be seen by children, there is no warning noted that explicit language is used before opening the attachment and no way a child should be able to see this.

THE ADVERTISER'S RESPONSE

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



Advertisement complaint reference number: 0276/18

We refer to your letter 4 June.

Description of the Advertisement

The complaint referred to and email received on 1 June 2018. We believe that the complainant was referring to a 31 May 2018 EDM (electronic direct mail) message issued to VOLLEY'S customer data base, a copy of which is attached (Attachment 1). Comprehensive comments in relation to the complaint (taking into account the need to address all aspects of the advertising codes)

It is alleged that the EDM displayed raise issues under section 2.5 of the AANA Advertiser Code of Ethics (the Code). This section 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."

Please note that we will not be issuing the offending EDM again.

The EDM was issued by the internal VOLLEY team to advertise a particular shoe with the words "FUCK OFF" on the tongue. There are two styles of the shoe, a black and a white colour. The EDM was issued to advertise the availability of the shoe due to a small quantity of new shipment having been received. The previous shipment sold out quickly.

The target market for the campaign is the men and women aged 20 to 35.

Language

We acknowledge that the language used in the EDM may be considered offensive. Even though the word "Fuck" is obscured by a hatched line, we concede that it may still be understood to be the word "Fuck". In our defence, we would submit that the word "Fuck" has now entered common usage and its ability to cause offence has been greatly diminished over the years.

Appropriate in the Circumstances

The EDM was only sent out to VOLLEY'S customer data base and we concede that some members of that data base may take offence.

Strong and obscene language



As previously stated, we would submit that the word “Fuck” has now entered common usage and its ability to cause offence has been greatly diminished over the years.

In reviewing the other sub-sections in section 2 of the Code, we do not believe any other subsection of section 2 are relevant to the complaints.

Conclusion

We submit that it is somewhat arguable that the language in the EDM do not breach the Code, if it is accepted that the word “Fuck” has now entered common usage and its ability to cause offence has been greatly diminished. Increasingly, main stream discourse including political discourse, motion picture dialogue and journalistic reporting, are displaying the word “Fuck” to a wide audience.

Also, the EDM should be considered in the context of the target audience of men and women aged 20 to 35 and it should be noted that the EDM was only issued to VOLLEY’S customer data base who have signed up to receive EDM’s and are familiar with VOLLEY’S advertising and marketing methods.

Importantly, I have been assured by the VOLLEY team that the EDM in question will not be used again and will not be issued to VOLLEY’S customer data base.

Please call us if you have any questions.

THE DETERMINATION

The Ad Standards Community Panel (the “Panel”) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the “Code”).

The Panel noted the complainant’s concern that the advertisement uses highly offensive language.

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

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 noted that this email advertisement contained a picture of a pair of shoes and the text "we're fucking back". The word "fucking" had a line through it.

The Panel noted the complainant’s concern that there is no warning about explicit language prior to opening the email, and that this language is inappropriate for a child



to view.

The Panel noted the advertiser's response that the advertisement was for a particular shoe that has the words "FUCK OFF" on the tongue.

The Panel considered the advertiser's response that the target audience was people aged between 20 and 35 and that the advertisement was distributed only to VOLLEY'S customer data base who have signed up to receive marketing material.

The Panel noted that the word 'fuck' was partially obscured however considered that people would still be easily able to see and understand what was written. The Panel considered that the advertiser could have advertised the product with the text on the tongue without the added text surrounding it.

The Panel noted the advertiser's assertion that the word 'fuck' has entered common usage and its ability to cause offense has diminished over the years, however considered that although the word may have common usage verbally, in written form it has a different impact and is more direct.

The Panel noted it had previously upheld complaints for the same advertiser about a poster advertisement with a similar theme in case 0573/17 in which:

"The Board noted that it has consistently determined that the word 'fuck' is considered to be a strong and obscene term and is not appropriate in advertising that is likely to be seen by a broad audience which would include children (0513/16, 0360/16 and 0034/17). The Board also noted its community standards research (https://adstandards.com.au/sites/default/files/2017_community_perceptions_web.pdf) which supported the Board's view that, particularly in public areas and areas where children can see the material, the community view is that this term is strong or obscene language.

"The Board noted that in this material the word 'fuck' is not used on its own. Rather the advertisements uses the phrase 'fuck off' in conjunction with the image of the hand with its middle finger up the tone of this advertisement. In the Board's view the phrase and image are aggressive and added to the impact of the language."

In the previous case the poster was available for viewing by a broad audience including children. In the current case, the Panel noted that a targeted email to subscribers would be more likely to have a narrower relevant audience.

The Panel considered that the use of the word 'fuck' in the written form in a targeted email was still a depiction of language that is not within prevailing community standards.



Consistent with the previous determination, the Panel considered that the language used in the advertisement is strong and is not appropriate for a broad audience and determined that the advertisement did breach Section 2.5 of the Code.

Finding that the advertisement did breach Section 2.5 of the AANA Code of Ethics, the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

In response to the Ad Standards' determination of Case 0276/18 dated 22 June 2018 where the Ad Standards determined that the advertisement breached one or more of the Advertiser Code (the "Code") administered by the Ad Standards, we confirm that the following measures have been taken:

- The EDM in question will not be used again and will not be issued to VOLLEY'S customer data base.