



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0379-19
2. Advertiser :	Rusty
3. Product :	Sport and Leisure
4. Type of Advertisement/Media :	Email
5. Date of Determination	27-Nov-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.5 Language

DESCRIPTION OF ADVERTISEMENT

This email advertisement features the subject line "Fu*k Yeah Fridays Presents: The Twin Fin".

THE COMPLAINT

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

*Heading included a swearword. Simply replacing the c with a * is insufficient.*

THE ADVERTISER'S RESPONSE

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

RE: Case reference number: 0379-19 / RUSTY

We refer to your letter dated 8th November 2019, regarding a complaint lodged with Ad Standards in reference to a recent RUSTY promotional email/EDM. A screen shot showing a copy of the Email has been included for ease of reference (Attachment #1).



*The complaint alleged that the nature of the SUBJECT of the EDM: Fu*k Yeah Fridays Presents: The Twin Fin ?? is in breach of Section 2.5 of the Code. Section 2.5 requires advertising to use language which is appropriate and to avoid strong or obscene language. The use of the * in place of the letter c means that no actual profanity or swear word is shown on the Rusty Email. This disguised use of the word FUCK is commonly used within advertising materials globally, including Australia. Attached you will find case examples of other marketing material and promotional material containing similar contents to the Rusty EDM (Attachments #2 & #3).*

Further to the above, the EDM was issued by the internal Rusty Marketing team directly targeting our database of SURFBOARD buyers. The contents of the EDM was Surfboard related, highlighting the surfboard of the month. The total number of recipients who opened the email was 2,307.

Of that 2,307 people who viewed the email, the age Break down is between 18-65+ as shown below;

Age Breakdown (recipients)

18-24 16.4%

25-34 33.0%

35-44 20.7%

45-54 17.9%

55-64 6.7%

65+ 5.2%

*We acknowledge that the language used in the EDM may be considered offensive by some, however we do not consider there is any strong or obscene language in the Rusty EDM and internally, management has approved the use of Fu*k among our material (as it is so commonly used with so many other brands) as ultimately, the Surf industry and Rusty in particular is a brand considered slightly left of field and our consumers who know and love this brand that has been in existence for more than 30 years, choose to visit our website and/or subscribe to our mailing list.*

This particular EDM will not be issued again, it was a one off. Our internal Marketing Team will always consider the target market of the consumer when creating these advertisements and will consider all aspects of the terminology we use closely before sending.

Please feel free to contact me should you have any further questions or concerns.

THE DETERMINATION

The Ad Standards Community Panel (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 subject line of the email included a swearword which had been insufficiently covered.



The Panel viewed the advertisement and the noted 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 the Practice Note for Section 2.5 of the Code which provides:

"Words and acronyms that play on the 'f' word, e.g. WTF and LMFAO, but do not use the actual word are normally considered acceptable if used in a light-hearted and humorous way, are in subtitle rather than the spoken word and are appropriate to the situation."

The Panel noted the advertiser's response that the advertisement was distributed to just over 2,300 subscribers who were adult surfboard buyers.

The Panel noted that it had previously considered an email advertisement which included the word 'fucking' partially obscured by a sticker, in which:

"The Panel noted that use of the word "fuck" in written format was generally not acceptable, but considered that in this instance, the advertiser provided information that the audience is primarily adult and that people have to opt in to receive the email. The Panel also considered that the depiction of a censor sticker lessens the impact of the word, and noted that it is not unreasonable to expect content of this type, given the store and its products. The Panel considered that the language used in the advertisement is not inappropriate for a broad audience which may include children and determined that the advertisement did not breach Section 2.5 of the Code."

In the current advertisement, the Panel considered that in the context of an adult audience who would be familiar with the surfwear and surfing brand and their style of communications, the language inferred in the email subject line of the marketing communication was not inappropriate.

The Panel considered that the language used in the advertisement is not inappropriate for the circumstances, strong or obscene and determined that the advertisement did not breach Section 2.5 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Panel dismissed the complaint.