



## Case Report

1	Case Number	0517/14
2	Advertiser	Clean and Fit Wear
3	Product	Clothing
4	Type of Advertisement / media	Print
5	Date of Determination	10/12/2014
6	DETERMINATION	Upheld - Modified or Discontinued

### ISSUES RAISED

2.5 - Language Strong or obscene language

### DESCRIPTION OF THE ADVERTISEMENT

A paper flyer containing six photographs of the back of muscular males wearing items of clothing, including a t-shirt with writing on it stating: "I come fuck shit up and leave" and a jumper with writing on it stating: "No pain no gain so shut the fuck up and train."

### THE COMPLAINT

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

*Inappropriate language in a size and font easily readable to anyone who looks at the flyer, including the elderly and children. Depiction of large muscular men wearing the offensive clothing - the general appearance of the men in the images and their clothing closely resembles members of Outlaw Motorcycle Clubs - an image that causes most in the community to be fearful for their safety.*

### THE ADVERTISER'S RESPONSE

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

*Advertiser did not provide a response.*

## **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 concern that the advertisement features language that is inappropriate and easily readable by a broad audience that could include children.

The Board reviewed the advertisement and noted the advertiser did not provide a response. The Board then 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 the images before them for review were derived from the website for the business and match the description provided by the complainant however the Board was not provided with a copy of the flyer itself.

The Board noted that the images were of the back of males wearing items of clothing, including a t-shirt with writing on it stating: "I come fuck shit up and leave" and a hoodie with writing on it stating: "No pain no gain so shut the fuck up and train."

The Board noted that the legality of including such text on clothing items is not a matter that the Board can adjudicate on however the promotion of the clothing items in this medium is captured within the definition of advertising and/or marketing material and can therefore be considered by the Board.

The Board noted that it had previously considered the use of the word “fuck” in its full form and derivatives of the word in several cases. The Board noted that as the advertisement is featured on print material that was delivered in the mail, it is likely that it could be viewed by a broad audience which would include children.

The Board considered that the word “Fuck?” is not appropriate for such an audience and that it is a word which most members of the community would consider offensive. The Board considered that the use of the term in this particular promotion is aggressive and forceful.

The Board determined that the advertisement did feature language which is inappropriate in the circumstances and that the language is strong and obscene and that it did breach Section 2.5 of the Code.

Finding that the advertisement did breach the Code on other grounds, the Board upheld the complaint.

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

I did not know that I was breaching the rules. The pamphlets are no longer being used and will not be repeated or used again.

