



Case Report

1	Case Number	0062/14
2	Advertiser	WorkSafe Victoria
3	Product	Community Awareness
4	Type of Advertisement / media	TV
5	Date of Determination	12/03/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Disability
- 2.3 - Violence Causes alarm and distress
- 2.3 - Violence Community Awareness

DESCRIPTION OF THE ADVERTISEMENT

Beth is at a public pool where her 6-7 year-old daughter is having casual swimming classes. Beth is helping out and is rubbing her daughter down with a towel. Another, younger, girl is staring at Beth and says something to her Mum. We see why: Beth has scarring on one side of her face and has a blind, milky eye. But she looks back at the little girl with a big friendly smile.

We dissolve back in time to when Beth was a bridesmaid for a friend, aged around 28. As they prepare for a photo after the wedding she finds a spot where she can turn a little away from the camera and self-consciously plays with her hair, pulling it over the side of her face. Dissolve back to Beth at about 20. She is in front of a mirror in the bathroom at home putting on her eye make-up. She looks at herself, then sighs in frustration and wipes the make-up from her bad eye to start again.

Dissolve back in time to a hospital sign saying Burns Unit. It's only a few days after the accident. In a hospital bed Beth is sitting up with her Mum as a doctor takes off the dressing to reveal the damage to her eye and face.

The accident.

Now we dissolve back to Beth (aged about 19) doing casual work in the kitchen of a fast food place. It's the end of the day and she's cleaning the oven. But the squirty cleaning bottle is empty, and she pushes her goggles up to see how to refill it. There's a full 20 litre container nearby but she's too embarrassed to ask what to do. The owner is a little way off, tidying things up.

So she tilts the container to decant some out into a small plastic tub; there's a glug and a bit

splashes into her eye, above her gloves. It's extremely painful; she shrieks; a large splash of liquid spills onto her gloves. She puts a gloved hand to her eye, only making it worse, and burning the skin on her cheek. It's sudden and very painful to watch.

A voice says:

IT TAKES A MOMENT TO ASK; OR A LIFETIME TO REGRET NOT ASKING.

And we close on the words: If you don't know, ask. Plus the WorkSafe logo.

THE COMPLAINT

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

This advertisement only covers a small range of industries. For people who work in an office and don't work around chemicals, this advertisement is extremely disturbing. All companies that I worked in while studying had stringent occupational health and safety training so that such an incident wouldn't happen. I believe this ad should be sent directly to people who work in such industries for their viewing rather than subjecting others. Every time this ad comes on, I need to change the channel as I just can't watch it. It's really an extreme way to be portraying work safety and don't believe that it is correctly being targeted to the correct audience.

I am fully aware that shock value ads can be effective, but in my view this ad crosses the line and denigrates and marginalises people with a disability by treating them as objects of pity. The current advertising campaign reinforces that stereotype by playing to the pity emotion of the community that somehow the lives of those affected by workplace accident are something of lesser value and something to be ashamed of.

THE ADVERTISER'S RESPONSE

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

In this response I outline the background to the campaign, key aspects of the extensive market research we conducted and the rationale for the creative approach taken. The confronting nature of the creative was thoroughly market tested and endorsed by all audience groups, particularly young people, as what would be required to make them take notice and genuinely engage with the ad's message.

Following your review of this material I am confident that you will find that WorkSafe has developed a commercial to tackle the issue of traumatic workplace injuries suffered by young workers in a responsible way and that is 'justifiable in the context of the product or service advertised' being workplace safety (*section 2.3 AANA Code of Ethics).*

The commercial and internet advertising in question is titled 'Beth's Story'. It is one of two commercials produced together; the other titled 'Nick's Story'. The commercials are part of a campaign also comprising radio, cinema, print, outdoor and internet advertising. The campaign is a rerun of the June 2013 Young Workers campaign.

Background – Why young workers are such a focus.

Workplace injury (and obviously death) is a social issue that affects more than simply the individual worker. Families, friends and work colleagues are placed under enormous stress; not to mention the wider impact on health and insurance systems. Every year WorkSafe administers over one billion dollars in benefits for rehabilitation and financial support to

injured workers.

In tackling the issue of workplace safety, WorkSafe has segmented its approach, looking at aspects like age, industry type, workplace culture, and type of hazard (such as manual handling). Large investments have been made in research – particularly to understand the attitudes and behaviours of workers, employers and the Victorian community at large, to best enable us to influence behaviour change.

While the total number of workplace injuries is falling, alarmingly, young workers (aged 15-24) suffer 17% more injuries than the average across all other ages.

- 18.9% of Victoria's workforce is aged between 15 – 24 years old. Every year around 3,000 of these young Victorians suffer serious injury as a result of a workplace accident.*
- Young Victorian Workers have a 21% higher hospitalisation rate as a result of workplace injuries than their older counterparts, indicating they are more likely to suffer a severe injury; Young workers have therefore become one of the specific groups chosen for direct attention. An integrated Young Worker advertising campaign is one aspect of a wider organisational effort that includes workplace inspections, instructional guidance for employers and workers, and educational seminars.*

Food Services, featured in the commercial that is the subject of this complaint, is an industry with a high injury rate for young workers. Many of these injuries arise through not understanding safety procedures, and a reluctance to ask questions.

Research specific to the Young Workers advertising

Since 2008, several rounds of research have been conducted on WorkSafe's behalf by Sweeney Research to help us develop the most effective and well founded campaign.

Some of the key insights that guided us in the development of this commercial included:

- Young workers considered WorkSafe and the issue of workplace safety only to be relevant to older people working fulltime in trades, factories and construction.*
- Young workers lack knowledge about safety and considered they were not exposed to dangerous situations in the workplace.*
- For a variety of reasons (including not wanting to appear stupid or bother the boss), young workers are reluctant to speak up and seek assistance. They often feel intimidated about asking questions.*
- Older workers and employers see this reluctance to engage as apathy or arrogance, with young workers who either 'don't care' or 'know it all'.*
- Older workers/employers have forgotten what it is like to be new, and that 'common sense' must be taught.*

Therefore our challenge was to create a commercial that had relevance for young audiences, getting them to appreciate that 'it could happen to me' and to speak up when they aren't confident about how to safely undertake a task or to resolve a problem.

Simultaneously, employers need to appreciate that a higher level of supervision and support is required for young workers.

The 'Beth's Story' commercial, the subject of this response, is the next in the series of a dedicated young workers campaign that began back in 2008.

In the lead up to the 2008 campaign a range of concepts were researched and the unequivocal feedback from young workers was the need to be confronting if we were to have an impact on attitudes and behaviour.

Following are selected excerpts from the 2008 Sweeney Research report which is included as an attachment to this response.

Sweeney Research - Youth Concept Testing – June 2008

(Respondents were youth + owner-managers from small and medium-large companies).

Permission to "go gory"

"The Youth Campaign has not only received "permission" from its audiences to "go gory,"

in a sense they are crying out for it. The younger audiences need to be shocked into paying attention to the serious messages of the ads.”

“For a younger audience, we need to see the reality of it. The kid waiting for his Dad to come home and those sorts of ads – great, but they’re not for us and we can’t relate to them. We need to really see the risks. If they want to get our attention, they’ve got to do something that we’re going to watch and go ‘shit that could be me’.” (Fulltime, 18-20)

Realism is the key - Even if the scenario of the particular ad doesn’t match their own workplace, the mindset of the young worker in the ad should resonate.

“Yeah, you want to be able to watch these ads and go ‘that’s me’ or ‘that’s my friend’ ...you know, it has to relate to you so you go ‘that could happen to me or my mate’.”

(First year apprentices)

This 2008 campaign exceeded expectations with results including:

- approximately 90% of young workers and supervisors deemed this campaign to be effective.*
- In the 13 months following campaign launch Oct ’08 – Oct ’09 claims per ’000 amongst workers 15 – 24 years dropped by more than 10%*

As a result this original campaign provided us with some great insights that were invaluable in the development of a range of concepts from which the commercial, ‘Beth’s Story’, arose.

2013 Campaign research

The ‘Beth’s Story’ commercial was the most effective out of five concepts tested. Consistent with 2008, the 2013 concept research found that our target audience had to be presented with an uncomfortable, believable and raw story to be truly moved. The commercial was the subject of scrutiny in three stages of research:

- 1. Young Worker Campaign Concept Development November 2012 – Sweeney Research*
- 2. Young Workers Campaign concept development & testing – Refinement Phase December 2012 – Sweeney Research*
- 3. Young Workers campaign – Offline testing phase. March 2013 Sweeney*

Copies of all three reports accompany this response. Please note that the most favourable concepts are referred to as ‘Eyeless’ & ‘Handy’ in the research reports. ‘Eyeless’ is the commercial in question and its final title, as you’ll see on CAD records, is ‘Beth’s Story’.

Following are selected excerpts from each report provided as further support for our case proposing that the trauma and graphic drama presented in the commercial is highly relevant, justifiable and appropriate given the objective of motivating young workers to act safely and speak up.

- 1. Young Worker Campaign Concept Development November 2012 – Sweeney Research*

In this round of research a range of five concepts, all designed to motivate young workers to speak up, were tested. Here are some excerpts from the report.

Both Questions and [‘Nick’s Story’ / ‘Beth’s Story’] are the concepts which are the most broadly relevant and effective. Both are seen to bring a different approach. In the case of [‘Beth’s Story’ / ‘Nick’s story’], it spells out to these young people that the effect of an injury will be felt life long – clearly a concept which some struggle with. It is confronting and thought provoking.

The various scenarios throughout Beth’s life [‘Beth’s Story’] all demonstrate effectively and realistically the misery of living with a facial/eye injury. They are able to feel her emotional pain and also to imagine the impact on her children.

- 2. Young Workers Campaign concept development & testing – Refinement Phase December 2012 – Sweeney Research*

A further round of concept research was commissioned to further probe the two concepts that received the most favourable response in the original round. Following are some excerpts from the report including some verbatim quotes from group participants.

In the final analysis, [‘Beth’s Story / Nick’s story’] is recommended because it is:

- *More attention-grabbing, more confrontational, more challenging, more direct, more memorable... and more emotional*
 - *Easier for respondents to see themselves in the story – at having the important ‘it could be me’ factor*
 - *Stronger at promoting workplace safety in a general sense*
 - *More persuasive at encouraging, and almost empowering, workers to speak up*
- ‘Scares you more – more a feeling of ‘it could be me’ – that I could be stuck like that forever ... so it’ll be more likely to get me to ask the question, to speak up.’*

One other aspect that became apparent in this research project was the need to show, or at least infer, a violent accident to ensure that young workers pay attention to the communications. They reject anything that is too ‘soft’, they react far more positively that something that is quite ‘in their face’.

‘The impact on your life if you don’t ask.’

‘Ten minutes of embarrassment saves you a lifetime of regret.’

‘Makes me think that the consequences are so much worse than the embarrassment of asking.’

3. Young Workers campaign – Offline testing phase. March 2013 Sweeney Research

Following the shooting of the final commercial, it was presented as a rough edit to three more research groups to ensure it was communicating effectively – 2 x young worker groups, 1 x supervisors / managers. Following are selected excerpts from this report.

Reactions to both new TVCs, by young workers and supervisors alike, were extremely positive.

There was universal praise for the ‘pull no punches’ style, for the clarity of the message, for the small vignettes throughout and for the accurate portrayal of the longer term life-affecting consequences.

Both are very effective in imparting the ‘speak up’ message – to workers and supervisors alike.

The individual scenarios are relevant and powerful ... an inability to cut his steak, unable to play footy, self-conscious when the girls comes in ... and so on. All meaningful, all difficult to cope with.

While most found it quite provoking ... ‘shocking’ was a common descriptor... a couple of the young males claimed they could predict the outcome... ..but they nevertheless said it still had a strong impact on them. Once again, viewers picked up the message of the long term impact

Following are further points specifically responding to the three individual complaints.

Complaint 0062/14 – OneHD/Ten, 9.25pm, 22/2/14 (Beth’s Story 45 sec TVC PG version).

Complaint 0062/14 relates specifically to the ‘Beth’s Story’ commercial VWA1275 (45 sec) claiming that the ad ‘is focusing on extreme negative situations using horrific advertising that wouldn’t be allowed for ANY other purpose or product’ and that they are ‘surprised that these adverts are even allowed on television at all’.

Response: We trust we have responded thoroughly to the graphic claim of the ad and the rationale for why this approach is justified in the context of promoting workplace safety.

In terms of the complainant being ‘surprised that these adverts are even allowed on television at all’ we advise that two versions (30 sec & 45 sec) of the ‘Beth’s Story’ commercial were produced and submitted for classification with both receiving a PG rating.

Complaint 0062/14 – All TV channels. Date not specified presuming 27/2/14 the date of complaint ‘During the Winter Olympics coverage’. (Nick’s story TVC).

Complaint 0062/14 doesn’t specify which version of the ‘Nick’s story’ commercial it refers to. The YouTube link relates to both 45 sec versions of ‘Nick’s Story’ / ‘Beth’s Story’.

The main point of the complaint are that the ‘ad crosses the line and denigrates and marginalises people with a disability by treating them as objects of pity’.

Response: Several meetings were held with support group Limbs 4 Life to ensure we depicted

the challenges that an amputee faces accurately and sensitively. We were very conscious not to present a sense that life is 'finished' if you lose a limb. Limbs 4 Life applauded our approach saying it provided a very empathetic, real and balanced depiction of the challenges an amputee faces.

Complaint 0062/14 – Channel 9, 9.25pm, After 8.30pm. Date not specified presuming 3/3/14 the date of complaint. (Beth's Story 45 sec TVC PG version).

Complaint 0062/14 relates specifically to the 'Beth's Story' commercial VWAI275 (45 sec) claiming that the ad 'should be sent directly to people who work in such industries for their viewing rather than subjecting others'.

Response: We trust we have responded thoroughly to the rationale behind the Young Worker commercials, inclusive of the high injury rate amongst young workers in the Food Services industry.

In summary

We do acknowledge that some members of the public will find this creative particularly confronting and we do not deny that it is graphic and presents a raw, moving and unhappy story.

However, our past experience with previous campaigns and multi staged research provides unequivocal evidence that this approach works, and that anything less confronting will not change the attitudes of young workers and motivate and empower them to speak up.

We are committed to reducing the 3,000 serious injuries that Victorian young workers experience each year and ask that it be remembered that the unease felt in watching these commercials is nothing compared to the social harm that traumatic workplace injuries cause.

We therefore propose that the graphic nature of this commercial is highly justifiable in the context of the response it is aimed at achieving.

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 complainants’ concerns that the advertisement is discriminatory in its use of a disabled person as an “object of pity” and that it depicts graphic material which is not appropriate for broadcast on television.

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

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

The Board noted the complainant’s concerns that the advertisement is discriminatory towards people with a disability.

The Board noted the advertiser's response that they conducted extensive research in order to produce an advertisement which would be effective to the relevant audience. The Board considered that the depiction of a woman with damaged vision and scarring is relevant to the context of the important community awareness message the advertisement is promoting.

The Board noted that some people may be offended by a suggestion that it is a negative situation to have a scarred face or other disability. The Board considered however that an advertisement which is focused on avoiding injury does not vilify people with serious injuries or disabilities.

The Board noted that the woman in the advertisement is depicted as engaging with her life in a positive manner, but is in the Board's view, depicted appropriately as wishing she did not have the injury and considered that the issue of disability is handled in a sensitive manner.

The Board considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of disability.

The Board determined that the advertisement did not breach Section 2.1 of the Code.

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Board noted that it had previously dismissed a similar advertisement for the same advertiser featuring a man losing his hand in a workplace accident (0197/13) where:

"The Board noted that community service advertisements are designed to show important messages but considered that the importance of the message does not mean that any concept depicted in such advertisements is automatically justifiable.

A minority of the Board considered that although we do not see the man's hand in the machine, the splattering of blood on the machine and the agonised scream of the young man is a very graphic depiction which is not justifiable in any circumstance.

After considerable debate a majority of the Board considered that although the depiction of blood may not be necessary as the man's reaction makes it clear what has happened, in the Board's view the advertisement does on balance present material which is justifiable in the context of the advertised message which is aimed at an audience of "M" rated material."

In the current advertisement the Board noted that the CAD rating was 'PG' which means it could be seen by children. The Board noted that the content of the advertisement is less confronting and graphic than similar advertisements for the same advertiser and considered that the scene where the woman touches her face with the poison and then screams is not

graphic or inappropriate for the relevant PG audience.

The Board noted the complainant's concerns that the advertisement is targeted at a particular industry and therefore should not be shown on television to a broad audience. The Board considered that the advertisement contains an important health and safety message which is applicable across many different employment situations and considered that overall whilst the message of the advertisement is strong the content depicts violence in a manner which is justifiable in the context of the product advertised.

Based on the above the Board determined that the advertisement did not breach Section 2.3 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaints.