



Case Report

1	Case Number	0257/17
2	Advertiser	Clarity Hearing Solutions
3	Product	Professional Service
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	07/06/2017
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

2.3 - Violence Domestic Violence

DESCRIPTION OF THE ADVERTISEMENT

This 15 second television advertisement shows a woman trying to open a jar in her kitchen. She calls to her husband for help but he doesn't hear her. We see the woman lift her arm as if to throw the jar and the screen freezes and a voiceover says, "Get your mum what she really wants this Mother's Day...A hearing test for your dad" and Clarity Hearing's contact details are displayed.

THE COMPLAINT

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

In the ad the woman is seen to threaten to throw a jar at a man (husband) who fails to hear her asking for help with unscrewing the lid of the jar.

This illustrates domestic violence and is completely inappropriate and unnecessary. We would not & should not accept a man threatening a woman in this way -neither should we accept a woman threatening a man in this way.

THE ADVERTISER'S RESPONSE

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

Clarity is Queensland's largest independent, family-owned audiologist. Clarity was built on a foundation of five ethical practice principles so to have received this complaint comes as a shock.

To be accused of breaching an ethical community standard, which goes against our very way of operating is distressing. The audiology industry in Australia is a self-regulated, highly competitive industry, where operators can take advantage of people's medical disorders and profiteer. The recent ACCC and Senate enquiry has shown that these unscrupulous operators do exist vindicating our move, when established in 2008 to create and abide by our five ethical practice principles. An adverse finding of the ASB could harm the reputation we have worked hard, against large national and multi-national operators, to build.

To receive this complaint is also very much a surprise. When scripting and workshopping it within our team, and sharing the script and even the final product, not one person raised an issue thinking that this in any way depicted domestic violence either as a depiction or as a suggestion.

The script was written to reflect the frustration often felt by family members where someone in the family suffers from untreated hearing loss. There are several consequences of untreated hearing loss, which most people are aware, including:

- fewer educational and job opportunities due to impaired communication*
- social withdrawal due to reduced access to services and difficulties communicating with others*
- emotional problems caused by a drop in self-esteem and confidence.*

But one of the consequences that's not usually highlighted is the effect hearing loss can have on those around you.

The fact is that 1 in 6 Australians suffer from hearing disorders. That figure rises to 3 in 4 when we reach 70. That is a lot of people affected by hearing loss, and importantly, the neglected group, partners and family.

A hearing loss affects communication with other people therefore the effects concern not only hearing-impaired people, but also, to a high degree, people around them—family, fellow workers, etc. Also, these people must put more effort into communication with the hearing-impaired person: they need to speak more slowly and with better articulation, turn their face towards the hearing-impaired person to allow lip-reading, and move closer rather than talking from a distance or from a neighbouring room.

People in denial of a hearing loss often create conflicts with their significant others. Significant others are most often spouses, but may also include siblings, children, other family members, and friends. A couple in crisis due to a hearing impairment experiences frustration and anxiety that lead to behaviour and coping strategies that are maladaptive.

The National Council on the Aging in the USA (Seniors Research Group, 1999) organised a study in which 2304 elderly hearing-impaired persons, hearing aid users as well as non-users, answered a questionnaire. In addition, 2090 significant others of hearing-impaired people answered another questionnaire. The results showed that hearing-impaired people who did not use hearing aids more often stated that they felt sad or depressed, were worried, showed paranoid tendencies, took part in less social activity, and experienced more emotional turmoil. Both the affected people and their significant others reported benefits from hearing aid use in terms of better relationships at home, more confidence, and better relationships with others. Family members reported such benefits more often than the hearing-impaired people themselves. The most common reasons for not using hearing aids in this group were that they felt that their hearing was not bad enough or that they got along without one.

The lead-up to Mother's Day it was an opportune moment to highlight the effect untreated hearing loss has on family members and the frustration it can cause. We developed this script to use the opportunity to underline what significant others really want from their partners—to action their hearing loss. It was a quick, light-hearted sketch that we feel accurately portrayed this consequence of hearing loss.

*Budget was tight and the whole ad including production and air time cost under \$3500. The ad was run on *Imparja*, targeting rural and regional Queenslanders, for a duration of 13 days in the lead up to Mother's Day, finishing on 13th May, the day of the complaint.*

The complainant had two concerns:

1) That the ad illustrates domestic violence

2) That while it is the woman who is the main protagonist in this case, we would not accept it if the situation was reversed.

The second concern is only valid if we acknowledge that the first concern is justified. Nevertheless, in the context that this ad was shown in the lead up to Mother's Day and that the script refers to Mother's Day we feel the narrative is justified and the focus on the female as the protagonist warranted.

Does the ad show domestic violence or the threat of domestic violence? Naturally we would argue no. The woman, while being seen to lift her hand to throw the jar, is not seen throwing the jar. There is no injury inflicted. Nor is the threat made to the man in the ad itself either. It's a visual show of frustration behind his back. The movement illustrates and reflects the frustration often felt by significant others.

We refer to the ASB's determination on suggestions of violence: "Where there is no actual image of violence, advertising with suggestions of violence are unlikely to breach the Code."

And again: "Advertising which depicts a light-hearted domestic scene which most people would interpret as horseplay rather than violence, such as a light kick or push, where the reaction is positive does not breach the Code."

We would argue that the way this ad is scripted and directed shows and depicts our light-

hearted intent.

Our understanding is that the ASB's standards are derived from community standards. If community standards state that people in relationships are not allowed to show frustration with or at their partners, the community is setting up all relationships for failure. We recognise that violence has absolutely no place in any relationship but the act of throwing up our hands, of that deep (probably too deep) sigh, the rolling of the eyes and the tearing out of hair (figuratively and one's own) etc is recognised as a visual sign of frustration... not necessarily of violence.

As such, we do feel the action is justified in context of the ad, its placement in the lead up to Mother's Day, and conveying the message that untreated hearing loss has ramifications on other people than just yourself.

The ad description in the complaint uses the words "selective hearing". This depiction was certainly not intended and we showed that it was a real hearing loss by reducing the volume of the woman's calls as we focused on the man.

We believe strongly that if anyone felt this ad contains a depiction of violence, that violence is at its very worst mild and would have little harmful impact on the viewer. As such we feel the ad and the actions within it, and the community awareness outlined initially (plus expanded upon below), are justifiable when highlighting the impact of untreated hearing loss on significant others.

We refer to the ASB's determination of domestic violence: "While acknowledging that an unlikely interpretation may be that an advertisement is suggestive of domestic violence, in cases where most reasonable members of the community would not reach this conclusion will not in the Board's view breach the Code."

And: "Advertising which uses confronting and graphic imagery to promote important health services are a justifiable use of violence."

Naturally we believe this to be the case and provide the following to support that belief.

If we are to evaluate this ad as breaching community standards then we should look at the number of complaints received based on the audience. The ad was shown exclusive on Imparja (including affiliate stations Gem and Go) from 1-13 May with 51 paid and 150 bonus 15 second spots. Imparja reaches a potential audience of over 1,000,000 viewers throughout the Northern Territory, Queensland, New South Wales, South Australia, Victoria and Tasmania which we had the potential to reach multiple times as per our scheduling. Out of that potential audience one complaint was received.

It is important to note that we also ran this ad in a boosted post on Facebook, a medium notorious for instant, harsh and vitriolic criticism. The ad reached 12,748 people on Facebook. 610 of these people clicked through to our educational landing page "Warning Signs of Hearing Loss". We had 18 shares and 8 comments. We received no complaints either as a comment, direct message or other channel from anyone who saw the ad on Facebook.

As much as we find it incredulous that someone could take offence at this ad, we do take the

complaint very seriously. Anything that could erode Clarity's ethical standpoint is a threat to Clarity and we will do our utmost to remove and eliminate those threats.

However, as outlined, based on the context of the ad, the issue highlighted in the ad, and its scripting and scheduling, we hope, like us, you find that the very real, natural relationship "Sharon" and "Barry" are in does not breach the standards established by the ASB. We certainly don't believe it breaches current community standards.

We have been asked to address all parts of Section 2 and believe we have covered the specific points raised by the complainant, which is Part 2.3 Violence, above. We have also dealt in brief with Part 2.1 Discrimination. We can find no issue in terms of the ad being exploitative or degrading (Part 2.2). The ad contains no sex, sexuality or nudity (Part 2.4). There is no inappropriate language contained in the ad (Part 2.5). There are no health or safety issues in the ad (Part 2.6). The ad is distinguishable as advertising (Part 2.7).

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 concerns that the advertisement depicts a woman threatening to throw a jar at her husband which is domestic violence and therefore inappropriate and unacceptable.

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

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 this television advertisement features a woman trying to open a jar. She is in the kitchen and her husband is on the lounge near-by. The woman calls out to her husband more than once to assist with the jar but he doesn't hear her. The woman then holds the jar up insinuating she is going to throw it at him to get his attention. The voice over says "get your Mum what she really wants for Mother's Day, a hearing test for your Dad."

The Board noted it had previously upheld complaints against the Bathroom Warehouse (0173/15) where a woman was holding a clenched fist in the air while glaring at her partner. The man is seen cowering as though to shield himself from her outburst.

The Board noted that the current advertisement is intended to be a light hearted approach to a real life situation that frequently occurs in households regarding loss of hearing and frustration with someone who cannot hear when spoken to.

The Board noted the practice note to the Code states that a "strong suggestion of menace presents violence in an unacceptable manner and breaches this section of the Code."

The Board noted that the woman is not actually seen throwing the jar at the man and there are no depictions of any consequence of her outburst. The Board noted that at the end of the advertisement the voiceover is heard saying “get your Mum what she really wants for Mother’s Day, a hearing test for your Dad.”

The Board considered that in connection with the images seen prior to the voiceover, the suggested humour was not very strong. In the Board’s view, the overall tone was one that was menacing and threatening.

The Board noted the serious community concern relating to domestic violence and violence in general and considered that the advertisement did not portray violence in a manner that was justifiable in the context of a hearing solution and did breach Section 2.3 of the Code.

Finding that the advertisement did breach Section 2.3 of the Code the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

Clarity will abide by the ASB decision. The ad ceased airing 13 May.