



# Case Report

1	Case Number	0410/17
2	Advertiser	Transport for NSW
3	Product	Community Awareness
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	27/09/2017
6	DETERMINATION	Dismissed

## ISSUES RAISED

2.3 - Violence Causes alarm and distress

## DESCRIPTION OF THE ADVERTISEMENT

The advertisement features a young woman walking along a path. She has headphones is an is looking at her phone or device. She steps out on the road and is hit by a car.

## THE COMPLAINT

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

*It is violent and disturbing, it initially looks innocent and even as she is first hit looks like a comedy sketch. Then you see her body thrown over the vehicle it is quite disturbing and that level of detail is unnecessary to get the point across. I was "first at the scene" of a recent road fatality involving a motor bike rider who's head was obliterated by a semi-trailer wheel. You can imagine what I saw. Shockingly witnessing this ad has just sent my "recovery" from this traumatic experience backwards dramatically! I can only imagine how the riders parents would feel seeing an ad like this, or in fact anyone of our emergency services crews or any family members of roadside fatalities must feel. I feel quite strongly that the ad can cause harm and their must be a way to get the message across without showing the point of impact and the girls body being thrown lifelessly over the vehicle. I urge you to reconsider this ad being aired to TV!*

*It was to comforting for the time of day it was shown. I understand that's the purpose of the advertisement to create awareness and an impact. However there should have been prior warning before the ad.*

*It was very sudden and highly violent. Knowing kids are watching this channel, this content would need a MA15+ to a minimum. It was distressing and it happened so quickly I didn't even truly understand the message. It's a terrible advertisement and the message could be better communicated. Even after the ad, I felt highly distressed and uncomfortable. Please remove it asap or else I will try to find a way to communicate further. It is highly inappropriate.*

*The advertisement was startling, creating distress for my pregnant partner with anxiety.*

## **THE ADVERTISER'S RESPONSE**

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

*We refer to your letter concerning a complaint received by the Advertising Standards Bureau (ASB) in respect of Transport for NSW's (TfNSW) television advertising commercial, "Pedestrian Safety – Don't Tune Out" (the Television Commercial).*

*The complaint cites as the complainant's concern:*

*"It was very sudden and highly violent. Knowing kids are watching this channel, this content would need a MA15+ to a minimum. It was distressing and it happened so quickly I didn't even truly understand the message. It's a terrible advertisement and the message could be better communicated. Even after the ad, I felt highly distressed and uncomfortable. Please remove it asap or else I will try to find a way to communicate further. It is highly inappropriate."*

*The Television Commercial was developed by the Pedestrian Council of Australia (PCA), in conjunction with the Centre for Road Safety, within TfNSW, a statutory authority of the NSW Government, with the support of NSW Police. The campaign highlights the risks of distracted walking and encourages pedestrians to be more aware of their own safety and to think before crossing the road.*

*For the reasons set out below, TfNSW considers that the Television Commercial:*

- accords with prevailing community standards and is appropriate for the relevant audience and its public purpose; and*
- is not in breach of section 2, or any other section, of the Advertiser Code of Ethics.*

*Background to the Television Commercial*

*The Television Commercial, communicated via television and online advertising, forms part of an integrated pedestrian road safety campaign, called the "Pedestrian Safety – Don't Tune Out" campaign.*

*The 15 second Television Commercial was launched on 3 September 2017 in metropolitan areas to draw attention to the consequences of distracted pedestrian behaviour. It is intended to shock pedestrians into understanding the deadly dangers of talking, texting and listening to music (often with noise cancelling earphones) while crossing the road in order to drive positive behaviour change. The Television Commercial will conclude on 30 September 2017.*

*Pedestrian safety is a significant road safety issue. In 2016, 74 pedestrians lost their lives on NSW roads which made up 19% of the NSW road toll. This was a 21% increase on 2015 when 61 pedestrians died.*

*Young adult road users (17-29 years) account for 18% of pedestrian fatalities and 25% of pedestrian serious injuries. This is a high serious injury rate and a significant proportion of*

*the pedestrian serious injuries in NSW. Among younger road users, mobile phone use is prolific, and walking with headphones is common, which appears to affect their risk perception.*

*Road users often don't know when or why pedestrian crashes occur. They do not think that pedestrian crashes really affect people like them, or near them. For many, the low likelihood of serious outcomes and confidence in their own ability to navigate the road is reinforced by the perception that 'everyone' engages in risky behaviour (either active or passive risks) with no/ rare negative effect.*

*While active risk taking involves taking a known risk by making a decision to do something on or around the road (eg. running across the road, crossing against the signals, etc), passive risk taking involves 'unintentionally' engaging in risky road behaviour as a result of being less attentive to the environment – without necessarily making a direct choice to engage in road risk. This includes:*

- Using mobile phones on and around roads*
- Mental and visual distraction has been associated with riskier crossing decisions, particularly more demanding levels of phone use (texting, voice calls and internet use). This can be linked to the competing claims for cognitive resources during phone use, which can increase reaction times and errors for other tasks.*
  
- Using headphones on and around the road*
- Walking with headphones is common, and appears to affect risk perception.*

*Addressing these risks requires a more targeted approach.*

*The Television Commercial was developed to draw attention to safe pedestrian behaviour in the lead-up to the annual PCA Walk to Work Day event on 6 October 2017 to ensure pedestrian safety is 'top-of-mind', particularly among the 17-29 year old target audience.*

*The Television Commercial focuses on metropolitan NSW (Sydney, Newcastle and Wollongong) only where the majority of pedestrian fatalities and serious injuries occur due to the higher density population and higher pedestrian traffic. There is also a large volume of construction work currently taking place in the Sydney CBD, changing regular pedestrian footpath routes and presenting an increased risk of incidents occurring. This reinforces the importance of pedestrians not being distracted, or 'tuned-out', including by their mobile phones and headphones on and around the road.*

*Prior to the launch of the 'Don't Tune Out' campaign on 3 September 2017, including television and online video, focus group research showed the campaign tested well among both men and women aged 17-29 years. The respondents had a great deal of engagement with the actor and either recognised themselves in her character (females), or through the character's behaviour. As such, the campaign is likely to be successful in achieving cut through and motivate the audience to change their behaviour.*

*The research also indicated distracted behaviour arising from the use of mobile phones and head phones was a key driver of pedestrian risk taking behaviour. Communications around this distracted risk taking behaviour were seen as a positive step, and the type of message felt particularly impactful. Many had a visceral response to the Television Commercial and claim they would remember it, and the key message, for a significant period of time.*

*Although touching on a very serious issue, the Television Commercial seeks to use humour to get the message across in a positive way designed to engage the Target Audience in conversation about the topic.*

*The campaign is intended to be effective in achieving its road safety aim as it:*

- Highlight the risks and consequences of walking on and around the road while distracted.*
- To interrupt habits and promote desired behaviours for vulnerable road users.*
- Encourage pedestrians to be more aware of their own safety and to pay greater attention when crossing the road.*

#### *The Television Commercial*

*The 15 second Television Commercial depicts a common scenario to show how pedestrian crashes can occur when people don't give crossing the road the attention it deserves.*

*The Television Commercial features a realistic situation of a young female pedestrian 'tuned out', engrossed in her mobile phone and wearing headphones, as she is walking down the footpath of a suburban street. The woman then makes the fatal mistake of stepping out on to the street without looking both ways. A car strikes her, the impact playing out in full view while the tune she was playing is cut short along with her life. The thud and screech of tyres can be heard as the ad cuts to black along with the simple message 'Don't Tune Out'.*

*The Television Commercial is hard-hitting and is intended to shock and prompt conversation. It communicates to pedestrians that the only way they can protect themselves against harm when crossing the road is to take a moment, pay attention and look up from their mobile phones before they step out onto the road.*

*The tagline 'Don't Tune Out' highlights the importance of being switched on or thinking about the risks that you're taking in the face of real danger when crossing the road, and provides a strong and memorable call-to-action.*

*It is particularly relatable to the younger audience (17-29 year olds) with distraction, including from music and mobile phones, common.*

#### *Response to the complaint*

*TfNSW takes compliance with the Code very seriously and has considered the complaint against the terms of the Code and in particular section 2.3 of the Code:*

*'Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised'.*

*For the reasons below, TfNSW does not consider that the Television Commercial breaches the specific terms of the Code, including in particular section 2.3, and consider that it accords with prevailing community standards.*

*The elements of the Television Commercial complained of are engaging and impactful, delivering a straightforward and clear message that provides a stern 'nudge', proven to drive more consideration of behaviour change amongst the pedestrian audience.*

*The Television Commercial does not include, either generally or in the specific sequence of images complained of, any elements which could be considered to be violent.*

*The woman in the sequence of images complained of is presented in an attractive manner and any implication of sexual innuendo is mild, light hearted and likely to be perceived as inoffensive to the relevant audience.*

*Although the hard hitting aspects of the Television Commercial may not appeal to every member of the audience, it provides a clear and important message to pedestrians to remain present and conscious in the task when crossing the road.*

*The “relevant audience”*

*The Practice Note to the Code provides that the relevant audience ‘is the audience that the advertiser intends to see the marcomms’. The sole intention of the Television Commercial is to convey an important public safety message to the target audience of young male and female pedestrians.*

*The Practice Note to the Code further provides that ‘the Board shall have regard to the audience or readership composition data for the relevant audience’ when determining the relevant audience.*

*TfNSW relied on Roy Morgan media consumption data when considering how best to reach the 17 - 29 year NSW demographic through media. This data indicated television was the only effective channel for quickly building mass awareness, given the short term nature of the campaign, and in turn offers the best opportunity to reach the target audience. While younger audiences are consuming content across a range of different devices both in and outside of the home, traditional television viewing still dominates their total screen time. Highly relevant sports and entertainment programs have been selected to drive exposure to the 17-29 year old primary target audience. Online video will run alongside television in order to drive incremental reach to directly reach the young target audience in a highly targeted manner.*

*Section 2.3 avoidance of violence*

*As part of the ‘Don’t Tune Out’ pedestrian safety campaign, the Television Commercial draws attention to the consequences of distracted behaviour, in particular around the use of headphones and mobile phones.*

*The portrayal of a young woman being hit by a car is intended to deliver a strong message and engage the target audience. As most pedestrians believe they know how to safely navigate the roads using their common sense, a unique and targeted approach is required to address this issue. Research showed the young woman is a highly believable and relatable character, exhibiting the same behaviour as the target audience, and the tone of the advertisement was very well received.*

*The Television Commercial was designed to be noticeable and impactful. The inclusion of the woman being hit by a car within the commercial is deliberate in order to stimulate public conversation about the importance of road safety and remind the Target Audience of their responsibilities as pedestrians.*

*While the woman is depicted getting hit by a car, the presentation in the context of the Television Commercial highlights the risks associated with distracted walking.*

*The portrayal is intended to reach the young target audience, to assist in conveying the road safety message relevant to that group, to encourage pedestrians to be more aware of their own safety in and around the road environment The Television Commercial conveys to the Target Audience the message of the risks of walking without mindfulness and to think and look before crossing the road (ie. not tune out).*

*The Television Commercial has a ‘MA15+’ rating and as such can only be broadcast between 8.30pm and 5am on any day except before 9.30pm during Sports Programs and Films classified G or PG which commence before 8.30pm and continue after 8.30pm (unless*

*it is a Film which is neither promoted to Children nor likely to attract a substantial child audience).*

*As the Television Commercial has the 'MA15+' rating it will specifically reach the intended Target Audience and children are unlikely to come across the Television Commercial. In any event, any innuendo in the Cinema Commercial is subtle and unlikely to be understood by children.*

*TfNSW has received no other complaints or feedback expressing concerns about the sequence of images complained of in the Television Commercial.*

*Other considerations under the Code*

*We note that in addition to considering specific issues raised by the individual complainant, the ASB Board will also review the advertisement in its entirety against Section 2 of the Code.*

*TfNSW would be happy to address on these or compliance with any other elements of the Code should the Board consider it warranted.*

## **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 depicts confronting imagery that could cause alarm and distress for young viewers.

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 young woman walking along a path with head phones in. She is listening to music or something similar. The woman steps out onto the road and is hit by a car travelling on the road. The results of her injuries are not shown. The tagline "Don't tune out" appears on screen and the NSW Government logo.

The Board noted it had recently considered an advertisement for the Transport Accident Commission (0352/09) where a man is seeing taking drugs and then starts to drive home. The man pulls over to let his partner drive and is hit by another vehicle.

In that advertisement the majority of the Board noted that...

"the advertisement was shocking but depicted a foreseeable consequence of people driving under the influence of drugs. The Board considered that the violence depicted in the advertisement was relevant to the important public health and safety message that the advertisement is attempting to convey."

Similarly in the current advertisement the Board noted that the community message is particularly relevant today with so many people using devices and headphones as they walk

to work etc. The Board noted the advertisers response that “the campaign was developed ahead of the walk to work day event to ensure pedestrian safety is ‘top-of-mind’ particularly among the 17-29 year old target audience.

The Board noted that it has consistently stated that a higher level of graphic images and 'violence' is acceptable in public education campaigns because of the important public health and safety messages that are intended to be conveyed and as a result of usually compelling submissions from advertisers that such detail and 'shock' is necessary to be effective. The Board noted that there is no blood or injury shown from the girl who is struck. The Board noted that the squealing of car brakes is heard as the vehicle makes contact and then stops.

A minority of the Board felt that the point of impact when the woman is hit is very shocking and unexpected and that even without any depiction of the result of the accident, the scene is too graphic.

In the view of the majority of the Board, the shock of the impact was an important and an accurate way to depict how quickly and unexpectedly accidents happen. The Board considered that the age of the woman and the distraction of the music and headphones are very realistic and relevant for the demographic.

The Board determined that the advertisement did present violence that was justifiable in the context of the product or service advertised and 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.