



## CASE REPORT

1. Complaint reference number	108/09
2. Advertiser	Government of Western Australia
3. Product	Rethink Drink Campaign
4. Type of advertisement	TV
5. Nature of complaint	Violence Other – section 2.2
6. Date of determination	Wednesday, 8 April 2009
7. DETERMINATION	Upheld – discontinued or modified

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement commences with a man at a daytime BBQ appearing to be intoxicated. In the close background is an obviously pregnant woman. Following images show the man continuing to drink as the afternoon draws on.

Next scene shows people indoors and the man now appearing quite intoxicated, yelling and dancing wildly, with party guests appearing to be amused at his behaviour. Man continues with out-of-control behavior dancing by himself. The pregnant woman is again seen in the background. The man appears to trip on a floor rug. He is seen to bump into the pregnant woman. The woman is then shown to hit the corner of an overhanging benchtop. Contact is made with the woman's stomach and she falls to the floor in apparent pain and distress.

A man (not the drunk man) is seen to come to her comfort and ask her "are you ok?" whilst the woman is lying on the floor. The next scene shows an ultrasound being conducted on the woman's stomach. The woman appears quite concerned and the doctor says "Karen, I am really very sorry." The intent appears to be that the woman has lost her baby. The man and woman are shown to be very upset at this news. Final message says "We can all do something about drunkenness."

## THE COMPLAINT

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

*Seeing a pregnant woman hit her abdomen on an object is extremely graphic and disturbing. This is 99% of my reason for the complaint (I'm usually not the sort to be disturbed by a TV commercial at all). Further, this is a very contrived scenario, are they suggesting that if I drink I have a chance of killing unborn children? In my opinion, they should focus on health issues proven scientifically, such as in smoking commercials. This sort of grotesque attention grabbing is tacky, unimaginative and does not belong on TV.*

*The advertismt is waaaaaay to graphic, upfront, and is not put on at age related times, when the ad was first seen by myself and my girlfriend, we nearly vomited, and we have to turn the tv off or switch channel when its on, many other people i have spoken to dislike the ad as well.*

*Understanding that the message of excessive drinking having consequences is one thing. Subjecting audiences to the results of an accident resulting in a infant's death is not acceptable. Realising that your target market might sit up and take notice is an important medium ('shock value') of advertising. This needs to be addressed in a way that does not offend and distress those not of that target market. Being pregnant with my third child, I understand the risks that I am faced with everyday trying to navigate our world whilst protecting my unborn child. Having an advertisement showing the consequences of an 'accident' (really, this could happen had the person been drinking or not) so clearly and brutally protrayed is a cheap and unnecessary example of 'shock value'.*

*A close friend of mine suffered a miscarriage due to no apparent reason (definitely not the way advertised, and myself and the couple who lost their first born to miscarriage (full term) find this advertisement extremely upsetting, as the ad does not depict the many other ways that miscarriage can occur. I feel that this ad may deeply offend and sadden the many couples who experience this event.*

*My wife has recently (2 weeks ago) been through the pain and trauma of a miscarriage, involving a substantial period in hospital. The vision of the woman receiving the ultrasound and learning of her unborn child's death brought back memories of our recent loss. We were both horrified that this advertisement had ever been accepted for broadcast. I find this advertisement repulsive for a number of reasons:*

*1) The audience for whom this advertisement will have the greatest emotional effect is any women who have over the course of their lives suffered a terminated pregnancy. Medical studies suggest that as many as 1 in 4 first pregnancies end in miscarriage, so this is a substantial segment of the population who are being exposed to unnecessary trauma every time they see this advertisement.*

*2) The effect this advertisement would have on the 'target' audience would be negligible given no-one would actually consider that it would be likely that this scenario would happen to them (ie that they would actually become drunk and push a pregnant woman into a table).*

## **THE ADVERTISER'S RESPONSE**

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

*Response to Consumer Complaints against Section 2.2 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.*

*Aim of the advertisement.*

*The advertisement is one component of a broader strategy which seeks to highlight the negative consequences of drunkenness and change community attitudes and the drinking culture.*

*The long-term goal of Rethink Drink is to prevent, where possible and reduce the harm that occurs as a result of people drinking alcohol at risky levels. The advertisement aims to;*

- Demonstrate the notion that innocent people can be affected by people who are drunk*
- Provide a call to action to the wider community to not tolerate drunken behaviour*
- Increase the community's preparedness to take action against drunken behaviour*
- Increase support for measures to prevent people from getting drunk.*

*The scenario of a pregnant woman being injured is one of many examples of problems that may occur as a result of drunkenness. Other serious consequences that may occur include assault, injury, drowning and road trauma which have been the basis of previous campaigns and advertisements.*

*Harm from alcohol use.*

*Risky drinking causes many serious problems both for the individual and the broader community.*

*• In 2005, the harmful effects of alcohol resulted in 11,878 hospitalisations in Western Australia (WA) from a range of causes due to short term risky drinking (falls, assaults, car crashes) and long term risky drinking (cancers, ischaemic heart diseases, stroke gastro-intestinal problems).*

*• From 1997 to 2005, 3,975 deaths were attributed to alcohol use in WA.*

*• Data from the 2007 National Drug Strategy Household Survey shows that 1 in 3 people have been verbally or physically abused or put in fear by the actions of somebody who was affected by alcohol.*

*• Collins and Lapsley (2008) estimated that the total social cost of alcohol abuse in 2004-05 was \$15.3 billion in Australia alone.*

### *Formative research.*

*Evaluation of previous campaigns shows that messages did not have a strong resonance among the target group in decreasing tolerance towards drunken behaviour. In order to achieve significant cut through with the target group, a powerful, attention-grabbing message was required in order to stimulate public debate.*

*This advertisement was tested among members of the WA community by an independent market research agency to determine plausibility among the target group. Results from the ad-test with consumers showed that:*

- 91% of respondents stated that this advertisement suggested that people should do something about drunkenness.*
- 56% of respondents stated that this advertisement was very effective in increasing awareness of the many negative impacts of drunkenness.*
- 47% of respondents said that this advertisement significantly increased their awareness of the negative impact of drunkenness in the community.*

*The potential for the concept to cause distress amongst viewers was considered as part of the formative research and development of the final television commercial. Results from the formative test showed that only a small proportion of respondents (2%) found the advertisement to be distasteful. However, other respondents felt that the advertisement was successful in:*

- Delivering a powerful message*
- Evoking anger towards the drunk person*
- Suggesting that people should do something about drunkenness*
- Suggesting that drunk people can cause damage to other people.*

*Alternative concepts were considered and tested in the formative testing process. However, in comparison to the chosen advertisement, the community perceived the other concepts as;*

- Less believable;*
- Not worth remembering;*
- Less easy to understand;*
- Less likely to want to make them discourage drunkenness;*
- Less motivational to do something about drunkenness;*
- Less likely to want to prevent others from getting drunk.*

*Van Putten and Jones (2008) conducted research on community attitudes towards graphic images in social marketing advertisements. It was found that the positive social value of the advertisement (for the whole community) outweighs the possible negative effects (on some members of the community). Furthermore, the community has a higher level of acceptance of using graphic images in social marketing advertisements due to the highly valued messages that they contain. In this case, the potential positive impact of the advertisement in changing the community's attitude towards drunkenness is deemed to outweigh the negative effects.*

*Lessons learnt from road safety advertisements tell us that in general, the community believes that the positive value of the health message overrides any other consequences of the advertisement (Van Putten and Jones 2007). Van Putten and Jones (2007) also found the community believes that graphic imagery in such commercials simply reflects the reality of the consequences of these serious issues.*

### *Medical advice.*

*Expert medical advice was sought in the development of the television commercial to ensure its plausibility from a medical perspective. Consistent with medical opinion;*

- Emphasis was placed on the forceful contact that the pregnant woman has with the bench top to highlight the serious nature of the fall.*
- The severity of the outcome could vary but would be traumatic.*
- The ending purposely left to the viewer to decide the severity of the outcome.*
- This advertisement was plausible, authentic, the outcome serious and in line with other events clinically encountered.*

### *Advertisement scheduling.*

*As this advertisement has sensitive themes, it was given an 'M' rating. Therefore it is only shown after 8.30pm and not during children's television viewing hours. The level of injury portrayed in this advertisement is consistent with, if not less, than the levels of violence and associated injury in television shows during these viewing hours. The injury and nature of the impact have many similarities to other images portrayed in social marketing messages such as road crashes during these television viewing times.*

*Post-campaign evaluation.*

*A post-campaign evaluation will take place at the conclusion of the campaign to determine the believability and awareness that the advertisement had among the community.*

## **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 material that is upsetting to people who have suffered the loss of a baby, is upsetting to viewers generally, depicts a scenario that is an unlikely consequence of drinking and upsets viewers unjustifiably.

The Board noted that section 2.2 of the Code does not permit violence to be shown in advertisements unless it is relevant to the product or service advertised. The Board noted that although many public health and safety campaigns depict graphic and violent images and the Board finds these images permitted under the Code on the basis of the important public health and safety message that they convey, advertisements must still ensure that they do not contain violence that breaches community standards.

The Board noted the advertiser's response which included reference to research by Van Putten and Jones (2008) that found that the 'community has a higher level of acceptance of using graphic images in social marketing advertisements due to the highly valued messages that they contain.' The Board noted that the advertiser considered that this advertisement depicts 'one of many examples of problems that may occur as a result of drunkenness.' The Board considered that the accident depicted is an accident that could have occurred by a woman being bumped by a person who is not affected by alcohol. The Board considered that the link between excessive alcohol consumption and the baby's death was tenuous and unlikely. As the link between the person drinking and the baby's death was so tenuous, the Board considered that the advertisement's graphic violence was not justified by the public health message it was attempting to convey and that it was in breach of section 2.2 of the Code.

The Board also considered that the advertisement depicted graphically an unlikely consequence of pregnancy. While it is possible for a woman to lose a baby in such circumstances, the Board considered that this depiction was not justified by the public health message and would be likely to lead to contribute unnecessarily to pregnant women's fears about hurting themselves or their babies while pregnant or unnecessarily upset members of the community who have suffered the loss of a baby. The Board considered that this was not justified because of the tenuous link between the baby's death and a person drinking and that this therefore amounted to a depiction of material contrary to prevailing community standards on health and safety and was a breach of section 2.6 of the Code and therefore upheld the complaints.

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

Comments which the advertiser made in response to the determination regarding this advertisement included the following:

*I am writing in response to your email dated 14 April 2009 with regard to the Advertising Standards Board decision to uphold complaints made against the Rethink Drink television advertisement.*

*The television advertisement is no longer on air and we do not intend to use it in the future.*

## **INDEPENDENT REVIEWER'S RECOMMENDATION**

The advertiser requested a review of the Board determination. The Independent Reviewer accepted the request, considered all information submitted and made the following recommendation:

*I have accepted this request to review a determination of the ASB. I have read all of the material that was before the Board and the subsequent submissions made to me as reviewer.*

*It seems to me that a great deal of the expert opinion provided to refute the board's decision was misguided in not addressing the issue of "tenuous" link which was the basis of the decision. S2.2 of the code is not discretionary. Violence is "not permitted" unless it is "relevant" to the product or service advertised.*

*The fact that the man who fell against the pregnant woman was drunk is not relevant. The fact that he fell against her is relevant but this has nothing to do with the issue or product of the advertisement.*

*Not surprisingly therefore, the ASB has made a determination that a TV advertisement for the Government of Western Australia's Rethink Drink campaign was in breach of the Advertiser Code of Ethics (the Code).*

*S2.2 of the Code does not permit violence to be shown in advertisements unless it is relevant to the product or service advertised. The ASB concluded that the violence in the advertisement was not connected to the alcohol issue being addressed. They concluded that tripping and falling against another person (in this case a pregnant woman) could occur whether alcohol was or was not involved.*

*The advertiser argues that the Board's decision did not properly consider the evidence submitted, including medical evidence which is contrary to the Board's view. I have considered all of these submissions in reviewing the determination and am conscious that they rely on an important point that messages addressing risky alcohol use should be conveyed to the community.*

*The advertiser's submission does not seem to address the reasoning of the Board in its determination. The Board acknowledges that graphic material could be permitted by the Code if RELEVANT to the public health issue of excessive drinking. The conclusion that the violence was only tenuously linked to alcohol does not in my view refer to probable infrequency of such a scenario, but that the violent act leading to miscarriage could have occurred without any alcoholic issue being involved.*

*The advertiser also submits that the advertisement does not portray violence. I do not share that view and I believe that it was reasonable for the Board to consider the matter under the provisions of S2.2.*

*The same conclusion is reached when considering S2.6 of the code. One complainant described the advertisement as a "cheap and unnecessary example of shock value". This complainant was a pregnant woman who was not in the target market and the advertisement offended and distressed her particularly because the outcome of the advertisement was not necessarily alcohol related.*

*This matter in my view has been properly and legally considered and the determination should stand.*