



CASE REPORT

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| 1. Complaint reference number | 352/09 |
| 2. Advertiser | Transport Accident Commission |
| 3. Product | Community Awareness |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Violence Community Service advertising – section 2.2
Other - Causes alarm and distress to children |
| 6. Date of determination | Wednesday, 9 September 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

A young man and woman are shown at a party and they are about to leave. The man is seen smoking what appears to be a joint. The advertisement cuts to the man driving along the road under the influence of drugs. The woman sitting next to him in the passenger side of the vehicle says to the driver "okay, Mark what is it going to be, is it fast or slow" and Mark responds "okay Kate, you drive".

Mark pulls the vehicle over to the side of the road and gets out of the car - at which time, he is hit by a vehicle. There is a loud noise and the next scene the sound of a thud and Mark is shown lying face down on the ground, with one shoe lying a distance from his body. Kate is shown screaming as she runs toward Mark's body.

THE COMPLAINT

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

It is ridiculous that these adverts are on during the afternoon & evening when young kids who neither smoke nor drive are watching.

I understand the thoughts behind their production as I am an ex-Emergency Department Manager but they do not need to be screened when young kids are up.

I wish to make a complaint about the placing of the new TAC drug advertising on TV. This graphic advertisement was show at approximately 9.05PM on Saturday 18th July on channel nine. Whilst you may feel it is correct to show this add after 9.00pm, it was shown during the screening of the Harry Potter movie. (Harry Potter and the Goblet of Fire). This is a family movie (rating PG) and as such no adult TV adverts should be show with it. I am sure many parents such as myself, would allow their young children to stay up and watch this movie as it was a Saturday night, and not a 'school night'. To then show graphic and horrible ads such as this during the movie displays a complete lack of care by channel nine. My own eight year old had to witness this and remarked that he 'did not like that ad'. I am now in the situation of not trusting channel nine to show due care in the showing of family movies. My only alternative is to either switch off, or record the movie and fast forward through the ads in case one of these graphic ads are shown. This, no doubt, would be unwelcome news to all of the advertising clients. I require assurance that family viewing will not be compromised by inappropriate advertising no matter what the hour.

I understand and agree with the desire to eliminate intoxicated/drugged drivers from our roads. Whilst not agreeing with the shock/horror technique the TAC appears to always use-the context in this case is patently the opposite to that required to educate the targeted audience. Instead of rewarding the "victims" decision to refrain from driving -he is mown down. Not only do we have to put up with the stress created by a sudden and traumatic road accident on our viewing screen-the

carrot/stick implications are wrong. If we have to watch a road accident in our lounge rooms- please let it be a clear and precise message-not this disturbing incorrectly devised and executed advertisement.

Gratuitous unwarranted violence designed to shock and sicken. This sick organisation thinks it is appropriate to punish those who do the right thing by watching this nonsense. It only serves to better the careers of the PR people who sick dreams tho thought it up, not the people who really need help. This level of violence is inappropriate during a bike race program that can easily be recorded with the new technologies and be viewed by children. It is also unhealthy for adults to have to view such rubbish from a cashed up organisation like the TAC that has done nothing to help people and doesn't have the where with all to spend it wisely.

THE ADVERTISER'S RESPONSE

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

Thank you for notification of the advertisement complaint - reference 352/09 made to the Advertising Standards Board. Provided below is background about the Transport Accident Commission (TAC) advertising campaigns being queried and the rationale for the use of this particular creative. I am confident that you will concur that the TAC has produced advertising that conforms to AANA's Advertiser Code of Ethics and are 'justifiable in the context of the product or service' (ie. road safety) that it promotes.

The TAC public education campaigns continues to focus on accident prevention, with the intention of reducing fatal, serious and minor casualty crashes on Victoria's roads. The development of the TAC's high profile public education campaigns has received both acclaim and criticism over the years, as the road toll has drastically reduced from numbers in the high hundreds (776 in 1989 when the campaign began) to a record low of 303 in 2008.

The Dope campaign launched in July 2009 to educate the community, and particularly cannabis users, of the impairments associated with driving after consuming cannabis. The Dope campaign follows on exactly 12-months after the last TAC drug driving campaign - The Cell which tackled the issue of young people driving under the influence ecstasy. The Cell campaign was reviewed last year by the ASB and I refer you to complaint 311/08 for further information as the current complaint is of a similar nature.

Research into driver fatalities in Victoria shows drug driving is a major factor in road deaths. Roadside drug screening detects the recent consumption of the illicit drugs speed, the active component of cannabis and ecstasy.

Since December 13, 2004 Victoria Police have used saliva based testing to detect the use of cannabis and methamphetamine amongst drivers and riders, introducing tests for ecstasy in 2006. Since testing began in December 2004, approximately 84,000 random drug tests have been conducted and 1367 people have been caught drug driving. That gives Victoria Police a strike rate of one drug driver is caught for every 62 drivers tested. When compared with the strike rate for drink driving, which is one in 200 drivers tested, it is clear that driving under the influence of drugs is a far greater problem in Australia than first anticipated.

The objective for this phase of the campaign is to educate the public of the impairment associated with drug taking behaviour and the impacts that drugs have on a person's ability to drive a car rather than the associated health issues of taking drugs.

The effect of any drug varies from person to person. In this drugs and driving ad the driver of the car consumes cannabis before he drives. The driver displays a number of impairments associated with cannabis which are depicted in the commercial; these include waiting too long at a stop sign, driving over the kerb, travelling on the mid-line of the roadway and a lack of awareness when pulling over in an unsafe place. The driver then exits the car in an unsafe manner and is subsequently involved in an accident due to being under the influence of cannabis.

Safe driving requires:

- alertness*
- clear vision*
- physical coordination*
- quick reactions*

- the ability to make the right decisions under pressure

Like alcohol, many drugs reduce a driver's ability to have full control of a motor vehicle. Drugs have different and profound effects on a person's mood and behaviour, depending on the type of drug involved. Cannabis for instance can slow down a person's reaction time, distorts perception of speed and distance; and reduces concentration and coordination when driving.

Years of research shows that road safety messages are more likely to impact road users' attitudes and behaviours when the realistic portrayal of road trauma is utilised to communicate messages. For many years the TAC has shown the direct effects of road trauma on those involved in accidents. The drug use depicted in this commercial is appropriate in the context. The crash scenario was reviewed and approved by Victoria Police Major Collision Investigation Unit as accurate and appropriate for the situation.

As a father of young children myself, I note two of the complaints mentioned the placement of the Dope ad during a Harry Potter film. I note the network in question has done nothing wrong in placing our ad at that time and during a film with a PG classification. However, the TAC has advised all four commercial networks that the Dope ad is not to be played in family films that may otherwise attract young children.

The advertisement was reviewed and approved for broadcast by Commercials Advice Pty Ltd and given a rating of 'PG'. I trust that you will view this response favourably given these communications are critical to influencing road user behaviour and have played a critical role in helping to reduce the level of trauma on Victoria's roads over the past 20 years.

Thank you for notifying the Transport Accident Commission (TAC) of the Advertising Standards Bureau's decision to defer its determination regarding the complaints received in relation to the TV component of our recent drug driving campaign (The Dope Campaign)

As requested, I have provided some extensive information on the issue of threat and fear appeals and specifically the TAC approach as well as an overview of how that has been developed over time. 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 and most importantly – self reported drug drivers.

Following your review of this material I am confident that you will find that TAC has developed a campaign to tackle the issue of traumatic injuries suffered by drug affected road users in a responsible way, that is 'justifiable in the context of the product or service advertised' (ie road trauma).

Background

Road Trauma (and obviously death) is a social issue that affects more than the individual road users. Families, friends and work colleagues are placed under enormous stress; not to mention the wider impact on our health and compensation systems. Every year TAC provides over \$700 million dollars in benefits and financial support aimed at rehabilitating Victorian's injured in road accidents and assisting their families.

In tackling the issue of road safety, TAC has segmented its approach, looking at aspects like age, sex, road user type, and type of hazard (such as drink or drug driving or fatigue). Large investments have been made in research – particularly to understand the attitudes and behaviours of specific road user segments and those who self report specific illegal road use behaviour such as drug driving, drink driving or speeding and the Victorian community at large, to best enable us to influence behaviour change.

Road trauma doesn't just happen – but it is preventable. When you consider that the road toll in Victoria for 2008 was 303, the lowest ever recorded in Victorian history, and that over 7,200 Victorians were injured seriously enough to require medical care. You can appreciate why the targeted and planned public education campaigns, like the one being reviewed, are an important tool in reducing death and injury on our roads. Many of these injuries are traumatic and suffered by people across our diverse cultural and geographic community.

While the total number of road deaths across Victoria has been falling in recent years, alarmingly, the rate of death resulting from driving under the influence of drugs has been on the rise.

Drugs are present in over 30% of road users killed. In 2008 that figure increased to 32%. Cannabis (THC) is the drug most often found present in killed road users, averaging around 15% of all killed. In 2008 the proportion killed with cannabis present in their blood was 16%.

Research into road fatalities in Victoria shows drug driving is a major factor in road deaths. Since December 13, 2004 Victoria Police have used saliva based testing to detect the use of cannabis and methamphetamine amongst drivers and riders, introducing tests for ecstasy in 2006. Since testing began in December 2004, approximately 84,000 random drug tests have been conducted and 1,367 people have been caught drug driving. That gives Victoria Police a strike rate of one drug driver caught for every 62 drivers tested. When compared with the strike rate for drink driving, which is one in 200 drivers tested, it is clear that driving under the influence of drugs is a very real problem.

The Victorian approach to improving road safety is an integrated one that sees public education (using a variety of styles educative, emotive and enforcement) as one component of a multifaceted program complementing strong enforcement within a legislative framework. The TAC's public education campaigns do not work in isolation and play a complementary role in conjunction with intense enforcement in order to produce results.

The Dope Campaign – The Creative Approach

The Dope campaign is the fourth phase in the strategy to tackle drug driving on our roads. The first two campaigns supported the police trial and then permanent introduction of saliva-based random roadside testing that provided the incentive to change drug-driving behaviour.

The following two campaigns, The Cell, targeting party drug users, and more recently Dope were developed to complement the enforcement approach by providing the rationale for changing behaviour – the demonstration of impairment and subsequent outcomes.

Surprisingly, contrary to traditional models, the history of successful road safety interventions strongly suggests that behaviours change first and then attitudes change later - but only if a sufficiently compelling reason is provided to change attitudes. The current drug drive campaign aims to perform this very important function of influencing attitude change by highlighting the impairments associated with drug (specifically cannabis) taking behaviour and the impacts that drugs have on a person's ability to use the road system and in this case more specifically drive a car and so locking in the changed behaviours.

Interacting with the road system requires:

- alertness*
- clear vision*
- physical coordination*
- quick reactions*
- the ability to make the right decisions under pressure*

Like alcohol, many drugs reduce a road user's ability to have full control of a motor vehicle. Drugs have different and profound effects on a person's mood and behaviour, depending on the type of drug involved. Cannabis for instance can slow down a person's reaction time, distorts perception of speed and distance; and reduces concentration and coordination when driving. As with alcohol the outcome for those who drive while impaired by drugs can be tragic.

The effect of any drug varies from person to person. In this drugs and driving public education campaign the driver of the car consumes cannabis before he drives. The driver displays a number of impairments associated with cannabis which are depicted in the commercial; these include waiting too long at a stop sign, driving over the kerb, travelling on the mid-line of the roadway and a lack of awareness when pulling over in an unsafe place, not fully off the roadway, his total lack of situational awareness moving out of the car without looking and exiting the vehicle in an unsafe manner, extending his exit path past the reach of the door and straight into a stream of oncoming traffic.

All these actions show how the impairment has affected the driver's ability to manage the complex

task of driving a motor vehicle, including their ability to enter and exit a vehicle which is a requirement of using a vehicle safely on the Victorian road system. Any driver or road user whilst interacting with the road system is required to be able to enter and exit the vehicle safely. In fact, it is clearly stated in Part 16, Section 269 Clause 3 of the Victorian Road Rules that; ‘A person must not cause a hazard to any person or vehicle by opening a door of a vehicle, leaving a door of a vehicle open, or getting out of, a vehicle.’

In this campaign the TAC has shown a driver who is under the influence of cannabis and as a result of his impairment makes a number of mistakes which ultimately lead to him making the worst decision of all – exiting the vehicle whilst affected by drugs in a hazardous manner which placed him and other road users at risk of serious injury or death in his case.

Victorian Police – Consultants to TAC on the accident recreation

The accident depicted in this campaign is loosely based on real accidents investigated by Victoria Police. As with all TAC campaigns the accident depicted in this TAC TVC was reviewed and developed in consultation with Senior Officers from the Victorian Police Major Collision Investigation Unit.

Research specific to road safety public education campaigns

The TAC is an evidence-based organisation and prides itself on being a world leader in road safety public education that is developed as the result of extensive detailed and insightful research. Since 2005 the TAC has conducted 4,620 telephone interviews with members of the public about their recall of TAC advertising, reactions to it and behaviours surrounding driving issues including drug driving. More specifically the TAC in the development of our communications strategy conducted two specific studies with 1,150 self reported drug drivers. The quantitative research further enhanced our understanding of the issue and added to the extensive research from our partner organisation’s here in Australia and from around the world.

In 2009, the TAC conducted a further 1500 interviews assessing social acceptability of a range of driving behaviours including drug-driving against other social practices. Interestingly, it was identified in this study that driving under the influence of cannabis came in as the seventh most unacceptable social behaviour.

In 2008 and 2009 the TAC conducted 36 focus groups in regional Victoria on the issues of speeding, drink and drug driving and fatigue. The issue which generated the greatest debate and concerns for the community was without doubt drug driving. The ease of access to illegal drugs in our community continues to frighten all of us involved in the fight to protect Victorian road users. In this research study we also conducted 18 in depth interviews with local regional police officers who confirmed the views of their local communities. This research continues to inform our strategy.

Research specific to the drug driving public education campaign

Several rounds of research were conducted on TAC’s behalf by Sweeney Research. Before any creative approach was considered, the attitudes and behaviours of self reported drug drivers were reviewed. In the development of the drug driving campaign for the TAC over 30 - drug driving specific qualitative focus groups were conducted with our target market group of self reported drug drivers.

A total of 20 groups have been conducted in the last 12 months alone and were used specifically to inform the development of this campaign and the previous drug driving campaign launched in August 2008. Key findings were:

- The Dope concept was the best of the five tested and a very strong concept.*
- The scenarios depicted are realistic and had the “that could be me” factor.*
- The idea that small mistakes can cause problems is totally accepted and the examples are generally realistic.*
- The driver wasn’t “totally off his face” so it clearly showed that even a joint can impact driving behaviour.*

- *The crash scene is different – and that’s a strong positive.*
- *The driver shouldn’t have been driving – and even when he does “try” to do the right thing, his judgment is impaired and he pays the price.*
- *While there already is a sense of “social unacceptability” of drug driving (at least from those who don’t drug drive), this crash scene in Dope can help strengthen the social unacceptability of drug driving. This is because we now have a crash scene where the pot smoker gets hit by an innocent driver who was in no way in the wrong – but will still feel bad/guilty/tormented that he hit a person.*
- *The non-drug user reaction then could be one of “smoking pot and then driving is bad because you are putting me at risk on the road – of an accident and of hitting you and feeling guilty.” This could help to build the social pressure around drug driving.*

After the TV commercials were filmed but before they went to air, off-line edits were tested amongst the target market of males aged between 25 & 35. This stage of research again highlighted that a confronting approach was necessary, if not mandatory. While confronting, the brief but graphic images are in context and are not gratuitous. Spontaneous reactions in off-line testing are highlighted below. Additional written responses are provided in attachment two.

“Again, it was the little things. In isolation, not so bad but it shows how they build up over time.”

“It’s not over the top, it’s not excessive.”

“The thing I really like about it is that it’s more about the little things that happen because that’s actually what does happen.”

“Is all so real – that’s why I take it seriously.”

The responses highlighted that our target market, of self-reported drug drivers, understood and could identify with the reality of the scenario being depicted. The combination of small effects of impairment as a result of drug driving ending with the driver illegally exiting the vehicle and causing the accident as a result of his drug induced impairment.

The use of Threat and Fear Appeals in advertising

In 1989 the road toll reached 776. At that time the TAC commissioned Brian Sweeney of Sweeney Research (and former ASB Board member) to undertake a formative research study to identify how and what type of public education campaigns would work to reduce the death and carnage on our roads. Later in December of that year the TAC launched with a campaign designed to ‘shock, outrage, and appal’. It followed a number of key criteria that were drawn up as a result of research conducted by Brian Sweeney.

These criteria outline in detail the use of threat and fear appeals and how the TAC aims to weave that element into a detailed, understandable and unfortunately for many Victorians an all too familiar story. It is the story of road trauma. It is worth reviewing how they were stated at that time.

• ‘That could be me...that could so easily be me!’

The most important research criterion for every TAC campaign.

If the target audience cannot personally and emotionally identify with the culprit, the ad will not work. In all TAC ads there has not been an instance when this was not so.

• All ads must emotionally involve our target audience.

Our target has to feel the impact of our message in their gut before their mind. We must make them feel the fear and vulnerability of identifying with the culprit.

Real life dialogue gives them an opportunity to get personally involved, as though they’re witnessing the accident and consequences, and thus they work the message out for themselves. One of the reasons why we limit the use voice overs is that the audience perceives these to be telling them what to think.

• Credibility, reality

Our target audience must believe that what they are seeing on the screen is real – real accidents, real people, suffering real pain and trauma.

If the audience sees anything that is stylised, staged, faked or looks like an ad, they'll pick it, be distracted by it and allow themselves to be distanced from the message.

- **The characters must be likeable**

No hoons, no extreme characters, no un-friendlies. Any of the above will polarise reaction to a TAC ad. It is important that our audience is able to get to know and like our characters, to make it easier to identify with them.

The better we establish likeable characters up front, the more emotional impact the ad will have.

- **The real message is in the consequences**

All our research shows that without tough, uncompromising demonstration of the emotional consequences of an accident, the message will be lost. We should demonstrate rather than explain. Give them enough information so that as they witness the scenario, they feel it and work out the message for themselves.

- **The OMG factor**

This refers to the impact a TAC ad must have to get our target audience's attention. It means the 'Oh my God;' factor. Any effective ad must have a point where the audience thinks those words, or says them out loud. It is rarely the point of impact.

It is the young girl screaming 'Darren' in Country Kids; the truck driver's shoulders sagging in Nightshift, it's the faces of the parents in Pictures of You and it's the moments after the crash in the drug ad you are reviewing.

Road Safety Campaign expert comment

In preparing for this further submission, I asked Consulting Psychologist and author of one of the earliest textbooks on developing road safety public education campaigns in Australia – Barry Elliott for his thoughts on our campaign

"I surmise that the complaints focus on the dramatic sequence related to the driver opening the car door and instantly killed being hit from the car behind. This sequence is very impactful and memorable in an otherwise ordinary TVC. Relative to other past TAC TVCs it is not gruesome and there is no close-up portrayal of body parts or blood and the anti-smoking campaigners might think it is soft. Indeed there is no visual of the driver actually being hit by the car following. The aim is to raise the issue of drug driving as we have successfully done with drink driving. This TVC will be memorable and hopefully implant or reinforce the association of drugs and driving with being out of your mind (insane?)"

In Conclusion

All of the TV ads were submitted to Free TV Australia (Commercials Advice) for broadcast approval and ratings of PG were assigned as relevant.

Care has been taken to place the ads only within the appropriate allowable times and outside of children's programming. Furthermore, as outlined in my initial response we noted the two complaints regarding the placement of the ad in the PG rated 'Harry Potter and the Prisoner of Azkaban'. We note that there hasn't been any breach of the code in this instance. We also note that our ad appeared after 9.00pm at night in that instance as well. However, we did take action advised all the networks to ensure that the ad did not to appear in any further family movies such as Harry Potter.

We do acknowledge that some members of the public will find this campaign particularly confronting – especially those who may have suffered from road trauma either directly or indirectly themselves. To ensure we limit the impact on those directly affected, the TAC make available a copy of the media schedule for members of the public who wish to modify their viewing to avoid the ad.

However, since the campaign launched on 14 July 2009 only one person who complained directly to the TAC took up the offer of the media schedule. Any complaints received have been outnumbered by positive responses including from those directly affected by road trauma.

A large amount of interest and support has been shown for the campaign by the other road safety

experts, the health community and the media. At the time of writing numerous requests for DVD copies of the ads have been received from organisations wishing to use them for training purposes.

All of TAC campaigns are tracked through a quantitative survey of Victorian Road User and reported quarterly. I would be pleased to provide the ASB with July – September results for the Drug Driving campaign when they are available in October 2009.

I hope that the ASB acknowledges that the TAC is acting responsibly in its communications to address the issue of drug affected road users. Further, that the creative style used, while confronting, does not breach acceptable community standards in consideration of the social harm that road trauma cause.

I trust that you will view this response favourably given these communications are critical to influencing road user behaviour and have played a critical role in helping to save lives and reduce the level of trauma on Victoria's roads over the past 20 years.

I thought I would leave the last comment to a gentleman, who through his duty had the misfortune to see more road trauma in Victoria than all of us combined.

“These ads are designed to be emotionally graphic. I can be out there with all the intrusive enforcement you like but without these emotional graphic ads on telly supporting these programs, I would get nowhere and I think the 1980's proves that.” - Frank Green, then Assistant Commissioner of Victoria Police, in the 1990's

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 was inappropriately graphic and violent and that such level of violence was unacceptably distressing for airing on commercial television.

The Board was sympathetic to the complainants' concerns and agreed that the advertisement was graphic and distressing. The Board noted the advertiser's response and that the main purpose of the graphic depictions in the advertisement was to educate the public of the impairment associated with drug taking behaviour and the impact that drugs have on a person's ability to drive a car, rather than on the associated health issues of taking drugs.

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.

Some members of the Board, however, were of the view that this particular advertisement had pushed the boundaries of what was considered "acceptable community education", that this type of advertising may have gone too far and that the degree of brutality and hazard depicted in the advertisement was not necessary.

The Board expressed concern that the advertisement was shown in a PG rated family/children's movie and noted that the advertiser has instructed that the advertisement no longer be shown in family films that would attract a young audience.

The Board noted its own recent research which showed that the Board's decisions on public health and community advertisements are generally in line with community views about the acceptability of violence in advertising. The majority of the Board considered that this 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 and that the advertisement did not breach section 2.2 of the Code.

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