

# **The Work Safe NZ/ACC television advertisements**

**A review of the evidence**

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## About Tailrisk economics

Tailrisk economics is a Wellington economics consultancy. It specialises in the economics of low probability, high impact events including financial crises and natural disasters. Tailrisk economics also provides consulting services on:

- The economics of financial regulation
- Advanced capital adequacy modelling
- Stress testing for large and small financial institutions
- Regulatory compliance for financial institutions
- General economics.

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# The Worksafe NZ/ACC television advertisements: A review of the evidence

## Introduction

Recently, Worksafe New Zealand and the Accident Compensation Corporation have been running a television advertisement campaign with a very strong message. New Zealand's workplace safety record is horrific and there have to be fundamental changes in the way we do things.

The campaign coincides with Health and Safety at Work Act coming into force, and appears to be designed to garner public support for a campaign to reduce key health and safety indicators by 10 percent by 2016 and by 25 percent by 2020. There is beginning to be public pushback against draconic penalties for safety infringements and increased costs of doing business, which appear to grossly disproportionate to the likely benefits. The campaign presents the case for doing even more.

So viewers have been informed that last year there were 23,000 deaths and serious injuries in New Zealand, and that our accident rates were twice Australia's and three times higher than the UK's.

The problem with these messages is that they are grossly exaggerated. Last year there were about **450** deaths and serious injuries in New Zealand workplaces.

## The difference between 450 and 23,000

In 2015 44 workplace fatalities were reported to Worksafe New Zealand.

The authoritative source on serious injuries is the Statistics Department's series 'Serious non-fatal work-related claims.'<sup>1</sup> The latest available figure is 2014. There were 397 injuries. As this series is fairly stable we can be reasonably sure that the 2015 death and serious injury figure was about 450.

So where did the 23,000 deaths and serious injuries come from?

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<sup>1</sup> This status is confirmed in the MBIE publication 'Working Safer: Reducing work-related fatalities and serious injury by 2020' 2015. "*The first two indicators are measured using the work-related serious injury outcome indicators. These are published annually by Statistics New Zealand. They are the official measure of injury trends in New Zealand.*"

We suggest two possibilities. First, there is the workplace serious harm notification series, which is collated by Worksafe from employer notifications. It is not a reliable series, as the legal definition of a serious harm incident is unclear and employers tend to over report to avoid being non-compliant with their legal reporting obligations. The series is available at <http://www.business.govt.nz/worksafe/research/health-and-safety-data/serious-harm-notifications-by-industry>.

In 2015 there were 3384 such notifications. Over the five years, 2011-2015, there were about 24,000 notifications. Could someone have taken the five-year, rather than the annual figure, and used that in the advertisement?

The second possibility is that ACC entitlement claim data was used. This series is one of the Worksafe's three indicator series. Here an injury is defined as an injury where there is a week or more away from work. In the Working Safer report it is stated, *"In 2013 there were 16,200 work-related injuries resulting in more than a week away from work, up from 15,600 in 2012."*

In the Statistics Department report 'Claims involving entitlement payments for work-related injuries' the total of such claims in 2014 was 28,000. 2300 were gradual on-set claims and there would be other deductions from the total to get to injury based claims.

This is our prime candidate for the source. But we doubt that most of these claims could reasonably be termed serious injuries. 12,000 were soft tissue injuries, and 5000 claims were from white collar workers. The official number for serious injuries, as noted, is 397.

If this is where the 23,000 'serious injury' figure came from then it is grossly misleading in the emotive context in which it has been used in the advertisement. The viewer is being lead to believe that tens of thousands are not 'coming home' each year because of death or serious injury.

If the narrative was "last year 23,000 New Zealander's had a week or more off work after a workplace accident, and made a claim on ACC" then that would be fine. It would not, of course, have the emotional resonance that the advertisement was seeking to invoke. It would hardly be likely to convince the homeowner who was facing a 50 percent increase in the cost of a simple paint job that it was a necessary burden to deal with New Zealand's 'horrific' accident rate.

## The comparative experience

The comparison with the UK and Australia is meant to convince the viewer that substantial improvements are not only necessary, but readily achievable. The best that can be said for international comparisons is that they should be treated with extreme caution. The Independent Taskforce on Workplace Safety did not include international comparisons in its 2013 report because of concerns about New Zealand data quality and a number of issues that meant it was not possible to draw conclusions about relative performance by looking at 'headline' work death rates.

There is an Australia/New Zealand injury comparison in the 2015 Working Safer report (Figure 6). The table heading is 'Serious work-related injury and disease claims' but it is really just a comparison of compensation claim rates, not true serious injury rates. For what it is worth the rates are nearly identical but any differences probably relate to legal and administrative arrangements rather than underlying serious accident rates.

There is also a comparison of Australian and New Zealand death rates, which ignores the caution about making those sorts of comparisons. The New Zealand rate is higher than Australia's but this headline rate doesn't adjust for industry compositional differences. New Zealand has a relatively larger agricultural sector, which is the source of a large proportion of deaths (19 of the 44 in 2015). In any event the death rates are very low and could not drive a conclusion about death and serious injury rates.

There is no substantive support for the claim in the television advertisement that New Zealand's rate is twice that of Australia's.

The Independent Task Force commissioned an Otago University study on comparative accident rates that explained why international comparisons were unreliable. In part, this was because New Zealand's definition of a workplace accidental death is broader than many of the comparators. While the comparative data (8 OECD countries) was not used in the Independent Task Force report, it appeared to suggest that New Zealand record was bad. In 5 of the 13 sectors New Zealand was the worst performer. This is probably one of the drivers of the something fundamental needs to be done mantra.

Several of the sectors were very small, or had very low death rates, and the high New Zealand relative death rates might have been due to just a few incidents. However, New Zealand appeared to perform badly in two major sectors – manufacturing, and building and construction. For manufacturing the death rate per 100,000 workers was 6.1 compared to an average of 2.5 for the comparators. For

construction the New Zealand rate was 15.3 compared to the comparator rate of 5.6.

We looked at recent Worksafe reported fatality data (the average for 2013-2015), and this appears to present a different picture. Using total employment in the sectors as the denominator, we found that the manufacturing sector death rate was about 0.4 per 100,000. The construction rate was 1.9.

## **Are we there yet?**

The Government has set a target reducing workplace fatality and serious injury rates by 10 percent by 2016 and 25 percent by 2020.

The three indicator data series are:

### **1. The age-standardised rate of fatal work-related injury**

The baseline for this target is 2.74 (the 2008-10 average) fatal work related accidents per 100,000 person years at risk. The 2016 and 2020 targets are 2.5 and 2.1 respectively.

For the three-year period 2012-14, the Stats NZ outcome was 2.2. This compares with the rate of 4.7 for 2002-4. Stats NZ also puts a confidence band around its central estimate. The lower bound was 1.85, which is below the 2020 target. So perhaps we are already there on this measure.

### **2. The age-standardised rate of serious non-fatal work-related injury**

The baseline rate is 16.09 and the 2016 and 2020 targets are 14.5 and 12.1 respectively. This one might be harder to crack. The baseline figure differs from the 2008-10 SNZ table 26 average of 17.2. The latest, 2014, figure of 16.2 is down from that, but not from the Worksafe base line. However, the confidence interval around the 2014 is 14.5 –17.9 so there is just a chance that the 2016 target has been achieved early.

### **3. The rate of work-related injury with more than a week away from work.**

The base line for this target is 8.41 per 1000 FTEs.

There is an issue with using this data series as a proxy for injury prevention progress, because 'progress' could be as much about claims management as about the underlying rate of injuries. One way to meet the target is to convince workers and employers not to make claims by either the worker getting back to work just before the 7 day trigger, or by the employer meeting the worker's salary, so no claim arises.

Figure 3 in the Working Safer report shows that there was a marked fall in the claim rate from 12 per 1000 FTEs in 2003 to under 7.9 by 2010, a fall of 34 percent. The rate has plateaued since then. This might be because the ACC has already plucked the low hanging fruit on this metric and further 'progress' will be difficult.

There is a risk that when this rate refuses to fall further, Worksafe NZ will impose ever more intrusive safety measures, without regard to the cost to consumers, employers and the economy, just to meet the 2020 target.

### **Costs and benefits**

It struck us, as we read some of the relevant documents, just how little attention was paid to the costs and benefits of driving workplace deaths and injuries down.

In the Independent Task Force report the cost of an independent and larger agency was put at \$34 million in 2013/14 rising to \$46 million in 2017/18.

Incremental compliance costs for firms was estimated to be \$24 million. It was calculated by taking a 2008 KPMG report that estimated employment related compliance costs were \$188. It was assumed that 30 percent of this was health and safety related, and that this number would increase by 20 percent. Uprating by inflation generated the \$24 million, or about \$12 per worker. This figure seems to be extremely low even as a measure of direct administration costs for businesses. It seems to entirely miss the costs of the changes in business processes that the 'step change' in the approach to health and safety is driving.

These costs will be substantial. For example, Bryce Wilkinson<sup>2</sup> presented estimates of compliance costs ranging from \$79 million to \$450 million per year for MBIE's falling from hights campaign. This is the costs to just one sector, residential construction.

The Independent Task force made no attempt to estimate the benefits of their recommendations, but observed that the steady state costs would be recovered if just 14 lives were saved. The Task force concluded that 'we have no doubt there

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<sup>2</sup> 'A Matter of Balance  
Regulating Safety ' New Zealand initiative Research Notes

would be a positive social benefit.’ Perhaps that judgement might be sound if the costs were just \$60 million or so, but not if they add to the hundred of millions.

MBIE’s Regulatory Impact Statement of the new work safety regime had nothing more to say. There was no cost benefit analysis.

Bryce Wilkinson has pointed out there was no attempt to estimate the costs and benefits of the falling from heights campaign, nor does Worksafe seem to think that cost benefit analysis is even relevant. It is enough that there is even the smallest prospect of an injury being prevented, regardless of cost.

### **Complaint to the Advertising Standards Authority**

To return to the TV advertisement that prompted this discussion, we think that it is deceptive and should be withdrawn. A new advertisement, correcting the misrepresentations, should be run.

A complaint has been made to the Advertising Standards Authority.

The advertisement breaches principle No.3. ‘No advertisement should be misleading or deceptive or likely to mislead or deceive the consumer’ and;

Principle 4.’ All advertisements should be prepared with a due sense of social responsibility to consumers and to society’ and;

Rule 2 Truthful Presentation – Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge.’ and;

Rule 6. Fear – Advertisements should not exploit the superstitious, nor without justifiable reason, play on fear.