



**Ad Standards** Community Panel  
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Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0281-21</b>
<b>2. Advertiser :</b>	<b>Department of Industry, Science, Energy and Resources</b>
<b>3. Product :</b>	<b>Community Awareness</b>
<b>4. Type of Advertisement/Media :</b>	<b>Internet</b>
<b>5. Date of Determination</b>	<b>13-Oct-2021</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Environmental Code\1 Truthful and Factual  
AANA Environmental Code\2 Genuine Environmental Benefit

### DESCRIPTION OF ADVERTISEMENT

This internet advertisement features a webpage with the heading, "Clean Hydrogen - A future low emissions fuel for homes, vehicles and industry".

It includes information on clean hydrogen and how it's being used and a video detailing the national hydrogen strategy.

### THE COMPLAINT

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

*The 'positive energy' campaign website includes a reference to 'clean hydrogen'.  
<https://www.positiveenergy.gov.au/clean-hydrogen>*

*Clean hydrogen is not a recognised form of hydrogen. According to the CSIRO, hydrogen is categorised by the use of colours. 'Clean' hydrogen has no scientific basis or meaning. <https://blog.csiro.au/green-blue-brown-hydrogen-explained/>*

*The campaign gives the impression that the hydrogen being promoted is good for the environment and zero emissions ie: 'clean'. The dictionary defines clean as 'pure' and 'free from unwanted matter'. However, the only form of hydrogen that has zero emissions is green hydrogen. This is the only hydrogen that could be considered as clean.*



*The hydrogen investments being promoted by the government in this campaign are not all clean or green. While some are 'cleaner' (lower emissions) than some other forms of energy, they are not all 'clean'.*

*For example, La Trobe Valley hydrogen hub that is being funded as part of the campaign uses coal to create hydrogen and has the same greenhouse gas emissions as coal power. <https://www.abc.net.au/news/2021-03-12/hydrogen-from-coal-production-begins-la-trobe-valley/13241482>*

*In the reporting of this campaign, PV magazine pointed out that 'clean hydrogen' is the term that the government has made up and "uses to lump fossil fuel hydrogen with carbon capture and storage in with legitimately renewable green hydrogen" <https://www.pv-magazine-australia.com/2021/09/21/hydrogen-hub-shortlist-expanded-as-feds-commit-additional-150-million/>*

*The Environmental Claims Code states that claims cannot be 'overstated' and that 'the extent of environmental benefit, are presented in a manner that can be clearly understood by the consumer.'*

*The use of the word 'clean' to describe the hydrogen being promoted in this campaign overstates its environmental benefits and obscures the real types of hydrogen being used (green, blue and grey) so they are not clear to the consumer.*

## **THE ADVERTISER'S RESPONSE**

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

*Case reference number 0281-21*

*Thank you for your correspondence of 30 September 2021 to the Department of Industry, Science, Energy and Resources concerning the complaint made to Ad Standards regarding the campaign website <https://www.positiveenergy.gov.au/cleanhydrogen>.*

*The Department understands the complaint primarily relates to the Australian Association of National Advertisers (AANA) Environmental Claims in Advertising Code. In particular, the complaint relates to the Code's provisions (1)(a) 'Environmental Claims in Advertising or Marketing Communication shall not be misleading or deceptive or be likely to mislead or deceive' and (2)(b) 'Environmental Claims must not overstate the claim expressly or by implication.'*

*The Department understands the complainant has raised concerns regarding use of the term 'clean hydrogen' on the [positiveenergy.gov.au](https://www.positiveenergy.gov.au) website. In particular, the complainant asserts:*



- *The term ‘clean hydrogen’ is not a recognised term;*
- *The use of the term ‘clean hydrogen’ is intended to mislead the public to believe that hydrogen being supported by government action does not rely on the use of fossil fuels;*
- *That the term is being promoted in the campaign ‘overstates its environmental benefits and obscures the real types of hydrogen being used (green, blue and grey) so they are not clear to the consumer.’*

*In response, the Department provides the following information.*

#### **BACKGROUND AND PURPOSE OF THE CAMPAIGN**

*The Australian Government’s public communication campaign is intended to ensure all Australians are aware of the progress being made to reduce emissions and increase the use of clean energy.*

*The campaign aims to better inform Australians about how the Government’s significant investment in clean energy technologies and projects is reducing emissions while looking after Australians’ way of life, such as creating new industries and jobs.*

*One element of the Government’s actions to reduce emissions has been to support the development of an Australian hydrogen industry. The Australian Government is investing \$1.2 billion into developing hydrogen. The campaign draws attention to these investments.*

#### **COMPLIANCE WITH THE CODE OF ETHICS**

*In developing the campaign, the department complied with the Australian Government Guidelines on Information and Advertising campaigns. This included considering the advice of the Independent Communications Committee (<https://www.finance.gov.au/publications/compliance-advice/department-industry-science-energy-and-resources-emissions-reduction-campaign-september-2021>).*

*The Department is satisfied that the campaign materials comply with section 2 of the ANAA Code of Ethics, in that:*

- *It does not include material which is discriminatory or engages in vilification*
- *It is not exploitative or degrading*
- *It does not contain scenes of violence*
- *It does not contain scenes of sex, sexuality, or nudity*
- *It does not include offensive language*
- *It does not depict scenes which contravene principles of health and safety*
- *It is clearly distinguishable as advertising.*

#### **RESPONSE TO THE COMPLAINT**

*In regard to the specific complaints, the Department considers that the material is neither misleading nor deceptive, and does not overstate environmental claims.*

#### **‘Clean hydrogen’**

*The term ‘clean hydrogen’ is a commonly used term, and has been for several years.*



*Under Australia's National Hydrogen Strategy (Australia's National Hydrogen Strategy, 2019), agreed by the Commonwealth, State and Territory Governments and released in 2019, 'clean hydrogen' refers to hydrogen produced from renewable sources and from fossil fuels with substantial carbon capture and storage.*

*'Clean hydrogen' is also used internationally as a common term to refer to renewable and low carbon hydrogen production (e.g. European Clean Hydrogen Alliance). (European Clean Hydrogen Alliance, 2021).*

*Australia's investment in hydrogen as a technology capable of lowering emissions is backed by multiple studies from leading agencies including CSIRO (CSIRO Utilisation Roadmap, 2021) and the International Energy Agency (IEA) (IEA, 2019), among many other possible examples.*

*The term 'clean hydrogen' implies that hydrogen being supported by government action does not rely on the use of fossil fuels.*

*As defined above, the term 'clean hydrogen' acknowledges that some types of hydrogen may be produced using fossil fuels, with substantial use of carbon capture and storage. Consequently, the Department does not regard the use of the term as misleading.*

*The campaign website 'overstates its environmental benefits and obscures the real types of hydrogen being used (green, blue and grey) so they are not clear to the consumer.'*

*The campaign uses the term clean hydrogen. As defined above, the term is not misleading. The campaign website correctly describes the significant environmental and other benefits that will flow from the Government's investments in hydrogen (Australia's National Hydrogen Strategy, 2019), including the potential:*

- to blend with or replace natural gas to heat homes and industry, and for cooking*
- for fuel cells to generate electricity to power cars, trucks, buses and trains, as an alternative to existing diesel and petrol use*
- to store clean energy and generate electricity from this energy for mining sites and remote communities*
- as an alternative industrial chemical feedstock for the manufacture of products such as ammonia, fertiliser and steel*
- to globally trade clean energy.*

*To provide future customers with additional robust and transparent information on the greenhouse gas emissions associated with hydrogen production, the Australian Government is developing a domestic Guarantee of Origin hydrogen certification scheme.*



*The scheme will track the carbon emissions associated with Australian hydrogen production, along with other characteristics such as the type of technology and energy source used in its manufacture.*

*Industry trials of the scheme will be managed by the Clean Energy Regulator through a funding commitment under the 2021–22 Budget.*

*Australia is also leading efforts to establish an international agreed methodology for measuring emissions from hydrogen production through the International Partnership for Fuel Cells in the Economy (IPHE).*

*I trust this is of use to the Community Panel.*

#### REFERENCES

*(2021, October). Retrieved from European Clean Hydrogen Alliance:*

*<https://www.ech2a.eu/>*

*Australia's National Hydrogen Strategy. (2019, November). Retrieved from Department of Industry, Science, Energy and Resources:*

*<https://www.industry.gov.au/data-and-publications/australias-national-hydrogen-strategy>*

*Australia's National Hydrogen Strategy. (2019, November). Retrieved from Department of Industry, Science, Energy and Resources:*

*<https://www.industry.gov.au/sites/default/files/2019-11/australias-national-hydrogen-strategy.pdf>*

*CSIRO Utilisation Roadmap. (2021, August). Retrieved from CSIRO: Australia's National Science Agency: <https://www.csiro.au/en/work-with-us/services/consultancy-strategic-advice-services/csiro-futures/futures-reports/co2-utilisation-roadmap>*

*IEA. (2019, June). The Future of Hydrogen: seizing today's opportunities. Retrieved from IEA: [www.iea.org/reports/the-future-of-hydrogen](http://www.iea.org/reports/the-future-of-hydrogen)*

#### THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Environmental Claims in Advertising and Marketing Code (the Environmental Code).

The Panel noted the complainant's concern that the advertisement:

- contains references to 'clean hydrogen' which has no scientific basis or meaning
- Gives the impression that the hydrogen being promoted as good for the environment and has zero emissions, however this only relates to green hydrogen – which not all the projects on this website are
- Some hydrogen projects use coal to create hydrogen and this does have greenhouse gas emissions.



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

### **Is an environmental claim being made?**

The Panel considered whether the advertisement made an Environmental Claim.

The Environment Code applies to 'Environmental Claims' in advertising and marketing communications.

The Code defines Environmental Claims as “any express or implied representation that an aspect of a product or service as a whole, or a component or packaging of, or a quality relating to, a product or service, interacts with or influences (or has the capacity to interact with or influence) the Environment”.

The Panel considered that the advertisement includes the following environmental claims:

- The use of the term ‘clean hydrogen’ generally, throughout the advertisement
- By using hydrogen, we can reduce dependence on imported fuel, and we can reduce carbon emissions in Australia and around the world.

### **1 a) Environmental Claims in Advertising or Marketing Communication...shall not be misleading or deceptive or be likely to mislead or deceive**

The Panel noted that the Practice Note for this Section includes:

*“It is not intended that legal tests be applied to determine whether advertisements are misleading or deceptive, or likely to mislead or deceive, in the areas of concern to this Code. Instead, consideration will be given as to whether the average consumer in the target market would be likely to be misled or deceived by the material.*

*Factors to consider include:*

- *An advertisement may be misleading or deceptive directly or by implication or through emphasis, comparisons, contrasts or omissions. It does not matter whether the advertisement actually misled anyone, or whether the advertiser intended to mislead – if the advertisement is likely to mislead or deceive there will be a breach of the Code.*
- *The target market or likely audience of the advertising or marketing communication should be carefully considered when making environmental claims. Therefore all advertising should be clear, unambiguous and balanced, and the use of technical or scientific jargon carefully considered.”*

The Panel considered that the Environmental Claims in the advertisement are limited to general claims about the potential future use of clean hydrogen and the suggestion that the use of clean hydrogen can reduce carbon emissions.



### Clean Hydrogen

The Panel noted the advertiser's response that the term 'clean hydrogen' refers to hydrogen produced from renewable sources and from fossil fuels with substantial use of carbon capture and storage.

The Panel considered that the target market for the communication would be people interested in the Government's hydrogen plan who are looking for more information on the website.

The Panel considered that not all members of the target audience would know the terminology 'clean hydrogen' and would most likely interpret the phrase to be hydrogen produced with little impact on the environment. The Panel considered that this interpretation was consistent with the advertiser's definition of hydrogen produced from renewable sources and from fossil fuels with substantial use of carbon capture and storage.

The Panel noted that given the advertiser's aim of better informing the public it would be appropriate for a clear definition of clean hydrogen to be provided on this webpage so that this information could be easily found and understood by members of the public. However, the Panel noted that a definition of clean hydrogen is provided in the report 'Australia's National Hydrogen Strategy' which is referred to in the video, is available at [industry.gov.au](http://industry.gov.au) and can be accessed through a link provided in the advertisement.

Overall, the Panel considered that the average consumer in the target market would not be likely to be misled or deceived by the use of the phrase 'clean hydrogen'.

### Reduce carbon emissions

The Panel noted the video embedded in the website features the voice-over stating, "By using hydrogen, we can reduce dependence on imported fuel, and we can reduce carbon emissions in Australia and around the world".

The Panel considered that the target audience for this advertisement would interpret this phrase to mean that producing more hydrogen energy in Australia would lead to an overall reduction in carbon emissions.

The Panel noted the complainant's concerns that some clean hydrogen is produced using coal, and that this process produces green-house gas emissions.

The Panel noted the advertiser's response that the advertisement is referring to clean hydrogen which is produced from renewable sources and from fossil fuels with substantial use of carbon capture and storage. The Panel considered that members of the target audience would understand that the production of fuel in Australia using



these methods would still lead to less carbon emissions than currently produced to import fuel.

Overall, the Panel considered that the average consumer in the target market would not be likely to be misled or deceived by the use of the phrase “By using hydrogen, we can reduce dependence on imported fuel, and we can reduce carbon emissions in Australia and around the world”.

### **Section 1 a) conclusion**

The Panel determined that the advertisement did not breach Section 1 a) of the Environmental Claims Code.

### **2 b) Environmental Claims must...not overstate the claim expressly or by implication**

The Panel noted that the Practice Note for this Section includes:

*“Advertisers and marketers should avoid making claims that expressly or impliedly overstate an environmental benefit. Consideration should be given to whether there is sufficient disclosure of any negative impacts. For example, whether negative impacts have been withheld which, if known, would diminish the positive attribute.”*

The Panel noted the complainant’s concern that the term clean hydrogen has no scientific basis and is misleading as it does not show that some of the hydrogen is produced using coal.

The Panel noted the advertiser’s response that the advertisement is referring to clean hydrogen which is produced from renewable sources and from fossil fuels with substantial use of carbon capture and storage. The Panel also noted that when showing how hydrogen is produced, the video includes graphic of coal. The Panel considered that the advertisement does not suggest that all clean hydrogen referred to in the advertisement is produced from renewable sources.

The Panel considered that the claims in the advertisement were couched in general and future-focussed language, were modest and were not overstated expressly or by implication.

### **Section 2 b) conclusion**

The Panel determined that the advertisement did not breach Section 2 b) of the Environmental Claims Code.

### **Conclusion**

Finding that the advertisement did not breach the Environmental Claims Code on any other grounds the Panel dismissed the complaint.