



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0032-22
2. Advertiser :	Department of Industry, Science, Energy and Resources
3. Product :	Political or Social Issue
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	23-Feb-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Environmental Code\1 Truthful and Factual

DESCRIPTION OF ADVERTISEMENT

There are five versions of this television advertisement.

Version one includes the voice over:

Title: 20% less in the last 15 years.

Australia's making positive energy.

Which means less emissions.

And more jobs.

For him, her, oh, and them!

Hang on. That's a cockatoo. (Cockatoo screeches)

Yeah, it is exciting. Because what we do today, will define our tomorrow.

Australia's making positive energy.

Find out more at positiveenergy.gov.au

Authorised by the Australian Government Canberra.

Version two includes the voice over:

Australia's making positive energy.

And we're investing in more of it.

Like Hydrogen Hubs and micro grids and seaweed for feed (yum)

Which means even less emissions.

Because what we do today, will define our tomorrow.

Australia's making positive energy.

Find out more at positiveenergy.gov.au



Authorised by the Australian Government, Canberra

Version three includes the voice over:
Australia's making positive energy.
And there's more on the way.
It's all part of our plan to reach net zero by 2050.
We've already put solar panels here, here, and there.
And we're expanding Snowy Hydro.
So it's the biggest battery in the southern hemisphere! (Nice)
We're investing billions in projects.
Like hydrogen hubs, and EV charging stations.
Which means thousands more jobs.
And less emissions.
Title: 20% less in the last 15 years.
Which are already down by 20%.
All helping us reach net zero by 2050.
Australia's making positive energy.
Find out more at positiveenergy.gov.au
Authorised by the Australian Government, Canberra

Version four includes the voice over:
Australia's making positive energy.
It's all part of our plan to reach net zero by 2050.
We're investing billions in projects
Like hydrogen hubs.
Which means more jobs
And less emissions which are already down by 20%!
Helping us reach net zero by 2050.
Australia's making positive energy.
Find out more at positiveenergy.gov.au
Authorised by the Australian Government, Canberra

Version five includes the voice over:
Australia's making positive energy.
It's all part of our plan to reach net zero by 2050.
We're investing billions in projects
Like EV charging stations.
Which means more jobs
And less emissions which are already down by 20%!
Helping us reach net zero by 2050.
Australia's making positive energy.
Find out more at positiveenergy.gov.au
Authorised by the Australian Government, Canberra

THE COMPLAINT

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



The problem is with the 20% figure. From the ad transcript "And less emissions. Title: 20% less in the last 15 years. Which are already down by 20%."

This is misleading according to ABC Fact Check - which shows the Government is cherry picking data - and including the falls in CO2 caused by the pandemic and drought. It also uses a base year with very high emissions (2005) and compares it with the pandemic year (2020).

Also, when Fact Check asked Mr Morrison's office for the source of his comparison with G20 countries, a spokesman responded with figures from the United Nations Framework Convention on Climate Change, which has data from 1990 to 2019.

He provided the following percentage falls from 2005 to 2019:

The UK: -34 per cent

France: -19 per cent

Germany: -20 per cent

Italy: -32 per cent

Australia: -15 per cent

The spokesman acknowledged that this was the latest comparable data.

The UNFCCC is "the United Nations entity tasked with supporting the global response to the threat of climate change".

The Australia Institute has also found the 20% figure misleading.

<https://australiainstitute.org.au/wp-content/uploads/2021/05/P1076-Banking-on-Australias-Emissions-Commitments-.pdf>

The AANA Environmental Code states: Environmental Claims in Advertising or Marketing Communication:

(a) shall not be misleading or deceptive or be likely to mislead or deceive;

By cherry picking data, the ad misleads about the actual efforts of the government to decarbonise.

<https://aana.com.au/self-regulation/codes-guidelines/environmental-claims/>

Thank you for your time.

The advertising insinuates that Australia has reduced its emissions by 20%

The Bureau of Meteorology (An Australian Federal Government department) strongly disputes this claim.

The Australian Federal Government is misleading the public by promoting a clearly defined lie.

<http://www.bom.gov.au/state-of-the-climate/greenhouse-gas-levels.shtml>

The efforts behind this campaign are very clearly intended to manipulate peoples perception on what's actually been achieved or pursued by the Morrison government in terms of protecting our futures through sustainability efforts, which flies in the face of the actions and inactions of this government that have not delivered any real tangible demonstrable changes or even plans as to the claims of net zero 2050

Misleading, manipulative and clearly not in line with the actions of this government in terms of policy design



THE ADVERTISER'S RESPONSE

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

Thank you for your correspondence of 10 and 17 February 2022 to the Department of Industry, Science, Energy and Resources (the Department) concerning two complaints made to Ad Standards.

The Department understands the complaints relate to the Australian Association of National Advertisers (AANA) Environmental Claims in Advertising Code. In particular, the complaints relate 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.'

The Department understands the complainants have raised concerns regarding the following statements made in TV advertising:

Emissions reduction (as raised in your correspondence of 10 February 2022):

- *Voice Over: "And less emissions. Which are already down by 20 per cent."*
- *Title: "20% less in the last 15 years."*

Net zero by 2050 (as raised in your correspondence of 17 February 2022):

- *Voice Over: "It's all part of our plan to reach net zero by 2050."*
- *Voice Over: "Helping us reach net zero by 2050."*

In response, the Department provides the following information.

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.*

Responses to the complaints



In regard to the specific complaints, the Department considers that the material is not misleading nor deceptive, or likely to mislead or deceive.

Complaints concerning emissions reduction:

The Department has based the statement in the advertisements on information in its Quarterly Updates of Australia's National Greenhouse Gas Inventory (Quarterly Update). The Quarterly Updates are prepared in accordance with the international guidelines agreed for use for the Paris Agreement including the Intergovernmental Panel on Climate Change (IPCC) 2006 Guidelines for the Preparation of National Greenhouse Gas Inventories and, where applicable, the 2019 IPCC Refinement to the 2006 IPCC Guidelines.

The TV Commercials first went to air in September 2021. The most recent Quarterly Update available at that time was published on 31 August 2021. This indicated that Australia's emissions in the year to March 2021 were 20.8 per cent lower than emissions in the year to June 2005 (the baseline year for Australia's 2030 target under the Paris agreement) (source: <https://www.industry.gov.au/data-and-publications/national-greenhouse-gas-inventory-quarterly-update-march-2021>).

This outcome was reaffirmed in the most recent Quarterly Update, published 30 November 2021, which covers the period to June 2021. This indicates Australia's greenhouse gas emissions in the year to June 2021 were 20.4 per cent below emissions in the year to June 2005.

The Department confirms that, on the basis of information used to prepare the Quarterly Update published in August 2021, emissions in the fifteen years to March 2021 were 21 per cent below emissions in the year to March 2006.

The Department also confirms that, on the basis of information used to prepare the Quarterly Update published on 30 November 2021, emissions in the fifteen years to June 2021 were 20 per cent below emissions in the year to June 2006.

Further information on the data and methods used to support these figures can be found at <https://www.industry.gov.au/data-and-publications/national-greenhouse-gas-inventory-quarterly-update-june-2021>.

Complaints concerning the Government's plans to reach net zero by 2050:

The TV Commercials including these references went to air from December 2021. The Department has based the statement in the advertisement on the release of the Long Term Emissions Reduction Plan (the Plan) on 26 October 2021. The Plan outlines how Australia will:

- Drive down the cost of low emissions technologies*
- Deploy these technologies at scale*
- Help our regional industries and communities seize economic opportunities in new and traditional markets*



- *Work with other countries on the technologies needed to decarbonise the world's economy. These actions, coupled with further technology breakthroughs and the use of high integrity offsets, have been modelled to show that Australia can reach net zero emissions by 2050.*

Australia's 2050 net zero target has been lodged as Australia's Nationally Determined Contribution under the United Nations Framework Convention on Climate Change.

*Further information about the Plan can be found online at:
<https://www.industry.gov.au/data-and-publications/australias-long-term-emissions-reduction-plan>*

I trust this is of use to the Community Panel.

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 complainants' concerns that the advertisement is misleading.

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

Is an environmental claim being made?

The Panel considered whether the advertisements 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 advertisements include two environmental claims:

- That emissions down 20% in the last 15 years.
- That Australia is on track to reach net zero by 2050 .

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.”*
- Environmental claims relating to future matters or commitments should be based on reasonable grounds as at the time the claim was made, even if the future matter does not come to pass. The fact that a person may believe in a particular state of affairs does not necessarily mean that there are reasonable grounds for the belief.*

Emissions down 20%

The Panel noted the complainants’ concerns that the advertiser had chosen to use data from specific years which was not an accurate representation of emissions reductions.

The Panel noted that the statement in the advertisement was limited to a comparison of the last 15 years.

The Panel noted the advertiser’s response that the claim was based on numbers from its Quarterly Updates of Australia’s National Greenhouse Gas Inventory. The Panel considered that this was an appropriate source of information and that the statement made in the advertisement accurately reflected numbers from these reports.

The Panel noted that the target audience for the advertisement would be all adult Australians who watch free-to-air television. The Panel considered that the target audience would understand the claim of a 20% reduction in emissions over 15 years to be accurate according to the relevant data. The Panel considered that the existence of other data which when analysed would yield a different result did not rule out the advertiser’s approach, and that an adult audience would be aware of the potential contestability of claims of this kind.



The Panel considered that it was reasonable in the context of the advertisement for the advertiser to have made its claims, and to do so was not in breach of the Code.

Net zero by 2050

The Panel noted the complainants' concerns that the Government had not provided any real plans as to how it would achieve net zero by 2050, and it was misleading to make a claim that it did.

The Panel noted the advertiser's response that the target of net zero by 2050 was in line with its published Long Term Emissions Reduction Plan and supported by its modelling.

The Panel considered that the claim was made on adequate grounds and that statement of this target was not in breach of the Code.

Section 1 a) conclusion

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

Conclusion

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