



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0209-22
2. Advertiser :	Ampol
3. Product :	Automotive
4. Type of Advertisement/Media :	Internet - Social - Facebook
5. Date of Determination	14-Sep-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

This Facebook advertisement features an areal image of treetops with the words "Ampol Carbon Neutral" superimposed over them. The caption to the post reads, "We are proud to announce an important step forward in our Future Energy & Decarbonisation Strategy, with the launch of our carbon neutral fuel solution – Ampol Carbon Neutral.

Ampol Carbon Neutral will be available to all of our business customers looking to offset the greenhouse gas emissions associated with the sourcing, refining, distribution, retailing and consumption of our petrol and diesel products.

For more information about Ampol Carbon Neutral, head to:
<https://www.ampol.com.au/business.../carbon-neutral-fuel>"

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

1. We act for Comms Declare. We are writing on their behalf to ask that you investigate whether statements made by Ampol in a recent Facebook post about "carbon neutral fuel" is misleading. A copy of their recent advertisement can be found at Annexure A.

Environmental Claims Code



2. Section 1 of the Environmental Claims Code relates to misleading or deceptive conduct in relation to environmental claims. Clause 1 of the Code requires environmental claims in advertising or marketing communication to not be misleading or deceptive or likely to mislead or deceive, to display disclaimers or important limitations and qualifications prominently and represent the attributes or extent of environmental benefits or limitations in a way that can be clearly understood by a consumer. Clause 2 also requires environmental claims to be relevant and explain the significance of the claim, not overstate the claim or imply the product is more socially acceptable overall.

3. The advertisement makes the following claims:

- Ampol has a carbon neutral fuel solution;
- It will be available to their business customers to offset the emissions associated with the sourcing, refining, distribution, retailing and consumption of petrol and diesel fuel products.

4. Given recent concern about greenhouse gas emissions, these statements form a strong overall impression that fuel can be carbon neutral. This may encourage motorists to think driving a car powered by petrol or diesel is not environmentally harmful, which is not the case. In fact, transport emissions are the fastest growing source of Australia's emissions. [1] Advertisements that argue that petrol or diesel are carbon neutral could mislead consumers into thinking that their driving does not contribute to this problem and result in increased emissions.

5. The program also relies solely on offsets, rather than the reduction in emissions associated with the fuel production or use itself. This may overstate the impact of offsets on reducing greenhouse gas emissions. In particular, the program uses two offset programs, one involving cheaper international offsets, and the other involving 100% Australian offsets.[2] Despite the claim to be high quality offsets, for the reasons outlined below offsets are not likely to reduce emissions.

Use of Carbon offsets

6. The Intergovernmental Panel on Climate Change (IPCC) has specifically said in the Sixth Assessment Report that there are significant risks around use of carbon offset/sinks particularly under scenarios with increasing CO₂ emissions: While natural land and ocean carbon sinks are projected to take up, in absolute terms, a progressively larger amount of CO₂ under higher compared to lower CO₂ emissions scenarios, they become less effective, that is, the proportion of emissions taken up by land and ocean decrease with increasing cumulative CO₂ emissions. This is projected to result in a higher proportion of emitted CO₂ remaining in the atmosphere (high confidence).[3]

7. There are significant risks around offsets if emissions, such as those generated by fossil fuels, continue to expand. Promoting carbon neutral products that do not contribute to reduction in use of fossil fuels could have serious consequences. In 2021, global CO₂ emissions rebounded to their highest level in history.[4] The IPCC has in its



most recent scientific updates conveyed dire warnings about the consequences of inaction on reducing emissions. Even temporarily exceeding 1.5°C warming will have severe impacts on every region on earth.[5]

8. Offsets are problematic and many programs that provide guidance on net zero strategies recommend against their use. The Science-based Targets initiative, for instance, under its Net Zero Standard, does not accept the use of offsets to contribute towards near-term emissions reduction targets, with credits only being accepted in relation to the neutralisation of residual emissions or to finance additional climate mitigation beyond absolute reduction targets.[6] Similarly, the IGCC states that overreliance on offsets and nature-based solutions potentially delays efforts to abate emissions within a company's value chain and may not account for the limited land and space available to host additional tree coverage or overestimates carbon storage potential.”[7] The Climate Action 100+ Net Zero Company Benchmark states that “the use of offsetting or carbon credits should be avoided and limited if at all applied” in its scoring methodology for the decarbonisation strategy indicator.[8] A UNEP article summarised this well:

If we are serious about averting catastrophic planetary changes, we need to reduce emissions by 45 per cent by 2030. Trees planted today can't grow fast enough to achieve this goal. And carbon offset projects will never be able to curb the emissions growth, while reducing overall emissions, if coal power stations continue to be built and petrol cars continue to be bought, and our growing global population continues to consume as it does today [9]

9. Significant integrity issues have recently been raised with offsets under Carbon Credits (Carbon Farming Initiative) 2011 (Cth) by Professor Andrew Macintosh.[10] Professor Macintosh was previously the Chair of the Emissions Reduction Fund Integrity Committee. He has raised concerns about offsets from avoided deforestation in western NSW and human-induced regeneration of native forests in the dry rangelands of Queensland, New South Wales, Western Australia, South Australia and the Northern Territory. These projects account for approximately 75 per cent of Australian Carbon Credit Units (ACCUs) issued and do not represent real and additional abatement and therefore do not reduce greenhouse gas emissions. In particular, the projects being used by Ampol include avoided deforestation and human-induced regeneration which are of questionable value. As a result of these concerns, there is currently a review of the ACCU program by former Chief Scientist, Professor Ian Chubb.[11]

10. Ampol also uses international offset programs. There have been criticisms of the design of some of these programs and questions raised about whether they are in fact reducing emissions. [12] For example, some of the methodologies used in kitchen stove offsets can be miscalculated and therefore not produce the emissions reductions required.[13] It is unclear how Climate Active certifies these programs when they are overseas based.

International action by UK and Dutch Advertising Standards Associations



11. *The Dutch Ad Standards Board ruled an advertisement by Shell about its carbon neutral fuel was misleading.[14] Like the Ampol advertisement, it allowed motorists to pay more at the pump to take part in an offsets scheme. With the fee, Shell offered to purchase associated carbon credits to cancel out the harm caused by their fuel purchase. The complainants argued that the advertisement implied the offsets were the equivalent of emissions from burning fuel in the car, which was not possible due to their low cost. The Dutch Ad Standards Board ruled in the complainants favour and accepted their arguments, requiring Shell to withdraw its advertisement.*

12. *The United Kingdom Ad Standards Authority also made a similar finding in relation to the Shell “Drive Carbon Neutral” campaign.[15] It featured a radio advertisement that stated: “Although you might not be able to see it, your small actions can have a real impact with Shell. Drive carbon-neutral by filling up and using Shell Go+ today. Make the change. Drive carbon-neutral”. Like Ampol, the “carbon-neutral” claim was supported by balancing (offsetting) carbon emissions to the atmosphere associated with the lifecycle, known as “well-to-wheel”, of petrol/diesel fuels through the purchase and retirement of nature-based carbon credits. The UK Ad Standards found the advertisement misleading because a listener would believe a fuel for which Shell would offset the carbon emissions related to that fuel purchase such that the customer could “Drive carbon-neutral” when this was not the case as it related to joining a loyalty program.*

1 <https://www.uow.edu.au/media/2020/transport-is-letting-australia-down-in-the-race-to-cut-emissions.php>

2 <https://www.ampol.com.au/business-services/carbon-neutralfuel?fbclid=IwAR1PY5CHkCfnib8NpTSQP0lleDXQZ4J2bAR8P4FduoD0iy6t9eZ6A1MfAr0>

3 IPCC, Sixth Assessment Report, Climate Change 2021: The Physical Science Basis https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_SPM.pdf,

4 <https://www.iea.org/news/global-co2-emissions-rebounded-to-their-highest-level-in-history-in-2021>

5 <https://www.ipcc.ch/2022/06/10/keynote-address-hoesung-lee-technical-dialogue-global-stocktake/>

6 SBTi, Does SBTi accept all approaches to reducing emissions? <https://sciencebasedtargets.org/faqs#does-the-sbti-acceptall-approaches-to-reducing-emissions>

7 IGCC, Corporate Climate Transition Plans: A guide to investor expectations. <https://igcc.org.au/wpcontent/uploads/2022/03/IGCC-corporate-transition-plan-investor-expectations.pdf>,

8 Climate Action 100+, How does the Benchmark account for the use of offsets or carbon credits? <https://www.climateaction100.org/net-zero-company-benchmark/questions/>

9 <https://www.unep.org/news-and-stories/story/carbon-offsets-are-not-our-get-out-jail-free-card>



10 <https://law.anu.edu.au/news-and-events/news/australia%E2%80%99s-carbon-market-fraud-environment>

11 <https://minister.dcceew.gov.au/bowen/media-releases/independent-review-accus>

12 <https://www.cseindia.org/rethinking-redd--9198>

13 <https://link.springer.com/article/10.1007/s10584-010-9802-0>

14 <https://theenergyst.com/dutch-ads-watchdog-bites-into-shells-carbon-offsets-campaign/>

15 <https://www.asa.org.uk/rulings/shell-uk-ltd-g20-1049869-shell-uk-ltd.html>

THE ADVERTISER'S RESPONSE

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

- *The Advertisement is not misleading or deceptive. The post (appearing on Facebook and LinkedIn) clearly and simply describes the offering the subject of the post (the Product), and this description is factually accurate, and does not misrepresent the environmental benefits.*
- *The methodology by which carbon neutrality in relation to the Product is achieved, namely that emissions associated with the sourcing, refining, distribution, retailing and consumption of the petrol and diesel products acquired by a business customer are offset, is stated in the Advertisement and is accurate.*
- *Further, the Product set out in the Advertisement has been certified as meeting the stringent criteria set out in the 'Climate Active Carbon Neutral Standard for Products and Services' set by the Australian Government Department of Industry, Science, Energy and Resources. As a result, Ampol is licensed by Climate Active to apply a mark to the Product which includes the words 'Carbon Neutral'.*
- *Review was conducted by Ampol, and on behalf of Ampol, on the underlying projects from which offsets are acquired by Ampol for the purposes of the Product beyond that required by Climate Active to ensure that only projects of high standards were utilised. Carbon offset projects were also selected by Ampol based on the environmental and social co-benefits they delivered.*
- *IPCC views have evolved, and the IPCC has most recently recognised that carbon removal projects are critical to addressing climate change and are a necessary part of a broader toolkit. On this basis, aspects of the complaint do not reflect the currently accepted approach to carbon offset projects and programs.*
- *Integrity is a key focus in carbon markets and Ampol is confident we have conducted the necessary diligence to ensure Ampol acquires high quality offsets.*



- *The UK and Dutch complaints against Shell in the Complaint are different in many respects and are not relevant to the assessment of this complaint.*
- *Accordingly, the advertisement is consistent with the requirements of the AANA codes, including the AANA Environmental Claims Code*
- *Further detail as to Advertiser's response to the Complaint can be found in the letter uploaded.*

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 concerns that the advertisement is making misleading or deceptive claims by stating that Ampol has a carbon neutral fuel solution which will be available to its business customers to offset the emissions associated with the sourcing, refining, distribution, retailing and consumption of petrol and diesel fuel products.

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 noted that the advertisement stated:

"We are proud to announce an important step forward in our Future Energy & Decarbonisation Strategy, with the launch of our carbon neutral fuel solution – Ampol Carbon Neutral. Ampol Carbon Neutral will be available to all of our business customers looking to offset the greenhouse gas emissions associated with the sourcing, refining, distribution, retailing and consumption of our petrol and diesel products."



The Panel considered that the advertisement contains the Environmental Claim that the advertiser is offering a carbon neutral solution to business customers through offsetting.

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 of the Environmental Code 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.

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.

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 noted the complainant’s concerns that the advertisement gives the general impression that Ampol offers a fuel which is carbon neutral.

The Panel noted that the complainant’s concern appeared largely related to the viability of offsetting as a way to reduce emissions. The Panel noted that it was not its role to adjudicate on the legitimacy of carbon offsetting programs. Rather its role is to consider whether an average person in the target market would be likely to be misled by the content of the advertisement.

The Panel considered that the target market for this advertisement was business customers who relied on fuel for their businesses. The Panel considered that the advertisement clearly stated that the ‘carbon neutral’ solution being offered by the



business was through offsetting. The Panel considered that business consumers in this market would have an understanding that the service being offered was carbon offsetting for the fuel use. Overall, the Panel considered that the advertisement would not mislead or deceive the target market into believing that fuel was carbon neutral.

1 a) conclusion

The Panel determined that the Environmental Claim was not misleading or deceptive and did not breach Section 1 a) of the Environmental Code.

1(b) Environmental Claims in Advertising or Marketing Communication shall display any disclaimers or important limitations and qualifications prominently, in clear, plain and specific language;

The Panel noted that the Practice Note for this Section of the Code provides:

“A disclaimer can clarify, expand or reasonably qualify a representation but should not contradict, diminish or retract it. As a general guideline, the main body of the advertisement, apart from the disclaimer, should be capable of standing alone without being misleading.”

The Panel noted that the advertisement was brief, however clearly stated that the program offered was one which used offsetting, and that the fuel itself was not a carbon neutral. The Panel considered that the service was clearly offered to business consumers, and was not a suggestion that all fuel provided by the company was offset or otherwise carbon neutral. In particular, the Panel considered that household consumers were unlikely to engage with the advertisement or be led to believe that the fuel they used in their cars was carbon neutral.

The Panel considered that the advertisement provided sufficient detail to support the claim that the advertiser is offering a carbon neutral solution to business customers through offsetting, and further disclaimers or qualifications were not necessary in this case.

Section 1(b) conclusion

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

1 c) Environmental Claims in Advertising or Marketing Communication...shall represent the attributes or extent of the environmental benefits or limitations as they relate to a particular aspect of a product or service in a manner that can be clearly understood by the consumer.

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



The environmental claim should not be extended, or implied to be extended, to a whole product or service when it relates only to one aspect of the product eg packaging or energy use, or service. For example, if the claim relates to the:

- *packaging only, but not the use of that product, the claim should not imply that it relates to the product as well as the packaging;*
- *energy use in the manufacture of a product, the claim should not imply that it relates to the energy use in the manufacture of the packaging as well. Relevant information should be presented together.*

Consistent with the discussion under Sections 1a and 1b, the Panel considered that the advertisement provided sufficient information to support the claim that the advertiser is offering a carbon neutral solution to business customers through offsetting.

Section 1 c) conclusion

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

2 a) Environmental Claims must... be relevant, specific and clearly explain the significance of the claim

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

“Environmental claims should only be made where there is a genuine benefit or advantage. Environmental benefits should not be advertised if they are irrelevant, insignificant or simply advertise the observance of existing law. Advertising and marketing communication should adequately explain the environmental benefits of the advertised product or service to its target audience. It is not the intent of the advertiser making the claim that will determine whether it is considered misleading; it is the overall impression given to the consumer that is important. Advertising therefore should not inadvertently mislead consumers through vague or ambiguous wording. Providing only partial information to consumers risks misleading them. Generally a claim should refer to a specific part of a product or its production process such as extraction, transportation, manufacture, use, packaging or disposal.”

Consistent with the discussion under Sections 1a and 1b, the Panel considered that the Environmental Claims in the advertisement are relevant and specific and clearly outline the specifics of the Claims.

Section 2 a) conclusion



The Panel determined that the advertisement did not breach Section 2 a) of the Environmental 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.”

Consistent with the above determinations under the Panel considered that the advertisement did not overstate the claims expressly or by implication.

Section 2 b) conclusion

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

2(c) Environmental Claims not imply that a product or service is more socially acceptable on the whole.

The Practice Note for this Section states:

“Consideration should be given to the relationship of the environmental claims to other aspects of a product/service. For example, advertisers should use care not to imply a product or service is more socially acceptable overall by implying another non-environmental attribute/detriment is of lesser importance.”

The Panel considered that the advertisement was clearly promoting an additional service for business customers, and that there was no suggestion that all products and services offered by the advertiser were environmentally friendly.

Consistent with the above determinations under the Panel considered that the advertisement did not imply that the advertiser’s business was more socially acceptable on the whole.

Section 2 c) conclusion

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

Conclusion

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