



# **Sustainable Finance Strategy**

Consultation Submission

The Australian Government The Treasury (Treasury)

**21 November 2023**

Author: Belinda Noble, Founder and President, [Comms Declare](https://www.commsdeclare.org)  
[bnoble@commsdeclare.org](mailto:bnoble@commsdeclare.org)

# About Comms Declare

Comms Declare is an incorporated not-for-profit that represents hundreds of communications professionals, agencies and organisations who have declared they will not promote:

- the growth of fossil fuels;
- high greenhouse gas pollution as ‘business as usual’; or
- deception, distraction or spin around science or climate actions.

Comms Declare encourages agencies to work for the good of the climate. In recognition that Australia is a major exporter of fossil fuels, it runs the annual F-list awards and maintains a list of agencies working with fossil fuel clients. It also runs the Fossil Ad Ban campaign for restrictions on ads for high emissions products.

## Summary

Comms Declare is pleased to make a submission to the Sustainable Finance Strategy (the Strategy) consultation process being undertaken by Treasury.

We welcome the following disclosures made via the consultation paper:

- The foundations upon which the Strategy is based, specifically:
  - To ensure “markets have access to high-quality, credible and comparable information that will enable them to assess both the financial risks that climate change and other sustainability issues present to firms, and the impact of firms on the climate and environment”; and
  - “Improving the transparency and consistency of sustainability and climate-related information is the foundational priority for this Strategy. The Government’s ambition is to support a marketplace where sustainability-related risks, opportunities, impacts and plans can be identified clearly, communicated confidently, and readily compared and understood”.
- The overarching objective of the Strategy, specifically:
  - “Ensuring climate and sustainability-related opportunities and risks are well-understood and managed at the entity and systemic level”.

We are making this submission because we believe the Government should establish a labelling regime for investment products, as is proposed by the Strategy. However, we

also urge the Government to go further, to extend labelling beyond financial products to all carbon-intensive products consumed by Australians and to ban fossil fuel advertising and sponsorships. This legislative and regulatory action will position Australia as a global sustainability leader, with the behaviour change that follows helping the Government to hit its 2030 and 2050 emissions reduction targets.

## Key Recommendations

1. That the Government incorporates advertising guidelines developed by leading international jurisdictions, including in the UK and EU, into the Australian sustainable finance taxonomy to establish a high standard for the finance sector that other industries may adopt.
2. That the proposed approach for priority 4, to “create a labelling regime for investment products marketed as ‘sustainable’ or similar, including for managed funds and within superannuation”, is undertaken but expanded to include a broader suite of products available to Australian consumers.
3. That the Australian Government gives consideration to the following regulatory and legislative reforms to demonstrate international leadership on sustainability and climate change mitigation:
  - a. Mandatory information standards: warning labels are already used on gambling, alcohol, tobacco and therapeutic advertisements. Using existing Australian Consumer Law, the federal government should mandate that greenhouse gas information must be present on all labels and advertisements for high emissions products, such as airlines and internal combustion vehicles, rather than limit this information to financial products.
  - b. Fossil Fuel advertising ban: the introduction of new federal legislation banning advertising and sponsorships for coal, petroleum and gas products, similar to tobacco advertising bans.

# Responses to requests for feedback

**Priority 2 request for feedback:** What are the most important policy priorities and use cases for an Australian sustainable finance taxonomy? What are the key insights from international experience to date?

**Response:** The Advertising Standards Authority (ASA) is responsible for the standards and regulation of marketing communications in the United Kingdom. The ASA added the following guidelines on green claims<sup>1</sup> to its CAP Code, the rulebook which advertisers are bound to follow:

- 11.1 “The basis of environmental claims must be clear. Unqualified claims could mislead if they omit significant information.”
- 11.4 “Marketers must base environmental claims on the full life cycle of the advertised product, unless the marketing communication states otherwise, and must make clear the limits of the life cycle.”
- 30.7 “Advertising must not encourage behaviour grossly prejudicial to the protection of the environment.”

These guidelines are more prescriptive than existing Australian greenwash laws and should be incorporated into Australian sustainable finance taxonomy to set a high industry standard.

Another international example comes from the United Nations High-Level Expert Group<sup>2</sup>, which has laid out guidance to reduce insufficient net zero emissions commitments and claims. These too can be adopted by the Australian Sustainable Finance taxonomy. Recommendations include:

- Non-state actors cannot claim to be net zero while continuing to build or invest in new fossil fuel supply. Similarly, deforestation and other environmentally destructive activities are disqualifying.

---

<sup>1</sup> The environment: misleading claims and social responsibility in advertising  
[https://www.asa.org.uk/static/d819e399-3cf9-44ea-942b82d5ecd6dff3/b142fdf6-ec36-4172-8b3321f3ebb9b5\\_3b/CAP-guidance-on-misleading-environmental-claims-and-social-responsibility.pdf](https://www.asa.org.uk/static/d819e399-3cf9-44ea-942b82d5ecd6dff3/b142fdf6-ec36-4172-8b3321f3ebb9b5_3b/CAP-guidance-on-misleading-environmental-claims-and-social-responsibility.pdf)

<sup>2</sup> ‘INTEGRITY MATTERS: NET ZERO COMMITMENTS BY BUSINESSES, FINANCIAL INSTITUTIONS, CITIES AND REGIONS’, United Nations’ High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities, November 2022

- Non-state actors cannot buy cheap credits that often lack integrity instead of immediately cutting their own emissions across their value chain.
- Non-state actors cannot focus on reducing the intensity of their emissions rather than their absolute emissions or tackling only a part of their emissions rather than their full value chain (scopes 1, 2 and 3).
- A net zero pledge must be a commitment by the entire entity, made in public by the leadership, and be reflective of the city, region or corporation's fair share of the needed global climate mitigation.
- A net zero pledge must contain stepping stone targets for every five years, and set out concrete ways to reach net zero in line with the Intergovernmental Panel on Climate Change (IPCC) or International Energy Agency (IEA) net zero greenhouse gas (GHG) emissions modelled pathways that limit warming to 1.5°C with no or limited overshoot.
- Non-state actors must publicly share their comprehensive net zero transition plans detailing what they will do to meet all targets, align governance and incentivise structures, capital expenditures, research and development, skills and human resource development, and public advocacy, while also supporting a just transition.

**Priority 4 request for feedback:** What should be the key considerations for the design of a sustainable investment product labelling regime?

**Response:** Comms Declare welcomes the proposed approach, to “create a labelling regime for investment products marketed as ‘sustainable’ or similar, including for managed funds and within superannuation”. We would be pleased to participate in the consultation process as policy is designed – leveraging the communications expertise of our network will help ensure product labels are communicated as effectively as possible.

Comms Declare also welcomes the Government's recognition that “without a consistent regulatory approach, it is difficult for investors to understand how sustainability considerations are factored into investment products and strategies”. It is our view that this insight applies to a far broader suite of products available to Australian consumers, who can be reasonably expected to hold a lower level of literacy over their purchasing decisions than investors.

To achieve the stated foundation of the Government's Sustainable Finance Strategy (to ensure “markets have access to high-quality, credible and comparable information” to assess the “risks that climate change and other sustainability issues present” and related impact that firms have on “the climate and environment”), the most important

consideration is whether the strategy’s narrow focus on financial products and firms represents a missed opportunity to regulate a wider range of products and, by extension, reduce carbon emissions by influencing consumer behaviour beyond investors and investment firms.

The Intergovernmental Panel on Climate Change (IPCC), UK Government and International Energy Agency (IEA) explain why this broader approach to product labelling is important. The IPCC’s Sixth Assessment Report (2022) found:

- Legislation and widespread behaviour change are required for societies to reach net zero emissions targets and “can result in a 40-70% reduction in greenhouse gas emissions by 2050”<sup>3</sup>.
- Advertising regulation and eco-labelling are policy measures that can shift consumer behaviour to support net zero emissions objectives, as consumers will be better informed as to the environmental benefits of a product when making purchasing decisions<sup>4</sup>.

Further, the UK Government’s “Behavioural Insights Team” recommends regulating advertising and eco labels to help society reach net zero. The *Net Zero: Principles for successful behaviour change initiatives* report (2021) found that “Achieving Net Zero requires significant behavioural change, including rapid and widespread adoption of new technologies, and a significant reduction in demand for some high-carbon activities such as flying and eating ruminant meat and dairy. To achieve such a transformation, government will need to utilise all available policy levers and intervene at multiple levels.”

Finally, the International Energy Agency (IEA) recommends both widespread behaviour change and advertising regulation (such as eco-labelling) to achieve net zero emissions<sup>5</sup>.

Marque Lawyers, acting for Comms Declare, has identified options for stopping greenwashing and enabling advertising which promotes climate-friendly behaviour change in Australia<sup>6</sup>. Of these four options, the following two are recommended for consideration for sustainable investment products (with wider application also recommended):

---

<sup>3</sup> Sixth Assessment Report, 4 April 2022, Chapter 15, page 31:

[https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC\\_AR6\\_WGIII\\_Chapter\\_15.pdf](https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_Chapter_15.pdf)

<sup>4</sup> [https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC\\_AR6\\_WGIII\\_FullReport.pdf](https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_FullReport.pdf)

<sup>5</sup> <https://www.iea.org/reports/behavioural-changes>

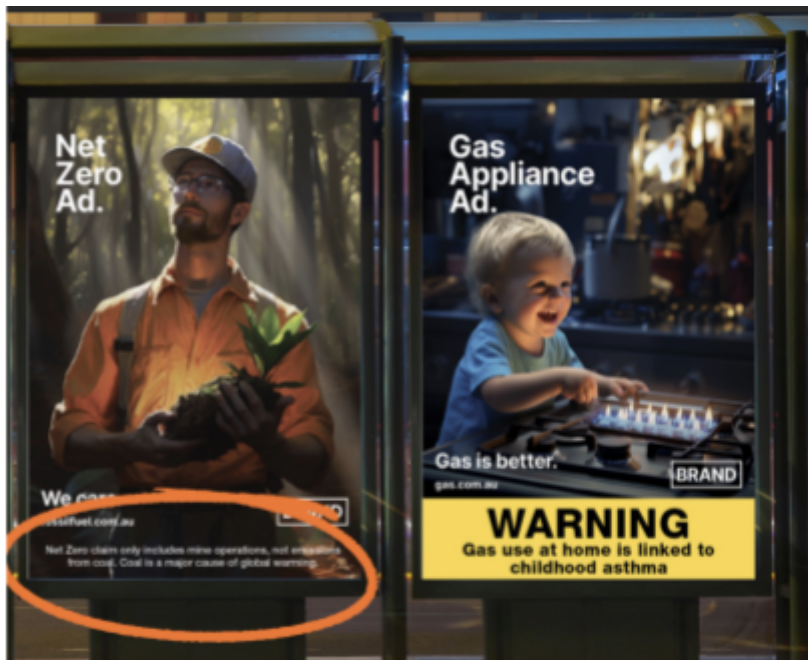
<sup>6</sup> <https://commsdeclare.org/2023/07/12/fossil-fuel-advertising/>

## 1. Mandatory information standards

Warning labels are already used on gambling, alcohol, tobacco and therapeutic advertisements. Using the existing *Australian Consumer Law*, the federal government could mandate that greenhouse gas information must be present on all product labels and advertisements rather than limit this information to financial products. Information standards for goods or services of a particular kind may:

- a. make provision in relation to the content of information; or
- b. require the provision of specified information; or
- c. provide for the manner or form in which such information is to be provided; or
- d. provide that such information is not to be provided in a specified manner or form; or
- e. provide that information of a specified kind is not to be provided; or
- f. assign a meaning to specified information about goods or services.

Current legislation makes a broad range of options available, including mandating disclosure of a company's emissions or mandating climate warning labels.



Indicative examples of mandated warning labels applied to carbon intensive products.

## 2. Emissions information labels

The Greenhouse and Energy Minimum Standards Act 2012 (Cth) (GEMS Act) currently requires disclosure of energy efficiency information on whitegoods and appliances. The GEMS Act could be extended to include labelling requirements on packaging and advertisements to disclose greenhouse gas emissions.

Other legislation, the *Vehicle Standard (Australian Design Rule 81/02 – Fuel Consumption Labelling for Light Vehicles) 2008 (Cth)*, makes similar rules for the disclosure of CO<sub>2</sub> emissions information on new cars up to 3.5 tonnes.

GEMS determinations are made by the Minister under the GEMS Act, and may:

- a. Under s 25(a)(ii), provide level requirements for a product class, including the amount of energy used by operating products in that class and the amount of greenhouse gases resulting from operating products; and/or
- b. Under s 26, mandate labelling requirements, including the labels displayed on packaging for products or in advertising of the product; and/or
- c. Under s 27(1)(c), specify requirements relating to the impact of products in that product class on the environment or the health of human beings .

The definition of a GEMS product is broad; it includes any product that uses energy or affects the amount of energy used by another product (s 11(1)(a)). Accordingly, there may be potential to expand the program and introduce determinations on other high-emissions products. For example, mandating CO<sub>2</sub> emissions information on advertising for high emissions products such as vehicles, airline travel, food and clothing. The benefit of this reform option is that it can be implemented under the existing GEMS Act and does not need parliamentary involvement.





Petrol pumps in Sweden containing emissions information labels.



Facebook ad in France containing emissions information labels.

In addition, it is essential that “transition finance” does not become a trojan horse for gas, oil and coal industries to lock in expansion above what the climate can sustain. The gas industry, in particular, has been expanding under the guise of being “sustainable” and “renewable”. Ad Standards’ only rulings against false claims made under the Environmental Code have involved the gas industry (APPEA<sup>7</sup> and AGN<sup>8</sup>). We contend that fossil gas, coal and petroleum products, including hydrogen and biogas cannot be marketed as being sustainable, renewable, clean, green or environmentally advantageous in any way.

**Priority 5 request for feedback:** Are Australia’s existing corporations and financial services laws sufficiently flexible to address greenwashing? What are the priorities for addressing greenwashing?

<sup>7</sup> <https://www.bandt.com.au/natural-gas-ad-spiked-over-misleading-environmental-claims/>

<sup>8</sup>

<https://mumbrella.com.au/gas-billboard-claiming-to-be-cleaner-and-greener-pulled-by-watchdog-for-misleading-consumers-635364>

**Response:** Globally, there are more than 400 different eco label schemes, causing more confusion for consumers. Any scheme must therefore be mandated and run by the government, to ensure consistency and reliability and improve consumer trust. The system of advertising self-regulation in Australia has spectacularly failed to stop greenwashing or keep pace with international standards. The Australian Competition and Consumer Commission (ACCC) recently conducted a sweep of online claims, finding 57% of online green claims are ‘concerning’<sup>9</sup>. However, of the dozens of complaints made to Ad Standards about environmental claims, only two have been removed for being in breach of the Code<sup>10</sup>.

The current system:

- Does not test claims on facts, but rather relies on information supplied by the advertiser and what the Ad Standards’ Community Panel (a group of people intended to represent the diversity of the Australian community but with no requirement to hold subject matter expertise) thinks the target market is likely to believe – whether it’s true or not.
- Defines ‘Environmental Claim’ too narrowly to capture deceptive practices widely used by advertisers.

To strengthen regulation and address greenwashing, Comms Declare recommends the following:

- Add independent, subject matter experts on climate and clean energy to supplement Community Panel decisions on these matters.
- Demand all emissions reduction or climate claims are backed by comprehensive, modelled pathways made available for the public to access online.
- Widen the definition of ‘Environmental Claim’ to include the deceptive use of green or renewable imagery.
- Ensure broad or unqualified general claims should be supported by a high level of publicly available substantiation. Examples of problematic claims may include: “green”, “environmentally friendly”, “environmentally safe”, “energy efficient”, “recyclable”, “carbon neutral”, “renewable”, “net zero”, “cleaner”, “greener”, “clean”, “sustainable”, “clean energy” or “green energy”.
- Use the main claim or ‘headline’, and the general impression the ad gives, as the basis for decisions. If there is a disclaimer, it should be as prominent as the headline.
- Consider blanket bans on any fossil fuel company making environmental claims

---

9

<https://www.accc.gov.au/media-release/accc-greenwashing-internet-sweep-unearths-widespread-concerning-claims>

<sup>10</sup> <https://adstandards.com.au/issues/environmental-claims-determination-summary>

**Priority 12 request for feedback:** What are other key near-term opportunities for Australia to position itself as a global leader in sustainable finance and global climate mitigation and adaptation?

**Response:** The Government has identified greenwashing as a problem for investors, investment firms and regulators, and proposed solutions (including product labelling requirements). We welcome this but acknowledge there are bigger opportunities for Australia to demonstrate leadership in sustainability and climate change mitigation.

Marque Lawyers, acting for Comms Declare, has identified options for stopping greenwashing and enabling advertising which promotes climate-friendly behaviour change in Australia. Of these four options, the following is applicable to Priority 12:

- **Fossil Fuel Advertising Act:** Australia can legislate a tobacco-style ban on fossil fuel advertising and sponsorships. This would apply to ‘advertising’ which directly or indirectly promotes the production or supply of coal, petroleum and gas, and would focus on fossil fuel products rather than a ban on advertising by fossil fuel companies. This would introduce specific, up-front (ex ante) obligations under a new federal legislation to complement existing misleading conduct laws (where enforcement action is retrospective). This would be a strong market signal, reduce the visibility and social licence of fossil fuels, and reduce the burden on regulators to police greenwashing.

Banning fossil fuel advertising in Australia would be globally significant. Although other jurisdictions have recently legislated their own bans – France has banned fossil fuel ads under its *Climate & Resilience Law*, and dozens of cities in the UK and Europe have banned advertising by high carbon emitting businesses<sup>11</sup> – no nation which is as carbon-intensive as Australia has legislated a ban on fossil fuels (yet).

- **Mandatory information standards:** Warning labels are already used on gambling, alcohol, tobacco and therapeutic advertisements. Using existing Australian Consumer Law, the federal government could mandate that greenhouse gas information must be present on all product labels and advertisements rather than limit this information to financial products. Information standards for goods or services of a particular kind may:
  - make provision in relation to the content of information; or
  - require the provision of specified information; or

---

<sup>11</sup> <https://fossiladban.org/news/>

- provide for the manner or form in which such information is to be provided; or
- provide that such information is not to be provided in a specified manner or form; or
- provide that information of a specified kind is not to be provided; or
- assign a meaning to specified information about goods or services.

Current legislation makes a broad range of options available, including mandating disclosure of a company's emissions or mandating climate warning labels.