

Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

23 June 2023

Dear Committee Secretary,

Ad Standards submission: Inquiry into Greenwashing

Ad Standards is pleased to provide this submission to the Senate *Inquiry into Greenwashing*.

As the central authority in Australia for receiving complaints about advertising content across all forms of media, our submission will focus on the following terms of reference:

- *(a) the environmental and sustainability claims made by companies in industries including energy, vehicles, household products and appliances, food and drink packaging, cosmetics, clothing and footwear;*
- *(b) the impact of misleading environmental and sustainability claims on consumers;*
-
- *(d) advertising standards in relation to environmental and sustainability claims;*

Effective and efficient advertising regulation

We wish to take this opportunity to reiterate the effectiveness of Australia's existing advertising regulation system which has delivered numerous benefits for the community, industry and government, over the past 25 years.

Operating at **no cost to government or consumers**, Ad Standards administers an **independent, platform neutral** and **flexible solution** to handle consumer complaints about advertising, which covers advertisements on all forms of media – including **environmental claims made in advertising**.

We also keep track of key concerns about advertising and have the flexibility to be responsive to the current environment, and emerging changes, including increasing community concern about environmental claims in advertising.

Since the introduction of the current AANA Environmental Claims Code in 2018, we have seen a **year-on-year increase in complaints** from consumers about environmental claims in advertising, which

although not our highest area of complaint, indicates increasing community concern on this issue.

The Ad Standards system has successfully responded to this shift as can be seen in the cases and data referred to in our submission below. In addition, our independent decision-making Community Panel is empowered to consider shifting community attitudes to matters arising under the advertising industry codes without waiting for formal revisions. We nevertheless welcome the current review by the Australian Association of National Advertisers (**AANA**) of the Environmental Claims Code with a key outcome being to enable us to better address community concerns on this issue.

We note however the importance of ensuring that any regulation of environmental claims does not work to discourage genuine efforts to improve the sustainability of industries, products and services being advertised, by making it impossible to inform consumers and the wider community about those efforts.

Ad Standards therefore appreciates this opportunity to share with the Inquiry our insights on complaints made by consumers about environmental and sustainability claims.

Advertising self-regulation

Ad Standards supports the work of the Ad Standards Community Panel ([Community Panel](#)) which is the body established to consider complaints about advertising against the provisions set out in the relevant advertising codes.

Industry Codes

Ad Standards administers the following [industry codes](#) of practice:

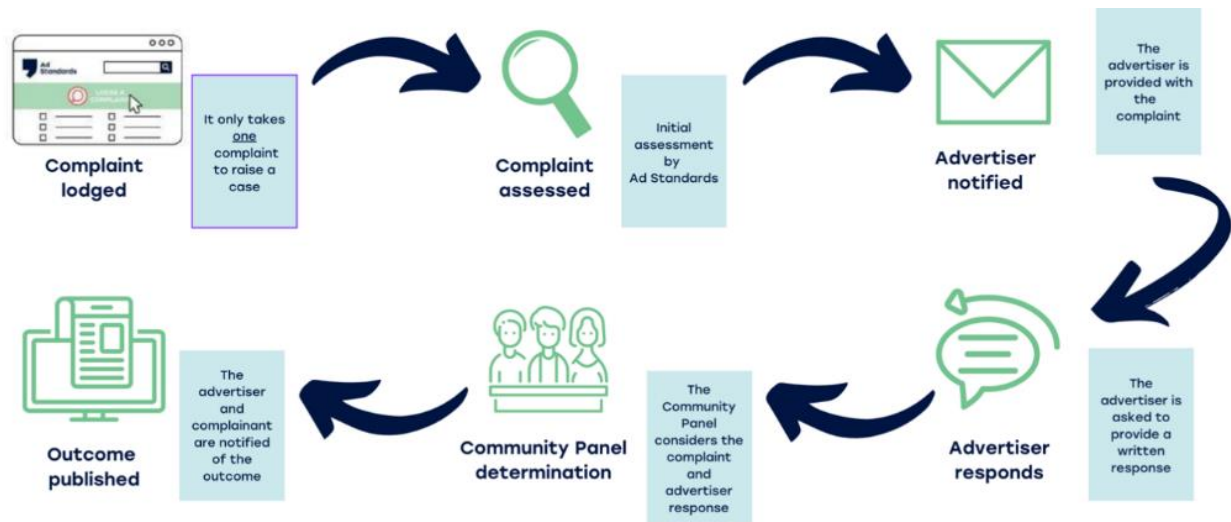
- a) [AANA Environmental Claims Code](#);
- b) [AANA Wagering Advertising & Marketing Communications Code](#);
- c) [AANA Code of Ethics](#);
- d) [AANA Food & Beverages Code](#);
- e) [AANA Code for Advertising and Marketing Communications to Children](#);
- f) [Federal Chamber of Automotive Industries \(FCAI\) Voluntary Code of Practice for Motor Vehicle Advertising](#).

Voice for consumers

We give a voice to community concerns about advertising content and guide industry in maintaining decent and honest advertising aligning with community standards and values. This includes values and standards around environmental claims. Our organisation is recognised and respected by Australian State and Federal Governments, sector regulators and the advertising industry as a reliable platform for consumer protection in advertising content across all mediums.

Our complaints handling system is transparent and accessible to all, with easy-to-follow steps and support throughout the process provided by our staff.

Consumers may lodge a complaint quickly and easily via the [Ad Standards' website](#), free of charge. Below is an overview of the process. Further details are set out [here](#).



Our system is funded by advertisers through a levy based on advertising spend and operates at no cost to the consumer or to government.

When required, Ad Standards is supported in enforcing compliance by the media and media industry associations, and we engage regularly with social media platforms as part of our complaint resolution and industry education processes.

Ad Standards also has processes in place for referral of non-compliance (or serious matters warranting immediate resolution) to relevant government bodies such as the ACCC and the ACMA. Ad Standards has only had to seek the support of government bodies in very rare instances.

Ad Standards' effective resolution of complaints

The Ad Standards complaints-based system provides a free, open and transparent mechanism to address concerns about the content of advertisements and other marketing communication.

A key advantage of the Ad Standards system is that it covers the content of advertising communications on any medium, and we can quickly address complaints within days of receiving the complaint.

For example, if an advertiser agrees with Ad Standards to modify or remove an advertisement after being notified of a complaint, and it does not raise a significant issue of public interest, the complaint may be efficiently resolved in a matter of days without being formally adjudicated by the Community Panel. Even matters proceeding through the full Community Panel consideration process can be resolved in a matter of weeks.

Environmental Claims Code

Since 1 May 2018, the Community Panel has considered complaints about environmental claims under the AANA Environmental Claims Code. The object of this Code is to ensure that advertisers develop and maintain rigorous standards when making Environmental Claims and to increase consumer confidence to the benefit of the environment, consumers and industry.

There are three sections under the current AANA Environmental Claims Code outlining advertisers' obligation to be truthful in their claims and avoid misleading or deceiving consumers on environmental benefits of their products and services.

This includes advertising that states or implies that any part of a product or service has:

- a benefit to the environment; or
- no effect on the environment; or
- no or only limited effect on the environment if used or delivered in a particular way.

This also applies to the consumption, use, interaction or disposal of the product or service.

Refer to Appendix A for the Sections of the Code in full.

The Community Panel adjudication

Advertisers who are found by the Community Panel to be in breach of the AANA Environmental Claims Code are required to withdraw or modify the material so that it is no longer published or broadcast in the same format. The resulting commercial consequences of breaching an AANA Code include the direct and indirect costs of withdrawing an advertisement and the reputational cost when a non-compliance decision is made public, including possible adverse media coverage.

We note that our system and the removal of an advertisement that breaches the AANA Environmental Claims Code does not prevent the ACCC taking enforcement action under the Australian Consumer Law (ACL). The purpose of the self-regulatory system is to put in place standards, training, and advice to reduce the likelihood of offending ads being produced in the first place and to also ensure swift removal of any advertisements that do not meet the Code's standards, thus reducing consumer detriment from an offending ad.

Complaints about environmental claims

In 2022, 2.3% of our complaints were about environmental claims, this is up from 1.37% in 2021 (chart 1).

Community concern about environmental claims is increasing, however it is not a category that receives a lot of complaints.

The Community Panel assessed 18 individual advertisements that raised issues under the AANA Environmental Claims Code, and one advertisement was found to be in breach of the code.

Cases have been raised about advertisements from a variety of industries including mining, automobiles, petroleum, banking and superannuation. For example:

- [Case 0225-22](#) – Glencore Australia social media ad – the complaint was dismissed however the case was raised under Section 1 Truthful and Factual, and Section 2 Genuine Environmental Benefit. (**Appendix B**)
- [Case 0292-22](#) – ATCO print ad – complaint was upheld under Section 1a of the AANA Environmental Claims Code for misleading consumers on energy sources which produce less greenhouse gas than natural gas. (**Appendix C**)

All complaints in 2022

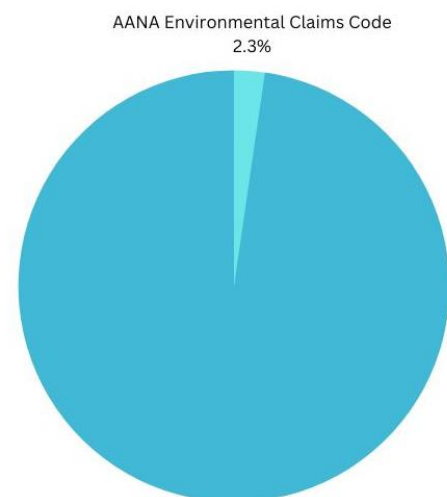


Chart 1

Industry Jury

Environmental claims can also be dealt with under the AANA Code of Ethics. Section 1 of the Code of Ethics provides an alternative dispute resolution mechanism whereby businesses can complain about a competitor's advertising and have the issue resolved in an efficient and low-cost way without the need for recourse to the courts. Claims under this section are determined by the Industry Jury, a variable panel of 3 lawyers who specialise in advertising, competition and/or consumer law.

This mechanism provides businesses with a way to challenge environmental claims made by a competitor where they believe their competitor's environmental claim is:

- in breach of Commonwealth law or the law of the relevant State or Territory (section 1.1);
- misleading or deceptive or be likely to mislead or deceive (section 1.2);
- contains a misrepresentation, which is likely to cause damage to the business or goodwill of a competitor (section 1.3); or
- exploits community concerns in relation to protecting the environment by presenting or portraying distinctions in products or services advertised in a misleading way or in a way which implies a benefit to the environment which the product or services do not have (section 1.4).

In 2022, Ad Standards Industry Jury upheld a competitor complaint against a company claiming that its disposable coffee cups were plastic-free, fully recyclable, and compostable. The Industry Jury took the view that the advertising material created an overall impression that was misleading or deceptive and which implied a benefit to the environment which was not substantiated. You can view the [case report here](#), and attached in **Appendix D**.

Following a full assessment of the advertising material and submissions provided by the advertiser and the complainant, the Industry Jury upheld the complaint, and the advertiser agreed to modify its website and brochure to ensure that the claims were adequately substantiated.

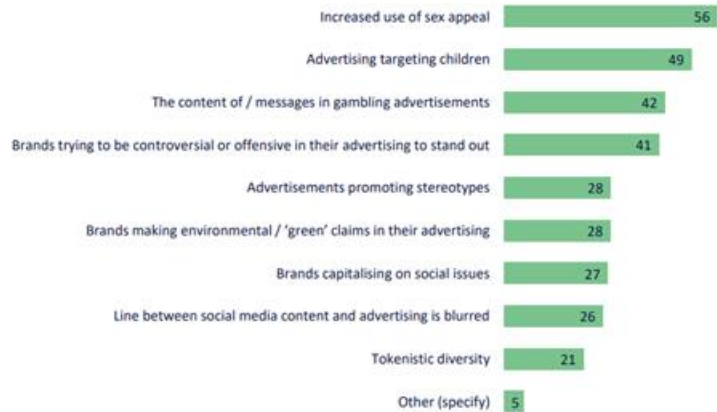
Community Perceptions Research

Ad Standards completed [Community Perceptions](#) research in 2021. The results showed that 28% of Australians are concerned about brands making environmental/green claims in their advertising, and 27% are concerned about brands capitalising on social issues.

Australians are most concerned about the use of sexual appeal and advertising targeting children

Concerns about advertising (%)

Average number of concerns per person: 3



AANA Code Review

Due to increasing community concern and interest in matter relating to the environment as shown in our research, complaints numbers and discussions with international counterparts, the AANA are currently reviewing the Environmental Claims code to ensure it is fit for purpose and reflects consumer concerns in this area. We understand that the AANA will be providing a submission to the Inquiry that provides further detail about the Code review.

In conclusion

Ad Standards is pleased to have this opportunity to share with the Inquiry insights about the types of complaints made by the Australian community regarding environmental and sustainability claims.

Should the Inquiry wish to consult with Ad Standards about any aspect of this submission we would be pleased to do so.

Yours sincerely

Richard Bean

Executive Director

Appendix A

Section 1 – Truthful and Factual Presentation

Environmental Claims in Advertising or Marketing Communication:

- a) shall not be misleading or deceptive or be likely to mislead or deceive;
- b) shall display any disclaimers or important limitations and qualifications prominently, in clear, plain and specific language;
- c) 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.

Section 2 – A Genuine Benefit to the Environment

Environmental Claims must:

- a) be relevant, specific and clearly explain the significance of the claim;
- b) not overstate the claim expressly or by implication;
- c) not imply that a product or service is more socially acceptable on the whole. 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.

Section 3 – Substantiation

Environmental Claims in Advertising or Marketing Communication:

- a) shall be able to be substantiated and verifiable. Supporting information shall include sufficient detail to allow evaluation of a claim;
- b) shall meet any applicable standards that apply to the benefit or advantage claimed;
- c) containing testimonials shall reflect the genuine, informed and current opinion of the person giving the testimonial.

Appendix B



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 :	0225-22
2. Advertiser :	Glencore Australia Holdings Pty Limited
3. Product :	Other
4. Type of Advertisement/Media :	Internet - Social - Facebook
5. Date of Determination	28-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 sponsored Facebook advertisement features the caption, "We're the largest mining company you've probably never heard of. Responsibly mining the materials for a low carbon future." A video features images of mining, farmland, and bushland. A voice-over says, "Every mine eventually comes to an end but the use of the land never should. It's why Glencore is a leader in mine rehabilitation in Australia. Working with local communities and going beyond what's expected to return our mines to native forests and farmland. We do this because we believe it's the responsible thing to do. Glencore. Advancing responsibly. Advancing everyday life."

THE COMPLAINT

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

The recent launch of the advertising campaign by Glencore is headlined "Advancing everyday life", connected to their net zero by 2050 campaign. It discusses Glencore's involvement in mining of essential minerals that are "laying the foundation for a low carbon future" while being silent on their current mining operations that are focused on coal mining.

Advancing everyday life campaign - Glencore Australia.

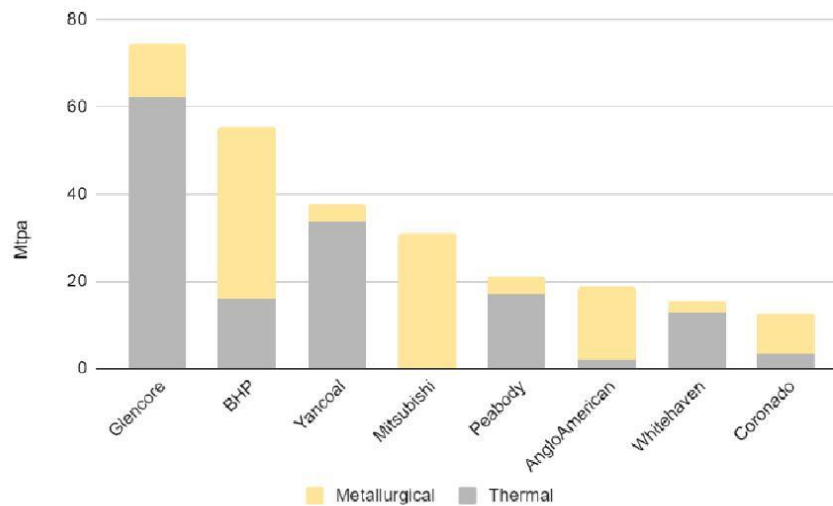


1. We act for the Lock the Gate Alliance, Comms Declare and the Plains Clan of Wonnarua people (PCWP). We are writing on their behalf to ask that you investigate whether advertisements made by Glencore Australia on their Australian website breach the Environmental Claims Code. The recent launch of the advertising campaign by Glencore is headlined “Advancing everyday life”, connected to their net zero by 2050 campaign. [1] It discusses Glencore’s involvement in mining of essential minerals that are “laying the foundation for a low carbon future” while being silent on their current mining operations that are focused on coal mining. A description of the representations in the advertising 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. Lock the Gate and PCWP are concerned that the current advertising campaign on the Glencore websites overstates that Glencore are committed to addressing climate change and their mining is focused on supporting smart phones and electric cars and other renewable resources. It is misleading as it is silent on their current mining production and investment in Australia being mostly related to coal. Glencore has invested around \$259 million in the expansion of thermal coal and only around \$2million in the expansion of minerals supporting renewables such as cobalt, nickel and copper in 2020 and 2021. [2] Of their 24 mines in Australia, 17 are involved in coal mining. To suggest they are climate friendly and investing significantly in renewable resources and the mining that supports those industries is not currently correct. It will take some time for Glencore to transition to focus on renewables, with the majority of their coal mines operating until 2040 and several new mine expansions occurring at present. The omissions of these details are particularly misleading to consumers in breach of clause of the Environmental Claims Code. Details of the range of ways that Glencore’s net zero claims are misleading can be found at Annexure B. This is a copy of a recently lodged complaint with both ASIC and ACCC about misleading or deceptive conduct relating to net zero representations made by Glencore PLC and its Australian subsidiaries.

4. Glencore is the largest coal producer in Australia, see the chart below relating to their production in 2019.



5. Glencore does mine other resources. However the bulk of their greenhouse gas emissions are created from their coal production, rather than their other resources. This means their coal products are having a significant impact on climate change. See ACCR analysis below.

MtCO2e	Scope 1	Scope 2	Scope 3*
Coal	5.9	1.2	300.0
Copper	1.3	1.6	4.5
Ferroalloys	3.0	4.1	4.5
Nickel	2.6	0.0	4.5
Oil	0.2	0.0	25.0
Zinc	2.0	2.4	4.5
Total	15.0	9.3	343.0

*Estimated commodity breakdowns

6. Given recent concern about greenhouse gas emissions, these statements form a strong overall impression of Glencore's commitment to addressing climate change to



differentiate itself to investors and consumers from other fossil fuel companies. Companies cannot cherry-pick the “green” part of their operations in advertising where it misleads consumers about the overall nature of their business and fossil fuel plans in accordance with clause 2 of the Environmental Claims Code. International action by UK and Dutch Advertising Standards Associations

7. The United Kingdom Ad Standards Authority has reviewed many environmental claims and found the following:

Since September, we have carried out our planned reviews of environmental claims in the heating/energy and transport sectors, which have identified a number of issues in ads for products and services in these sectors. The main issues we have identified for follow up action are:

- Aspirational claims about advertisers’ intentions to transition to net zero by particular dates (for example, 2030 or 2050), and the appropriate evidence needed to back up such claims*
- Claims by high-emitting companies, which focus on narrow environmentally beneficial aspects of their businesses but may not provide a complete picture of their overall environmental impact [3]*

8. We understand from media reports that the UK Ad Standards may be in fact ruling on a greenwashing by omission claim against HSBC bank. They quoted: In a draft seen by the paper, the ASA said people seeing the ads would assume the bank to be making “a positive overall environmental contribution as a company” while in fact the bank funded £14.3bn of fossil fuels last year, according to the Rainforest Action Network. [4]

9. The Dutch Advertising Standards has also ruled on a similar advertisement by Shell where is advertised it was “the driver of the energy transition” and “we’re changing”. It found:

The Commission considers it plausible that the average consumer will interpret the contested statement in such a way that Shell is currently undergoing a process of change in which it is changing its core strategic activity, also known as its core business, and is already investing to a significant extent in renewable energy at the expense of fossil fuels. After all, the announcement that Shell is turning into one of the biggest drivers of the energy transition implies that this process has already started and that a real change in the core business is taking place. However, as acknowledged, it has been established that, in addition to investing in transition projects, Shell is currently maintaining its investments in fossil fuels and is only phasing out very slowly. In that situation, the Commission considers it unjustifiable for Shell to refer to itself as “one of the biggest drivers of the energy transition”, giving the impression that it is an initiator and accelerator of the transition. [5]

[1] <https://www.glencore.com.au/who-we-are/advancing-everyday-life>

[2] <https://www.theguardian.com/environment/2022/jul/21/mining-giant-glencores-australian-pr-blitz-forgetsthe-coal-driving-the-climate-crisis>.

[3] <https://www.asa.org.uk/news/asa-statement-on-world-environment-day.html>.

[4] <https://esgclarity.com/hsbc-ad-warning-sets-industry-precedent/>.



[5] <https://verbiedfossielereclame.nl/shell-may-not-call-itself-driver-of-the-energy-transition-rules-dutch-adwatchdog/>.

THE ADVERTISER'S RESPONSE

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

Glencore's response, as set out below, addresses both the Webpage Complaint and the Facebook Complaint.

From the notifications of Complaint and our emails with Ad Standards on 19 September 2022, we understand that:

- *for the Webpage Complaint, Ad Standards will consider the entire content of the webpage located at the URL 'https://www.glencore.com.au/who-we-are/advancing-everyday-life', including the text and video content appearing on the page (Webpage), but not including the sub-links, except to the extent that there is evidence/substantiation on these pages that Glencore seeks to rely upon; and*
- *for the Facebook Complaint, the advertisement which is the subject of this complaint and which will be considered by Ad Standards is the Facebook advertisement viewed by the EDO on 4 August 2022, and which is shown as a screenshot in the email received from Ad Standards on 19 September 2022. Accordingly, we consider the advertisement to comprise the caption 'We're the largest mining company you've probably never heard of. Responsibly mining the materials for a low carbon future', the 'Advancing Responsibly' video displayed in the post, and the post-script link to the 'Advancing Responsibly' sub-page of the Advancing Everyday Life website (Facebook Ad) via the 'Learn More' button, but not the information on that webpage. If this is not the case, please inform us and provide us with a further opportunity to respond in relation to any additional materials.*

In the notifications of Complaint, Ad Standards identifies Section 1 ('truthful and factual presentation') and 2 ('genuine benefit to the environment') of the Australian Association of National Advertisers Environmental Claims in Advertising Code (the AANA Environmental Code) as being potentially relevant issues raised by the Webpage Complaint and the Facebook Complaint. We address each of these sections in our response below, as well as Section 3 ('substantiation') for completeness.

We note that each of the Complaints identifies the 'Reason for Concern' as 'The recent launch of the advertising campaign by Glencore is headlined 'Advancing everyday life', connected to their net zero by 2050 campaign. It discusses Glencore's involvement in mining of essential minerals that are "laying the foundation for a low carbon future" while being silent on their current mining operations that are focused on coal mining'. For the reasons set out below, Glencore strongly rejects this allegation.

Glencore takes its compliance with the AANA Environmental Code seriously, and is strongly of the view that the Webpage and Facebook Ad are fully compliant with that code, as well as the AANA Code of Ethics, and all other relevant codes and laws,



including the Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010 (Cth)).

Background to Glencore

Glencore was founded in the 1970s as a trading company. Glencore is now one of the world's largest globally diversified natural resource companies, operating in over 35 countries with more than 150 mining and metallurgical sites and oil production assets around the world. Glencore's global headquarters are located in Baar, Switzerland. In Australia, Glencore currently operates 25 mines across New South Wales, Queensland, Western Australia and the Northern Territory. We are Australia's largest producer of coal, and also Australia's largest producer of cobalt and zinc, and second-largest producer of nickel and copper. The volumes of each material produced in Australia are different and differ each year, depending on factors such as availability of the resource, and market demand.

Background to Advancing Everyday Life campaign

The Webpage and Facebook Ad are a part of Glencore's 'Advancing Everyday Life' campaign. The campaign has been implemented across a range of media and includes the 'Advancing Everyday Life' webpage, a number of TV commercials, social media and digital platforms including Facebook, Instagram, Twitter, LinkedIn and YouTube, subscription video on demand channels and billboards. The campaign launched on 19 June 2022 and is intended to run until 30 June 2023.

The campaign has a broad focus and covers a number of aspects of Glencore and its business, including:

- an introduction to Glencore as a mining company with a 25 year history in Australia, producing materials that are used to power homes and business and build a wide range of products ('Introduction to Glencore');
- the production of high quality Australian coal (both thermal and coking coal) to meet today's global energy and construction needs ('Providing for Today');
- Glencore's commitment to rehabilitation of land before, during, and upon the closure of mining operations ('Advancing Responsibly');
- the mining of metals that are necessary materials for renewable energy and low emission technology, to facilitate the transition to a low carbon future ('Preparing for Tomorrow');
- Glencore's contribution to the Australian economy, including: the employment of over 17,000 Australian workers; payment of significant Australian taxes and royalties; and support for a large number of local businesses and suppliers (Economic Contribution); and
- Glencore's 'Mine to Market' business strategy by which Glencore's coal, nickel, cobalt, copper and zinc is sourced responsibly and supplied globally for use in the production of a wide range of products and materials ('Mine to Market').

Accordingly, considered in context, one aspect of Glencore's commitments to 'Advancing Everyday Life' is our ambition of net zero total emissions by 2050. To this extent, the implicit suggestion in the Complaints that the 'Advancing Everyday Life' campaign is only making representations relating to Glencore's net zero by 2050 strategy is incorrect.

Glencore's climate change strategy and action



As set out in Glencore's 2021 Climate Report, Glencore:

- *recognises the climate change science as set out by the Intergovernmental Panel on Climate Change (IPCC); and*
- *supports the global climate change goals outlined in the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement.*

In line with the range of 1.5°C scenarios set out by the IPCC, as one part of Glencore's climate strategy, Glencore is targeting a short-term emissions reduction target of 15% by 2026 (Scope 1, 2 and 3). Our medium-term 50% reduction of our total emissions (Scope 1, 2 and 3) by 2035 on 2019 levels is aligned to the International Energy Agency's scenario for Net Zero Emissions by 2050, which is consistent with IPCC SSP1-1.9, the 'very low GHG emissions' scenario. Post-2035, our ambition is to achieve, with a supportive policy environment, net zero total emissions by 2050.

One aspect of Glencore's net-zero ambition is the depletion of our global coal operations over time, in accordance with the life of mine sites. Glencore has voluntarily put a cap on its coal production, and we are committed to depleting our global coal assets safely and responsibly over time. We remain on track to deliver a 15% reduction of our total emissions by 2026 through the progressive rehabilitation and closure of some of our Australian assets – the Liddell, Integra and Newlands mines – in the near term.

Other aspects of our decarbonisation pathway, and our position on climate change, are outlined in our Climate Change Factsheet Australia December 2020 and Pathway to Net Zero 2021 Progress Report, including:

- *prioritising investment in our metals business;*
- *pursuing energy efficiency and fuel switching; and*
- *pursuing carbon offset projects and implementing carbon capture, use and storage technology. Currently, Glencore's wholly-owned subsidiary, the Carbon Transport and Storage Company Pty Ltd (CTSCo), is developing a Carbon Capture Use and Storage (CCUS) Project in connection with a coal-fired power station in Queensland.*

Response to the Complaints

Issue 1

The Complaints allege, first, that the Webpage and Facebook Ad 'discuss[] Glencore's involvement in mining of essential minerals that are "laying the foundation for a low carbon future" while being silent on their current mining operations that are focused on coal mining'.

A related complaint is that the Webpage and Facebook Ad 'overstate[] that Glencore are committed to addressing climate change and their mining is focused on supporting smart phones, electric cars and other renewable resources', and that by these statements the Webpage and Facebook Ad are misleading because each is 'silent on [Glencore's] current mining production and investment in Australia being mostly related to coal'.

Glencore does not agree with these allegations, or that any misrepresentations arise on the Webpage or Facebook Ad. As a general comment, we consider that the allegations reflect a mischaracterisation by the EDO of the 'Advancing Everyday Life' campaign as a whole, including by adopting a highly selective approach by focusing



only on aspects relating to the mining of metals and failing to consider the entirety of the Webpage or the Facebook Ad.

The tagline ‘Responsibly mining materials for a low carbon future’, appears on the Facebook Ad, appeared (as at the date of access by the EDO) on the Webpage, and this or similar statements are also referred to in the narration of a number of the videos on the Webpage. Glencore is strongly of the view that this statement (and similar statements) is clear, unambiguous, and factually correct, both on its own and in the context in which it appears. It is a reference to all of the aspects of the ‘Advancing Everyday Life’ campaign, as set out above. Further, and in particular:

- Glencore recognises the need for action on climate change and is committed to delivering on its ambition of net zero by 2050. This includes an updated target of reducing total emissions (scope 1, 2 and 3) by 15% by 2026 and 50% by 2035 on 2019 levels;
- Glencore is currently Australia’s largest producer of cobalt and zinc, and second-largest producer of copper and nickel, which materials are well recognised as key to a low carbon future as they are critical to the production of renewable energy and deployment of electric vehicles;
- Glencore is committed to responsibly supplying coal that is critical to meeting the current energy demands to power Australian homes and businesses, during the transition towards a low carbon future;
- Glencore is also committed to transitioning away from coal over time by the responsible depletion of our global coal portfolio (see ‘A responsible transition’ video on the ‘Providing for Today’ webpage at <https://www.glencore.com.au/who-we-are/advancing-everyday-life/providing-for-today>);
- Glencore is committed to managing our land in a productive and sustainable manner ensuring proactive stewardship of our landholdings, including those that have not undergone industrial activity. This includes aligning our approach to cultural heritage and archaeologically sensitive locations on our landholdings with local regulatory requirements and best practice. We respect legally designated areas and commit to neither mine nor explore in World Heritage Sites;
- One of Glencore’s core values is the responsible stewardship of the land, which involves early planning for rehabilitation of mine sites, including before the mine is opened). This includes the recording of the number and types of trees on the site, mapping of the land, and the collection of seeds from local trees. Rehabilitation is then factored into our daily and yearly plans;
- In line with Glencore’s values, our first priority in the workplace is to protect the safety, health and wellbeing of all our people. We take a proactive, preventative approach towards health and safety at all of our sites; and
- Glencore is committed to maintaining a strong ethics and compliance culture, through the Glencore Ethics and Compliance Program.

Glencore does not agree with the allegation in the Complaints that the campaign does not refer to Glencore’s coal mining operations in Australia. Both the Facebook Ad and the Webpage clearly and unambiguously reference Glencore as a large and diversified mining company which includes significant coal operations in Australia:



- *In relation to the Facebook Ad, the captions specifically identify the sites depicted in the video as coal mines in Australia. This is further supported by the visual imagery, including large coal trucks in the background and imagery of Australian native trees.*
- *The text on the Webpage and Facebook Ad, and the opening narration of the video 'Who is Glencore?' (on the Webpage), state that Glencore is 'one of the world's largest mining companies that you've probably never heard of'. Given the Australian context, a viewer is likely to understand this language as being a reference to a coal mining company.*
- *The Webpage specifically states that Glencore provides 'natural resources like coal, nickel, cobalt, copper and zinc' and that Glencore operates 25 mines across Australia.*
- *The 'Introduction to Glencore' video features a Glencore employee (Coal Operations Manager) standing in front of large coal mining machinery at the Glencore Mangoola coal mine.*
- *The opening sequence of 'Advancing Responsibly' video, on both the Webpage and the Facebook Ad, opens with a Glencore employee (Coal Operations Manager) walking in front of large coal mining machinery at the Glencore Mangoola coal mine, with the voice over 'every mine eventually comes to an end'. It is a clear reference to Glencore's operations involving coal mines, and the lifecycle of those operations. The focal message of the video is the responsible rehabilitation of mine sites. Each of the mine sites depicted is also described in the text captions as '[location] Coal Mine'.*
- *The video 'Providing for Today' explicitly states 'Glencore is responsibly supplying the high-quality coal needed to reliably power homes and businesses today, while also providing green metals vital to delivering our low carbon economy'. It contains visual sequences of an employee (Coal Operations Manager) walking in front of large coal mining machinery, a group of employees standing in front of an operational bucket-wheel excavator, and an aerial shot panning over the Port Waratah Coal Services coal terminal at the Port of Newcastle. The concluding image is the same as the concluding image in the 'Introduction to Glencore' video, described above.*
- *The video 'Preparing for Tomorrow' explicitly states 'We all want a smarter and greener world. Which is why, in addition to supplying high quality coal, Glencore is one of Australia's leading providers of the metals needed to create a low carbon future'. It also contains the visual sequences of a group of employees standing in front of an operational bucket-wheel excavator, and the aerial shot panning over the Port Waratah Coal Services coal terminal at the Port of Newcastle.*
- *Given this, the average viewer of such materials would not be misled or deceived by the Webpage or the Facebook Ad (which includes an invitation to 'Learn More' and a link to the 'Advancing Responsibly' webpage). Each of the statements in the advertisement is factually accurate, clear, unambiguous and balanced.*
- *Glencore also rejects the allegation that we have been misleading in relation to our investment in Australia.*



When considering the value of capital investment, both sustaining capital expenditure as well as expansionary capital investment are relevant. In quoting the US\$259 million in expansionary capital expenditure for thermal coal and US\$2 million in expansionary capital expenditure for metals, the EDO has failed to take into account the US\$827M of investment in the form of sustaining capital expenditure that was incurred over the same time period for our metals business in Australia. As set out in Glencore's 2021 Annual Report, the total capital expenditure position for Glencore's mining operations in Australia was as follows (figures are in US\$ millions).

2021		2020		Total
Copper	81	87		168
Zinc	281	294		575
Nickel	51	33		84
Metals Sustaining	413	414		827
Zinc Expansionary		2		
Total metals	415	414		829
Coking Coal	132	138		270
Sustaining				
Coking Coal	8	39		47
Expansionary				
Coking Coal Total	140	177		317
Thermal Coal	279	256		535
Sustaining				
Thermal Coal	146	113		259
Expansionary				
Thermal Coal Total	425	369		794
Total Coal	565	546		1,111

This demonstrates that Glencore's capital expenditure in Australia for metals, in the years 2020 and 2021 combined, in fact exceeded its capital expenditure on Australian thermal coal. Also in the same years, Glencore's total capital expenditure for metals was not materially less than the total capital expenditure for coal (both coking and thermal). 17 of Glencore's 25 operating mines in Australia are coal mines and the coal operations therefore comprise a large proportion of Glencore's operating footprint in Australia. Notwithstanding this, Glencore remains Australia's largest producer of cobalt and zinc and Australia's second largest producer of copper and nickel. At a global scale, Glencore's 2021 total capital expenditure in metals and minerals was US\$3.5 billion compared to total capital expenditure of US\$819 million for energy products (which includes coal).

2021	Sustaining	Expansionary	Total
Metals and Minerals	2,884	689	3,573
Energy Products	662	157	819
Corporate and Other		31	31



3,546

877

4,423

Glencore therefore rejects the suggestion that we have ‘overstated’, and thereby misled, the target audience as to Glencore’s significant investment in the mining of materials necessary for low carbon technologies.

Issue 2

The notifications of Complaint allege that statements on the Webpage and Facebook Ad ‘form a strong overall impression of Glencore’s commitment to addressing climate change to differentiate itself to investors and consumers from other fossil fuel companies’ which is said to be misleading because of the ‘overall nature of Glencore’s business and fossil fuel plans’.

For the reasons stated above, the Webpage and Facebook Ad are much broader in scope than Glencore’s commitments to addressing climate change. We do not consider that the average viewer would be likely to be misled or deceived as to key aspects of Glencore’s current operations, strategy and future commitments, for the reasons set out above. Each of the statements in the advertisement is factually accurate, clear, unambiguous and balanced.

International Action by UK and Dutch Advertising Standards Associations

Both the Facebook Complaint and the Webpage Complaint refer to alleged action taken by the Advertising Standards Associations in the UK and the Netherlands. Both the actions by the UK authority referred to in the complaints and the ruling by the Dutch Advertising Standards against Shell are not relevant to the assessment of the Facebook and Webpage Complaints, including for the following reasons:

- in each case, any review or assessment by the overseas authority would have been considered in context, including different advertising codes and standards, different processes, different jurisdictions and at different times. Further, any decisions or conclusions of the overseas authorities would be based upon the particular information and submissions available to them at the relevant time.*
- in relation to the alleged investigation by the ASA into HSBC, in addition to the comments made above, it is not possible to comment on media reports based on a leaked draft paper, in the absence of a final and official decision;*
- the decision in the Netherlands, which we understand is a reference to the decision of the Stichting Reclame Code (SRC) in Complaint number 2021/00576/A, can also be distinguished from the current Complaints. The Dutch decision relates to radio advertising by Shell in the Netherlands which included the statement “We are turning into one of the biggest drivers of the energy transition in the Netherlands. Change with it. Discover how we are changing”. The Commission found that use of the word ‘driver’ was misleading in the particular circumstances of this case because it suggested Shell was an initiator and accelerator of the transition to renewable energy and gave an incorrect picture of the contribution that Shell was currently making to the energy transition.*

AANA Environmental Code

Section 1 (Truthful and factual presentation) – We do not consider that any of the claims on the Webpage or Facebook Ad are misleading, deceptive, or likely to mislead



or deceive, when properly considered in context. The language of the Webpage and Facebook Ad is clear, plain, and unambiguous, and the statements are factually correct.

Section 2 (Genuine benefit to the environment) – We do not consider that the advertisement either expressly or by implication overstates or misrepresents the extent of Glencore’s mining operations concerning coal and metals. The advertisement is clear, relevant and specific in referencing Glencore’s ongoing commitment to mining the nickel, cobalt, copper and zinc necessary for low carbon technologies as Australia’s leading producer of these materials; whilst also reflecting Glencore’s current and ongoing supply of high-quality Australian coal.

Section 3 (Substantiation) – Although not raised in the notifications of Complaint, Glencore is very mindful of our obligations to ensure members of the community are not misled, and therefore has robust processes in place to ensure there is a reasonable basis for all public statements. In the case of the ‘Introduction to Glencore’, ‘Providing for Today’ and ‘Preparing for Tomorrow’ videos on the Webpage, and the ‘Advancing Responsibly’ video displayed on the Webpage and Facebook Ad, this included seeking and obtaining prior approval from ClearAds (FreeTV Australia). For completeness, we also attach letters of substantiation provided to ClearAds in relation to these videos.

Compliance with AANA Code of Ethics

While the notifications of Complaint did not raise any concerns under the AANA Code of Ethics, Glencore also firmly believes that the Webpage and Facebook Ad fully comply with all sections of that Code. Compliance with Section 1 of the AANA Code of Ethics has been addressed through the responses provided above in relation to compliance with the AANA Environmental Code. Addressing each part of Section 2 of the AANA Code of Ethics separately:

- Section 2.1 (Discrimination or vilification) – The Webpage and Facebook Ad did not portray people or depict material in a way which discriminates against or vilifies a person or section of the community.*
- Section 2.2 (Exploitative or degrading) – The Webpage and Facebook Ad did not employ sexual appeal or exploitive or degrading material.*
- Section 2.3 (Violence) – The Webpage and Facebook Ad did not present or portray violence.*
- Section 2.4 (Sex, sexuality and nudity) – The Webpage and Facebook Ad did not present or portray sex, sexuality or nudity.*
- Section 2.5 (Language) – The Webpage and Facebook Ad did not use strong or obscene language.*
- Section 2.6 (Health and safety) – The Webpage and Facebook Ad did not encourage or condone unhealthy or unsafe behaviour.*
- Section 2.7 (Clearly distinguishable advertising) – The Webpage and Facebook Ad are clearly distinguishable as advertising.*

For completeness, the AANA Code for Advertising and Marketing Communications to Children, the AANA Food and Beverages Code Marketing and Communications Code and the AANA Wagering Advertising Code are not relevant to the Webpage and Facebook Ad.

Conclusion



For the reasons set out above, Glencore firmly believes that the Webpage and Facebook Ad fully comply with the AANA Environmental Code and all other relevant codes and laws, and respectfully submits that each of the complaints should be dismissed.

Please do not hesitate to contact us if you require any further information or details.

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 because:

- It is silent on its current mining production and investment in Australia mostly being related to coal. Glencore has invested \$259 million in the expansion of thermal coal and only \$2 million in the expansion of minerals supporting renewables.
- The advertisement misleads consumers about the overall nature of the business and its fossil fuel plans.

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 included a number of statements which could be considered environmental claims, both in the caption and in the videos. In summary, the Panel considered that the advertisement made four main claims:

- Claim one: Glencore is responsibly mining the materials for a low carbon future
- Claim two: Glencore is a leader in mine rehabilitation, and goes beyond what's expected to return mines to native forest and farmland



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 considered that the target market for this advertisement was people interested in the operations of the mines who were looking to find out more.

Claim one: Glencore is responsibly mining the materials for a low carbon future

The Panel noted the advertiser’s response had provided substantiation that it is a leading producer of green metals and is making significant investments in this area.

The Panel noted the complainant’s concern that the advertisement is silent on Glencore’s current mining production and investment in Australia mostly being related to coal. Glencore has invested \$259 million in the expansion of thermal coal and only \$2 million in the expansion of minerals supporting renewables.



The Panel noted the advertiser's response that the advertisement clearly and unambiguously refers to Glencore as a mining company including significant coal operations and that it is Australia's largest producer of cobalt and zinc, and second-largest producer of copper and nickel. The Panel also noted the advertiser's response that its total capital expenditure for metals in 2020 and 2021 was not materially less than the total capital expenditure for coal.

The Panel noted that the video includes a man walking in front of coal mining equipment, and superimposed text which names the former mines as coal mines. The Panel noted that this advertisement did not directly refer to any materials other than coal.

The Panel considered that the phrase 'responsibly mining' would most likely be interpreted as mining within current regulations and was not an indication that the advertiser did not mine coal. The Panel also considered that the phrase 'responsibly mining' in combination with the video would most likely be interpreted as references to the mine rehabilitation projects. The Panel considered that the Claim that Glencore is responsibly mining the materials for a low carbon future is a reference to the long-term projects of mine rehabilitation and is not misleading or deceptive.

Claim two: Glencore is a leader in mine rehabilitation, and goes beyond what's expected to return mines to native forest and farmland

The Panel noted that the advertiser had provided substantiation to support the claims of rehabilitation works being undertaken. The Panel considered that the examples shown in one video of mines which had been rehabilitated also supported this claim. The Panel considered that the claim that Glencore is a leader in mine rehabilitation was not misleading or deceptive.

1 a) conclusion

The Panel determined that the Environmental Claims were 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."



Claim one: Glencore is responsibly mining the materials for a low carbon future.

The Panel note the complainant's concern that the advertisement is silent on Glencore's current mining production and investment in Australia mostly being related to coal. Glencore has invested \$259 million in the expansion of thermal coal and only \$2 million in the expansion of minerals supporting renewables.

The Panel noted the advertiser's response that the advertisement clearly and unambiguously refers to Glencore as a mining company including significant coal operations and that it is Australia's largest producer of cobalt and zinc, and second-largest producer of copper and nickel. The Panel also noted the advertiser's response that its total capital expenditure for metals in 2020 and 2021 was not materially less than the total capital expenditure for coal.

Consistent with the determination under 1(a) the Panel considered that the Claim made was not misleading or deceptive, and did not require further disclaimers or qualifications.

Claim two: Glencore is a leader in mine rehabilitation, and go beyond what's expected to return mines to native forest and farmland

Consistent with the determination under 1(a) the Panel considered that the claim that Glencore is a leader in mine rehabilitation was not misleading or deceptive, and did not require further disclaimers or qualifications.

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 detail to support the Claims as they relate to the organisation in a manner which can be understood by the consumer.

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 Section 1, the Panel considered that the Environmental Claims in the advertisement are relevant and specific and clearly outline the significance 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.”

Claim one: Glencore is responsibly mining the materials for a low carbon future.



The Panel noted the complainant's concern that the advertisement is silent on Glencore's current mining production and investment in Australia mostly being related to coal. Glencore has invested \$259 million in the expansion of thermal coal and only \$2 million in the expansion of minerals supporting renewables.

The Panel noted the advertiser's response that the advertisement clearly and unambiguously refers to Glencore as a mining company including significant coal operations and that it is Australia's largest producer of cobalt and zinc, and second-largest producer of copper and nickel. The Panel also noted the advertiser's response that its total capital expenditure for metals in 2020 and 2021 was not materially less than the total capital expenditure for coal.

Consistent with the determination Section 1 the Panel considered that the Claim made was not misleading or deceptive, and was not overstated.

Claim two: Glencore is a leader in mine rehabilitation, and goes beyond what's expected to return mines to native forest and farmland

Consistent with the determination under Section 1 the Panel considered that the claim that Glencore is a leader in mine rehabilitation was not misleading or deceptive, and was not overstated.

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."

Claim one: Glencore is responsibly mining the materials for a low carbon future.

The Panel noted the complainant's concern that the advertisement misleads consumers about the overall nature of the business and its fossil fuel plans, and that the statements form a strong overall impression of Glencore's commitment to addressing climate change to differentiate itself to investors and consumers from other fossil fuel companies.

Appendix C

Case Report

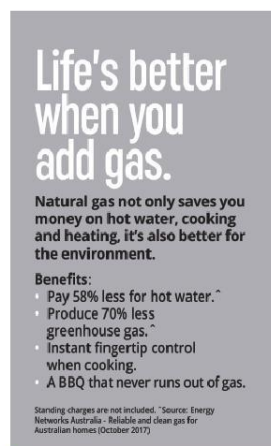
1. Case Number :	0292-22
2. Advertiser :	ATCO
3. Product :	House Goods Services
4. Type of Advertisement/Media :	Print
5. Date of Determination	25-Jan-2023
6. DETERMINATION :	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Environmental Code\1 Truthful and Factual

DESCRIPTION OF ADVERTISEMENT

This advertisement is a section of text on a flyer.



THE COMPLAINT

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

The world finds itself in the midst of an ecological and anthropomorphic climate emergency brought about by our use of fossil fuels. Despite our being aware of this for decades and there being alternatives to weaning us off this practice which is

threatening our own very survival, the fossil fuel industry has corrupted our governments and continues to peddle disinformation and lies. In the cost of living crisis Australia is experiencing the gas companies are making extortionate profits while continuing to obtain massive subsidies because they have so totally corrupted our politics.

As to the specifics:

- 1. solar and wind energy is the cheapest form of energy today in Australia and internationally. The claim "pay 58% less for hot water" is blatantly untrue;*
- 2. "Produce 70% less greenhouse gas" what is this being compared to? Again blatantly dishonest.*
- 3. Recently people compared cooking 1/2 litre of water on gas and on induction, demonstrating that induction is infinitely faster. And the energy can be provided 100% from renewables.*

We see the effects of climate disruption daily more stridently around Australia and the world. The Secretary General of the United Nations and various other and respected institutions are warning us with increasing urgency to stop the use of fossil fuels. Even the usually conservative IEA has said we should be urgently reducing our reliance on fossil fuel. It is only criminal industries and governments in their pocket still pushing this destruction.

THE ADVERTISER'S RESPONSE

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

Thank you for notifying ATCO of the Complaint and providing ATCO with the opportunity to respond.

Your letter references both the AANA Code of Ethics for Advertising and Marketing (Code) and the AANA Environmental Claims Code (Environmental Code). ATCO acknowledges the central role played by both of these Codes in ensuring appropriate standards are maintained by advertisers for the benefit of consumers. ATCO therefore uses its best endeavours to comply with both of these Codes at all times.

A Description of the Advertisement

- 1. The Complaint relates to an A5 sized flyer distributed to select residences in White Gum Valley, Western Australia, on or around the week commencing 28 November 2022 (the Flyer).*
- 2. The Flyer was hand delivered to relevant homes (namely those along the gas main line) by ATCO staff, in order to provide those residents with: (a) advance notice that the gas mains in the area were to be replaced and upgraded; (b) information about those works; and (c) contact details for any further enquiries concerning the works.*
- 3. Publications such as the Flyer are normally delivered by ATCO around two to six weeks before works commence and again the week before works commence (and*

the particular flyer used by ATCO will depend on the timing and nature of works to be completed).

4. *The particular Flyer in issue is not regularly distributed by ATCO and in this instance was distributed in error. The Flyer is intended to be distributed only when ATCO completes new gas mains installation or gas mains extension works and where there are existing residences in proximity of the gas main, which is rarely the case (as gas mains are generally installed in new build areas). In this instance, ATCO's flyer for replacement / upgrade works to gas mains should have been utilised.*
5. *The Flyer was hand delivered to approximately 30 to 50 residences in White Gum Valley, and was not published online or circulated more broadly or by any other means.*
6. *A PDF copy of the Flyer as distributed to select White Gum Valley residences on or around the week commencing 28 November 2022 is attached for reference.*
7. *Also attached is a PDF map of the White Gum Valley area, with those locations where the Flyer was distributed marked with green dots.*

B Summary of ATCO's Response

8. *ATCO's response to the Complaint is detailed below, including responses to the particular concerns raised by the Complainant, and the other parts of the Codes to which the Community Panel may have regard.*
9. *In summary, the Complainant raises a number of concerns about both the gas industry generally, and the Flyer specifically.*
10. *Insofar as the Complainant makes allegations about the gas industry, the allegations (which are strongly denied by ATCO) are not supported by any material submitted to the Panel, and are in any event outside of the Panel's ambit.*
11. *Once those more general allegations are excluded from consideration, the Complaint essentially comes down to a submission that the benefits of natural gas listed on the underside of the Flyer are misleading or deceptive, or likely to mislead or deceive, consumers.*
12. *Rather, the Flyer clearly references the Energy Networks Australia Reliable and Clean Gas for Australia Homes Report released in October 2017 (the 2017 ENA Report). Consumers would therefore have understood that the benefits listed in the Flyer were based upon information contained in the 2017 ENA Report, and were as compared with another source of energy as set out in the 2017 ENA Report.*
13. *Whilst ATCO acknowledges that, before distribution, the Flyer had inadvertently not been updated so as to refer to the updated Energy Networks Australia Reliable and Clean Gas for Australian Homes Report released in July 2021 (the 2021 ENA Report), the Flyer clearly conveyed that the 2017 ENA Report was the source of the figures quoted. Those figures did not significantly change in the 2021 ENA Report.*
14. *In any event, to the extent that the Flyer conveyed to consumers that natural gas is a cheaper source of energy than grid based electricity, and produces less*

greenhouse gas emissions than grid based electricity, that is factually correct, as supported by the National Greenhouse Accounts Factors published by the Australian Government.

15. *Finally, ATCO has now removed the Flyer from distribution and is preparing an updated flyer for distribution in similar circumstances.*
16. *ATCO respectfully submits that the Complaint should be dismissed for the following reasons:*
 - (a) *An average consumer would not have been misled or deceived, or likely to have been misled or deceived, by the Flyer because when viewed as a whole, the Flyer does not give the impression that the listed benefits of natural gas are absolute, nor that those benefits are as compared with all possible alternative sources of energy;*
 - (b) *While the 2017 ENA Report has been updated by the 2021 ENA Report, the figures in the 2021 ENA Report are not significantly different to those in 2017 ENA Report, and both reports support the general position that natural gas is cheaper and produces less greenhouse gas than grid-based electricity; and*
 - (c) *the Complaint goes beyond alleging breaches of the Codes, to also allege that the gas industry is corrupt, criminal, and dishonest. There is no foundation for these allegations, which are strenuously denied.*

C Detailed Response

The Complaint

17. *At the outset, ATCO notes that the Complaint makes various serious allegations against the gas industry, including that gas companies have ‘corrupted our politics’, are ‘blatantly dishonest’, and that ‘criminal industries and governments in their pocket still pushing this destruction’.*
18. *The Complainant offers no factual support for these statements, and ATCO rejects these allegations in the strongest terms.*
19. *ATCO submits that the Complaint should not be upheld in circumstances where such baseless and serious allegations are made. Nevertheless, ATCO responds below to those aspects of the Complaint which relate to the Codes.*

The Flyer

20. *As explained above, the intent behind the distribution of the Flyer was to notify a small number of residents in the White Gum Valley area about upcoming works to the gas mains that may have impacted their properties, including the timeframe for any required rectification works.*
21. *The front of the Flyer sets out (in larger font) that the Flyer is an “Important Notice” and that it concerns “ATCO Gas New Mains Installation”. The Flyer was distributed to residents in White Gum Valley in error as there is a different flyer that should have been utilised for these replacement / upgrade works.*
22. *The underside of the Flyer contains a small section (approximately a third of the page) headed “Life’s better when you add gas”. That section goes on to list four benefits of natural gas, by reference to the 2017 ENA Report.*

23. *ATCO acknowledges that the Flyer, which is rarely distributed, incorrectly contained a reference to the 2017 ENA Report in circumstances where that report had been updated by the 2021 ENA Report.*
24. *ATCO endeavours at all times to ensure that its advertising and other publications are up to date, responsible and accurate. For that reason, ATCO has taken steps to remove the Flyer from distribution. Prior to notification of the Complaint from Ad Standards, ATCO had already commenced an internal process of reviewing and updating its advertising and other publications.*
25. *Nevertheless, ATCO submits that the Complaint should be dismissed because, in addition to the baseless other allegations made in the Complaint (as detailed above), an average consumer who received the Flyer would not have been misled or deceived by the material, and the Flyer is not otherwise in breach of either of the Codes.*

The Environmental Code – Section 1(a)

26. *The Notice of Complaint lists section 1(a) of the Environmental Code as the issue raised by the Complainant.*
27. *Section 1(a) provides that Environmental Claims in Advertising or Marketing Communication shall not be misleading or deceptive or likely to mislead or deceive.*
28. *As set out in the Environmental Claims Code Practice Note, in assessing an advertisement, consideration should be given to whether an average consumer in the target market would be likely to be misled or deceived by the material. An assessment of the average consumer's overall impression is required. Strict legal tests are not intended to be applied.*
29. *In assessing an average consumer's impressions of the Flyer, ATCO submits that the clear purpose of the Flyer, being to notify the consumers of impending works, should be considered. An average consumer would view the Flyer in that context, rather than (for example) having received a flyer as part of a promotion for signing up with a particular retailer.*
30. *In relation to the benefits of natural gas listed in the Flyer, ATCO submits an average consumer viewing the Flyer as a whole would not have understood these to be absolute statements.*
31. *That is, an average consumer would not have understood the Flyer to mean that:*
 - (a) a benefit of natural gas is that it costs a consumer 58% less to heat water than any other source of energy which could be used to heat water; or*
 - (b) a benefit of natural gas is that it produces 70% less greenhouse gas than any other source of energy.*
32. *Rather, an average consumer would have understood that the listed benefits were as compared to other commercial energy offerings, ie. grid based electricity in the SWIS and, because of the prominent footnoting of the 2017 ENA Report for the first two benefits listed in the Flyer, that the listed benefits:*
 - (a) were summaries of the position as fully explained in the 2017 ENA Report;*
 - (b) would be qualified by the other content of the 2017 ENA Report; and*

- (c) were as compared with another source of energy as set out in the 2017 ENA Report.
33. The Flyer can therefore be distinguished from a case such as Case No. 0202 of 2020 before the Community Panel, where an advertisement was found to have conveyed to consumers that gas was greener than any other form of energy used for cooking.
34. As for the accuracy of the Flyer's references to the 2017 ENA Report, a copy of the report is attached. ATCO notes:
- (a) In relation to the listed benefit of paying 58% less for hot water:
 - (i) the second introductory page of the 2017 ENA Report sets out that gas is supplied to the home at around half the cost of electricity (a reference to the cost of gas and electricity nationally); and
 - (ii) page 5 the 2017 ENA Report deals with the cost of gas supplied to the home as opposed to the cost of electricity in each individual State. For Western Australia, the report sets out that the cost of gas (c/kWh eq) is 42% of the cost of electricity (c/kWh), which equates to the cost of gas being 58% less than the cost of heating by electricity.
 - (b) In relation to the listed benefit of natural gas producing 70% less greenhouse gas:
 - (i) the second introductory page of the 2017 ENA Report states that the emission factor of gas is between one third and one sixth of mainland grid electricity (a reference to the emissions factor of gas and electricity nationally); and
 - (ii) page 6 of the 2017 ENA Report details that in Western Australia (South Western region), the emission intensity of electricity is 0.70, whilst the emission intensity of natural gas is 0.185 (based upon the sources quoted therein), which equates to natural gas producing over 70% less greenhouse gas than electricity.
35. Whilst ATCO acknowledges that the 2017 ENA Report has been updated by the 2021 ENA Report, importantly, an average reader would have understood the references to the 2017 ENA Report as being a reference to a report using 2017 figures.
36. In any event, the referenced statistics have not significantly changed since the 2017 ENA Report. A copy of the 2021 ENA Report is attached and ATCO notes that:
- (a) On the second introductory page of the 2021 ENA Report, it is stated that gas is supplied to the home at around half the cost of electricity, and that gas is delivered to the home at one quarter of the emissions of grid electricity (references to the cost and emissions factor of gas and electricity nationally);
 - (b) At page 5, the 2021 ENA Report sets out that in Western Australia the cost of gas (c/kWh eq) is 53% of the cost of electricity (c/kWh), which equates to the cost of gas (when used to heat hot water) being 47% less than the cost of heating by electricity; and
 - (c) At page 6, the 2021 ENA Report shows that natural gas produces around 70% less greenhouse gas emissions than grid based electricity in Western

Australia's South West, and the emissions factor of gas is around 75% less than for average national grid based electricity.

37. *In relation to the greenhouse gas emissions figures quoted in the 2017 and 2021 ENA Reports, ATCO notes that those figures are based upon the relevant National Greenhouse Accounts Factors which are updated annually and published by the Australian Government Department of Industry, Science, Energy and Resources – previously published by the Australian Government Department of the Environment and Energy (NGA Factors).*
38. *The figures in the 2017 ENA Report are based on the 2017 NGA Factors (see tables 2 and 5) and the figures in the 2021 ENA Report are based on the 2020 NGA Factors (see tables 2 and 5). The emissions figures in the NGA Factors for natural gas pipelines and electricity from Western Australia's South West Interconnected System (SWIS) did not materially change in this period, reducing from 0.70kg CO₂-e/kWh in the 2017 NGA Factors to 0.68kg CO₂-e/kWh in the 2020 and 2021 NGA Factors (see tables 2 and 5 of the 2021 NGA Factors).*
39. *For completeness, ATCO notes that in November 2022, the NGA Factors were once again updated (see the 2022 NGA Factors). The emissions factors for grid electricity in the SWIS did reduce down from 0.70kg CO₂-e/kWh (in the 2017 NGA Factors) and 0.68kg CO₂-e/kWh (in the 2020 and 2021 NGA Factors), to 0.51 kg CO₂-e/kWh in the 2022 NGA Factors (see table 1), whilst the figures for natural gas pipelines remained unchanged (see table 3).*
40. *Therefore, insofar as the Flyer conveyed an overall impression that natural gas is a cheaper alternative to grid based electricity, and that natural gas produces less greenhouse emissions than grid based electricity, this is correct and consumers will not have been misled or deceived, or be likely to have been misled or deceived by the Flyer.*
41. *As to the other benefits of natural gas listed in the Flyer (which do not appear to be the subject of complaint), ATCO submits that:*
 - (a) *the reference to fingertip control when cooking would have been understood by an average consumer to mean the ability to control the heat of a stove when cooking with a gas flame by looking at the visible flame and adjusting the heat accordingly. This is accurate and would not have misled or deceived, or be likely to have misled or deceived, consumers; and*
 - (b) *the reference to a barbeque that never runs out of gas would have conveyed to an average consumer no more than that barbeques that are plumbed with natural gas don't run out of gas half-way through cooking a meal like LPG bottles can. Again, this is accurate and would not have misled or deceived, or be likely to have misled or deceived, consumers.*

Other aspects of the Environmental Code

42. *The Complaint does not raise any other aspects of the Environmental Code but out of completeness ATCO notes:*
 - (a) *As to section 1(b) of the Environmental Code, the benefits of natural gas listed in the Flyer are subject to the clearly stated limitation that 'standing charges are not included' and, as set out above, the reference to the qualifying 2017 ENA Report as a source is prominent;*

- (b) *As to section 1(c) of the Environmental Code, by using clear language the Flyer represents the attributes of natural gas in a way that can be easily understood by the average consumer;*
- (c) *As to section 2 of the Environmental Code, the Flyer does not overstate the benefits to the environment, in that the listed benefits are plainly cross-referenced to the 2017 ENA Report as set out above. The benefits listed in the Flyer are relevant to the consumers who are intended to and actually received the Flyer, being residents impacted by the replacement of the gas mains in the area and the associated works, and consumers who may have wished to access the benefits of natural gas as opposed to grid based electricity. There is no suggestion in the Flyer that the use of natural gas is more socially acceptable than alternatives; and*
- (d) *As to section 3 of the Environmental Code, the benefits of natural gas listed in the Flyer were supported by the 2017 ENA Report as referenced in the Flyer. Whilst that report has now been updated by the 2021 ENA Report, there has not been any significant or material change in the figures as quoted, and consumers would, in any event, have understood the 2017 ENA Report would have been prepared by reference to 2017 figures. There are no additional legally mandated applicable standards that apply to the benefits listed, and no testimonials are included in the Flyer.*

AANA Code of Ethics for Advertising and Marketing

43. *As requested in the Notification of Complaint, ATCO also responds as follows in relation to Section 2 of the Code.*

Section 2.1 - Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

44. *The Flyer does not depict material that discriminates against or vilifies a person or section of the community as identified in section 2.1 and is not in breach of this section.*

Section 2.2 Advertising or Marketing Communications shall not employ sexual appeal:

- (a) *where images of Minors, or people who appear to be Minors, are used; or*
- (b) *in a manner which is exploitative or degrading of any individual or group of people.*

45. *The Flyer does not employ sexual appeal in any sense and is therefore not in breach of section 2.2.*

Section 2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

46. *The Flyer does not present or portray violence and is therefore not in breach of section 2.3 of the Code.*

Section 2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

47. The Flyer does not contain any sex, sexuality or nudity and is therefore not in breach of section 2.4.

Section 2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

48. The Flyer does not contain any strong or obscene language and is therefore not in breach of section 2.5.

Section 2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

49. The Flyer does not depict material contrary to Prevailing Community Standards on health and safety and is therefore not in breach of section 2.6.

Section 2.7 Advertising or Marketing Communications shall be clearly distinguishable as such to the relevant audience.

50. The Flyer is distinguishable by the relevant audience as both a notice as to future installation of new or upgraded gas mains, which includes advertising as to the benefits of connecting to natural gas.

We trust the above response addresses any concerns regarding the Flyer. If any further information is required, please do not hesitate to contact us.

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.

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 included the statements:

- Natural gas...it’s also better for the environment
- Produce 70% less greenhouse gas

The Panel considered that the advertisement was making the claim that natural gas is better for the environment as it produces 70% less greenhouse gas.

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 considered that the target market for this advertisement was general consumers in the area the flyers were distributed. The Panel considered that as this flyer was delivered directly to people’s homes, it would be reasonable for the average consumer in the target market to assume that the comparison was to whatever form

of energy they had in their home. The Panel considered that the overall impression an average consumer in the target market would have of the advertisement would be that natural gas produces less greenhouse gas than whichever form of energy they currently used.

The Panel noted that the advertisement referred to a source as substantiation for the claim. However, the Panel considered that the source only provided substantiation that the lower production of greenhouse gas was in comparison to grid electricity, and not the claim being made in the advertisement that natural gas produces less greenhouse gas than the energy used by the householder/all other forms of energy.

The Panel considered that it is not its role to assess whether natural gas is a clean or green energy source, rather it is to assess whether the overall impression an average consumer would take from the advertisement was that natural gas would produce 70% less greenhouse gasses than the form of energy they currently used.

The Panel considered that this claim is misleading as there are other energy sources which produce less greenhouse gas than natural gas.

The Panel considered the advertisement made an environmental claim and that this claim was misleading or deceptive based on the impression an average consumer in the target market would take from the advertisement as a whole.

1 a) conclusion

The Panel determined that the Environmental Claims were misleading or deceptive and did breach Section 1 a) of the Environmental Code.

Conclusion

Finding that the advertisement breached Section 1a) of the Environmental Code the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

We confirm that the flyer that was the subject of the Complaint has been removed from circulation and is no longer being distributed to households. Indeed, the flyer was removed from circulation upon ATCO being notified of the complainant's concerns.

We reiterate that ATCO acknowledges the important role played by the AANA Code of Ethics for Advertising and Marketing, and the AANA Environmental Claims Code, in ensuring appropriate standards are maintained by advertisers for the benefit of consumers, and uses its best endeavours to comply with these Codes at all times. In this instance, ATCO did not intend to mislead consumers in the flyer regarding the amount of greenhouse gas associated with the use of natural gas. Rather, and by oversight, ATCO omitted to include grid electricity as the relevant comparison point. ATCO will take active steps to ensure this issue is not overlooked in future advertisements.

Appendix D



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Case Report

1	Case Reference	21 ASIJ 1
2	Advertiser	Pinnacle International Wholesalers Pty Ltd t/a Pinnacle Packaging
3	Complainant	BioPak Pty Ltd
4	Product	Truly Eco Plastic Free Coffee Cups
5	Type of Advertisement/Media	Website and Downloadable Product Brochure
6	Industry Jury Panel Members	Laura Hartley, Addisons (Chair) Lisa Ritson, Ashurst Christine Ecob, Johnson Winter & Slattery
7	Date of Determination	1 February 2022
8	DETERMINATION	Advertising modified or discontinued Complaints upheld in relation to breaches of sections 1.1, 1.2 and 1.4 of the Code as identified in the Determination below.

1. Introduction

- 1.1 BioPak Pty Ltd (**Complainant**) lodged a complaint on 4 August 2021 (**Complaint**) against Pinnacle International Wholesalers Pty Ltd t/a Pinnacle Packaging (**Advertiser**) regarding the Advertiser's advertising for a range of disposable coffee cup products sold under the Advertiser's "Truly Eco" brand (**Products**) seeking determination of the Complaint by the Ad Standards Industry Jury. A panel of legal practitioners (**Industry Jury**) was convened to consider the complaint in accordance with the Industry Jury's procedural guidelines (**Guidelines**).
- 1.2 The Complainant and the Advertiser were given an opportunity to make submissions in accordance with the Guidelines. These submissions and the Industry Jury's determination are detailed below.

2. Description of advertising or marketing communication

- 2.1 The material that is the subject of the Complaint comprises advertising on the Advertiser's website at www.pinnaclepackaging.com.au (**Website**) and a downloadable brochure also available on that Website (**Brochure**), both of which include various statements about the quality and composition of the Products as well as images of the packaging of the Products. Relevant extracts from the Website and the Brochure are attached as Annexure A (**Advertising Material**).

1



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3. Issues raised by Complainant

3.1 Complaints to the Industry Jury are considered under sections 1.1, 1.2, 1.3 and 1.4 of the Australian Association of National Advertisers Code of Ethics (**Code of Ethics**), which provide:

- 1.1 *Advertising or Marketing Communications shall comply with Commonwealth law and the law of the relevant State or Territory.*
- 1.2 *Advertising or Marketing Communications shall not be misleading or deceptive or be likely to mislead or deceive.*
- 1.3 *Advertising or Marketing Communications shall not contain a misrepresentation, which is likely to cause damage to the business or goodwill of a competitor.*
- 1.4 *Advertising shall not exploit community concerns in relation to protecting the environment by presenting or portraying distinctions in products or services advertised in a misleading way or in a way which implies a benefit to the environment which the product or services do not have.*

3.2 The essence of the Complaint is that the Advertising Material contains representations which the Complainant alleges are misleading or deceptive or likely to mislead or deceive.

3.3 These representations can be categorised as:

- (a) representations that the Products do not contain any plastic (**Plastic-Free Claims**);
- (b) representations that the Products are fully recyclable (**Recyclability Claims**); and
- (c) representations that the Products are compostable (**Compostability Claims**),

(together, **Claims**). The Complainant alleges the Advertiser has no reasonable basis for making the Claims.

4. Advertiser's response

4.1 The Advertiser seeks to reject the Complaint on the basis that:

- (a) the Complaint concerns "labels or packaging for products" and therefore the Claims are not subject to review under the Code of Ethics; and/or
- (b) the Claims are targeted to businesses, the Advertiser being a wholesale supplier, and therefore, the Claims are not subject to review under the Code of Ethics; and/or
- (c) the Claims can in fact be fully supported on the evidence available.

2



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5. DETERMINATION

Preliminary observations

Role and jurisdiction of Industry Jury

- 5.1 The role of the Industry Jury is to provide a complaint resolution service for advertisers and businesses in Australia in relation to complaints between competitors, as a voluntary alternative to litigation.
- 5.2 In determining disputes between competitors, the Industry Jury is required to consider whether the impugned Advertising Material contravenes Section 1 of the Code of Ethics. In particular, the Industry Jury does not have jurisdiction to consider whether advertising has breached the AANA Environmental Claims Code, as complaints against this Code are determined by the Ad Standards Community Panel. Despite this, matters concerning alleged misleading environmental claims can be considered specifically by the Industry Jury under Section 1.4 of the Code of Ethics, as well as more generally under sections 1.1 and 1.2 of the Code of Ethics.
- 5.3 The Code of Ethics applies to a broad range of advertising and marketing including website communications and print materials. As the Advertiser has observed, labels and packaging materials for products are excluded from consideration under the Code of Ethics. In the present case however, the images of the relevant Product packaging appear on the Website and in the Brochure. Therefore, the Industry Jury has jurisdiction to consider the claims made in these images.

Test for misleading and deceptive conduct under the Code of Ethics and standard of proof

- 5.4 In applying Section 1.2 of the Code of Ethics, the Code of Ethics Practice Note of February 2021 provides that the Industry Jury will consider “*whether the information most likely to be taken from the advertisement or marketing communication by an average consumer in the target market would be reasonably regarded as truthful and honest*”. The formulation of the “*average consumer in the target market*” test has been the subject of some discussion by both parties. In particular, the Advertiser has raised the point that, being a wholesaler of the Products, the relevant target market for its Advertising Material is not individuals but rather businesses which sell takeaway coffee. We accept the Advertiser’s submissions on this issue to some degree having regard to the nature of the Products (being disposable coffee cups which are typically not purchased by individuals) and some aspects of the manner in which the Website has been set up, which indicates it is designed to cater to business enquiries rather than make sales to individuals. In particular, we see that there is no option to purchase Products directly through the Website but rather users are required to submit a customer inquiry form which includes specifying the “Type of business” being operated by the customer. However, we also note that the Claims are all premium claims in the sense that an ultimate consumer buying coffee in one of the Products has no way in which to verify the Claims. As a result, they can, and we believe a not insignificant number would, seek to verify the Claims by looking at the Website and the Brochure available on the Website for that verification. The Claims are indirectly targeted to end-consumers of coffee sold in the Truly Eco cups and



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directly targeted to businesses, some of which are likely to be small businesses such as coffee shop operators. In our analysis below we have used the term “consumers” to refer to both end-consumers of takeaway coffee, and business operators purchasing takeaway coffee cups.

- 5.5 In any case, whether an advertisement or marketing communication is directed towards an individual or a business entity, the main question to consider will be whether the information conveyed would be reasonably regarded as truthful and unlikely to mislead or deceive recipients. As discussed in earlier decisions of the Industry Jury (see the matter of Jalna Dairy Foods Pty Ltd v Pauls Ltd JAL/PAU/99 (22 September 1999) and Calinnova Ltd t/as EquiFeast v Sandem Pty Ltd t/as Jenquine 19 ASIJ 1 (8 October 2019)), the standard for truth in advertising applied by the Federal Court and appellate courts under what is now section 18 of the *Australian Consumer Law* is the same standard to be applied by the Industry Jury in assessing misleading or deceptive conduct under the Code of Ethics.
- 5.6 In terms of the standard of proof required, the Industry Jury adopts a common sense approach rather than taking an overly technical approach. What is required in order to establish a breach of the Code of Ethics is simply that the Industry Jury is able to reach a reasonable level of satisfaction that the advertising complained of is misleading or deceptive or likely to mislead or deceive.
- 5.7 Both the Complainant and the Advertiser have a duty to provide substantiation for their respective positions. That is, the Complainant is responsible for establishing and substantiating its claim, in the sense that complaints must reach a reasonable threshold in demonstrating a breach of the Code (see clause 5.6 of the Guidelines). On the other hand, the Advertiser is expected to provide substantiation of the Claims at issue (clause 3.1 of the Guidelines). Both parties were given considerable time, including extensions of time, to establish their arguments.

Summary of Industry Jury determination

- 5.8 For the purposes of determining this particular Complaint, we have had particular regard to the following principles:
 - (a) whether particular conduct is misleading or deceptive is a question of fact to be determined in the context of the evidence as to the alleged conduct and the relevant surrounding facts and circumstances – in particular, there must be a sufficient causal link between the conduct and error on the part of the persons exposed to it: *ACCC v TPG Internet Pty Ltd* (2013) 250 CLR 640;
 - (b) in determining whether conduct is misleading or deceptive or likely to mislead or deceive, the conduct must be considered by reference to the class of persons likely to be affected by the conduct: *Parkdale Custom Built Furniture Pty Ltd v Puxu Pty Ltd* (1982) 149 CLR 191;
 - (c) the relevant class of people may range from the gullible to the astute, and the Court must consider whether the ordinary or reasonable members of that class would be



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misled or deceived: *Google Inc v Australian Competition and Consumer Commission* (2013) 249 CLR 435; and

- (d) the dominant message of the advertising is of crucial importance: *ACCC v TPG Internet Pty Ltd* (2013) 250 CLR 640.

- 5.9 After applying these principles to the Claims and their use in the context of the materials in which they appear, the Industry Jury considers that the Advertiser has breached Sections 1.1, 1.2 and 1.4 of the Code of Ethics by making representations about its Products on its Website and in its Brochure which create an overall impression that is misleading or deceptive or likely to mislead or deceive and which implies a benefit to the environment which the Products do not have.
- 5.10 The Industry Jury has not been provided with sufficient evidence to determine whether a breach of Section 1.3 of the Code has occurred.
- 5.11 We set out our detailed analysis below.

Analysis

Key background facts

- 5.12 A key issue in dispute between the parties is the extent to which certain certifications which the Advertiser argues it relies upon for the purposes of substantiating the Claims can in fact be relied upon. These certifications will only be relevant if they relate to the Products.
- 5.13 The Advertiser has claimed confidentiality over the names of certain of its suppliers. Despite this, under clause 3.2 of the Guidelines, the Advertiser is still required to provide a comprehensive summary of its principal arguments. In this determination, the Industry Jury does not name certain of the Advertiser's suppliers. However, it does still set out the relevant facts upon which the Advertiser relies.
- 5.14 The Advertiser argues that:
 - (a) it acquires the Products from a particular manufacturer (**the Advertiser's Manufacturer**);
 - (b) the leakproof coating (**Coating**) used on the inside of the Products is ultimately supplied by Repaper Co., Ltd. (**rePAPER**), via an arrangement coordinated by the Advertiser's Manufacturer;
 - (c) the Advertiser is therefore entitled to rely upon certain certifications held by rePAPER in respect of the compostability and recyclability of the Coating in support of the Claims concerning the overall Products.

On the other hand, the Complainant maintains that the Coating is not in fact supplied by rePAPER and that, as a result, the various certifications held by rePAPER are not in any way relevant to the Products.



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- 5.15 In support of its arguments, the Advertiser has provided us with copies of the following:
- (a) a declaration from the Advertiser's Manufacturer dated 8 October 2021 affirming that the coating used for all Truly Eco Cups is purchased from rePAPER;
 - (b) a signed contract for continuous supply of goods between Repaper Co., Ltd. as "seller" and another company as "buyer" (**Manufacturer's First Coating Supplier**) in respect of a product described as "Eco-friendly coated paper (REPACoat)" dated 1 September 2019. The contract appears to run for an initial term of one year, which will be automatically renewed for successive one-year terms unless terminated by either party;
 - (c) a signed purchase order between the Advertiser's Manufacturer as "Buyer" and the Manufacturer's First Coating Supplier as "Seller" in respect of a product described as "REPA Coatings RP200" dated 10 December 2019;
 - (d) a signed purchase order between the Advertiser's Manufacturer as "Buyer" and the Manufacturer's First Coating Supplier as "Seller" in respect of a product described as "REPA Coatings RP300" dated 6 January 2020; and
 - (e) a signed purchase order between the Advertiser's Manufacturer as "Buyer" and a third party as "Seller" (**Manufacturer's Second Coating Supplier**) in respect of products described as "REPA Coatings RP200" and "REPA Coatings RP300" dated 27 February 2020.
- 5.16 Whilst it would be inappropriate to attribute insufficient weight to the attestation by the Advertiser's Manufacturer regarding its supply chain, nevertheless it is important to bear in mind that rePAPER has itself provided evidence on the same issue to the contrary (to be discussed below). It is therefore not possible to determine the nature of the Advertiser's supply chain on the basis of the conflicting statements of the Advertiser's Manufacturer and rePAPER alone. Accordingly, we will proceed by considering both these statements against the broader background of evidence provided by the parties.
- 5.17 The documents provided by the Advertiser indicate that there is likely to be an ongoing supply arrangement between rePAPER and its Manufacturer's First Coating Supplier in respect of relevant coating products. Further, the documents provided by the Advertiser indicate that such products were supplied to the Advertiser's Manufacturer on at least two occasions, following the issue of the purchase orders in December 2019 and January 2020.
- 5.18 However, this documentation does not constitute adequate substantiation of the Advertiser's claims that the Advertiser's Manufacturer is currently acquiring coating products from rePAPER via the alleged agency arrangement.
- 5.19 First, the purchase orders provided by the Advertiser are over two years old. The Advertiser has had ample opportunity to provide more recent documents than this as part of the Industry Jury process but did not do so.

6



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- 5.20 Secondly, the most recent purchase order provided by the Advertiser dated February 2020 is not between the Advertiser's Manufacturer and the Advertiser's First Coating Supplier but rather between the Advertiser's Manufacturer and the Manufacturer's Second Coating Supplier. There is no basis for assuming that there is any connection between the Manufacturer's First Coating Supplier and the Manufacturer's Second Coating Supplier given that the names, addresses, payment details, and company identification numbers of the two entities set out on the purchase orders are entirely different. The Advertiser has not provided any explanation for this apparent discrepancy in its supply chain. Moreover, the Advertiser has failed to provide any evidence which demonstrates that Manufacturer's Second Coating Supplier is party to a supply arrangement with rePAPER.
- 5.21 On the other hand, the Complainant has provided documents which indicate that the Advertiser is in fact no longer directly or indirectly acquiring the Coating from rePAPER through the Advertiser's Manufacturer. This includes the following:
- (a) an initial email from rePAPER to representatives of the Complainant dated 24 September 2021 advising that whilst rePAPER has *"had contact with [Advertiser's Manufacturer] before and provided some coatings and coated board in the very initial stage"*, there is *"no business going on between rePAPER and [the Advertiser's Manufacturer] currently"*; and
 - (b) a later email from rePAPER to a representative of the Complainant dated 24 September 2021 and letter of confirmation signed on behalf of rePAPER dated 28 September 2021 each confirming that, according to the analysis set out in a report (**Intertek Report**) by Intertek, a third party testing body, the formulation of the Coating used in the Products does not match that of rePAPER's product.
- 5.22 The Advertiser sought to undermine the credibility of the above two emails from rePAPER by pointing out the apparent anomaly between the name of the sender and the email address depicted (absore@repaper.kr) as well as the lack of an email signature identifying the sender's role within rePAPER. However, we respectfully reject these arguments. The website of the Good Environmental Choice Australia (**GECA**), being one of the certifying bodies referenced in the parties' submissions, clearly identifies the sender (with email address absore@repaper.kr) as the contact for rePAPER. In addition, the matters discussed in the emails from this person are clearly restated in the letter of confirmation which has been issued by rePAPER on its letterhead and dated 28 September 2021.
- 5.23 The weight of the evidence indicates that, in 2019 and early 2020, the Advertiser did in fact acquire certain coating products indirectly from rePAPER. However, except for the declaration by the Advertiser's Manufacturer, the Advertiser has failed to adduce any evidence which demonstrates that the supply arrangement with rePAPER continues to remain in place as at the date of the current Advertising Materials. On the other hand, the Complainant has provided evidence from rePAPER directly which clearly denies that there is any such supply arrangement currently in place by reference to a testing report prepared by a third party testing agency, being the Intertek Report.

7



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5.24 Having weighed up all these factors, we have decided to exclude the certifications held by rePAPER in respect of its product, described as the REPA Coat, from our consideration of whether or not the Advertiser has sufficient evidence to support the making of the Claims in respect of the Products. These certifications include:

- (a) the Good Environmental Choice Australia Licence issued on 27 April 2018 confirming rePAPER CUP 6.5's compliance with *IEPv2.0-2014: International Ecolabeled Products* and ability to use the GECA ecolabel (the **GECA Licence**);
- (b) the Din Certco Certification dated 7 December 2017 confirming the certificate holder's compliance with *DIN EN 13432:2000-12: Requirements for packaging recoverable through composting and biodegradation* in respect of the REPA Coat (the **Din Certco Certification**);
- (c) the OWS report dated on or around 23 November 2017 confirming the compliance of the REPA Coat with *AS 4736: Biodegradable plastics – Biodegradable plastics suitable for composting and other microbial treatment (2006)* (the **OWS Report**); and
- (d) the research paper published in the Nordic Pulp & Paper Research Journal (2017, vol. 32, issue 1) confirming the recyclability of the REPA Coat (the **Nordic Journal**).

Plastic-Free Claims

Background

5.25 The Complainant alleges that the Advertiser has made the Plastic-Free Claims, being representations to the effect that the Products do not contain any plastic. These include the following:

- (a) the statement "*first plastic-free cups in Australia*" which appears on the Website;
- (b) the statement "*Environmental friendly alternative to plastic*" with a leaf logo above it which appears on the Website;
- (c) the statement "*I'm plastic free – don't landfill me!*", an image of which appears on the Website and in the Brochure;
- (d) the statement "*100% plastic free*" which appears on the Brochure; and
- (e) the icon of a bottle with a line through it above the words "**PLASTIC FREE**" which is set out on the Product packaging, an image of which appears on the Website and in the Brochure.

5.26 The Complainant alleges that these representations are misleading or deceptive because the Intertek Report states that the Products "*contain a copolymer of poly (ethylene-co-acrylic acid) or similar which is a plastic material*".

8



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- 5.27 The Advertiser maintains that it has support for making the Plastic Free Claims on the basis of a certificate issued to the Advertiser's Manufacturer by a third party certifying agency, Control Union Certifications, allowing the Advertiser's Manufacturer to use a "Plastic Free Certification Mark" in respect of products which include its retail ready paper cups. The certificate is valid from 25 January 2021 to 24 January 2022. The certification standard behind the Plastic Free Certification Mark was developed between Control Union and A Plastic Planet, an anti-plastic advocacy group. We have been provided with a copy of the requirements and test methods for the certification standard as part of the Advertiser's submissions.
- 5.28 The Advertiser maintains that the certification of the Advertiser's Manufacturer constitutes proof that the Plastic-Free Claims are *"correct by reference to the only standard that exists in the world today"* in respect of plastic content in packaging.

Are the Plastic-Free Claims misleading or deceptive in breach of the Code of Ethics?

- 5.29 In our view, the certification standard behind the Plastic Free Certification Mark does not replace or modify the standard for truth in advertising under the Code of Ethics and the *Australian Consumer Law*.
- 5.30 The Plastic-Free Claims are made in very broad terms and have not been qualified in any way. In particular, the claims go beyond simply displaying the Plastic Free Certification Mark endorsed by Control Union. An average consumer would be entitled to expect that the Products do not contain plastic in any form and not simply that the Products had been tested to a specific standard referenced by the Plastic Free Certification Mark.
- 5.31 The Intertek Report makes clear that the coating of the Products is in fact a plastic or plastic-based substance. Indeed, the Advertiser itself has confirmed that the Intertek Report demonstrates that the Products are in fact *"coated with a water-soluble polyacrylate-based polymer otherwise known as an aqueous coating"*. A polyacrylate-based polymer is classified as a plastic, as confirmed by Intertek, irrespective of whether it is water-soluble or not.
- 5.32 As a result, there is no reasonable basis for the Advertiser making the Plastic-Free Claims. Accordingly, we find that the Advertiser has breached Sections 1.1, 1.2 and 1.4 of the Code of Ethics by making misleading or deceptive representations in respect of the nature and composition of the Products on its Website and in the Brochure by virtue of the Plastic-Free Claims.

Recyclability Claims

Background

- 5.33 The Complainant alleges that the Advertiser has made the Recyclability Claims in its Advertising Material, being representations to the effect that the Products are fully recyclable. These include the following:
- (a) the statement *"Our Truly Eco cups are the first plastic-free cups in Australia that can be recycled"* which the Complainant alleges appeared on the Website at the time at which the Complainant made its complaint;



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- (b) the icon of a bin featuring a circular recycling symbol above the words “FULLY RECYCLABLE” which is set out on the Product packaging, an image of which appears on the Website and in the Brochure;
 - (c) the statement “Our Truly Eco cups can be recycled or composted. It’s time to lower the impact of the environment by making the choice to reduce land fill” in the Brochure; and
 - (d) the statement “100% recyclable” which appear on the Website.
- 5.34 The Complainant alleges that the Recyclability Claims are misleading or deceptive because the Products cannot be recycled through regular kerbside recycling facilities in Australia. The Complainant’s argument is that the Products are made from a mix of plastic and paper which requires a more specialised recycling solution than currently offered by kerbside recycling facilities. In support of its arguments, the Complainant has provided us with an assessment submitted by the Complainant to the Technical Advisory Committee (TAC), which monitors compliance with the Australasian Recycling Label (ARL) Program, in respect of aqueous coated paper cups. The assessment indicates that as at 3 August 2021, being the date of the report, the “technical recyclability” of aqueous coated paper cups is still subject to review from an ARL Program perspective.
- 5.35 In response, the Advertiser argues that the recyclability of a product should not depend upon whether it is acceptable by kerbside collections. Rather, the Advertiser maintains, the question of whether or not a product is recyclable should depend simply upon its chemical composition and its susceptibility to the recycling process of pulping and re-use. Further, the Advertiser relies on the Nordic Journal which provides that products made from rePAPER are recyclable.
- Are the Recyclability Claims misleading or deceptive in breach of the Code of Ethics?
- 5.36 Firstly, as stated above at paragraphs 5.12 – 5.24, the Advertiser has not established that the Products are made from rePAPER. Therefore, we can have no regard to the Nordic Journal.
- 5.37 Even if we had regard to this publication though, in our view, it is a fundamental requirement that if a product is represented in absolute terms as being a fully recyclable product or 100% recyclable, it should be capable of being recycled through standard kerbside recycling facilities in Australia. An average Australian consumer would expect that in the context of claims that create an overall impression that use of them will reduce landfill and that they are environmentally friendly, the Products must in actuality be capable of doing these things. Such claims cannot constitute a theoretical possibility when presented in absolute terms. If a product is only capable of being recycled on the condition that it is put through a specialised collection stream, then this is a clear limitation on the recyclability of the Product which would need to be clearly explained to a consumer so that the headline claim about the product’s recyclability is not misleading.
- 5.38 On that note, we see that the Advertiser appears to have updated its Website since the date on which the Complaint was lodged by adding a disclaimer to the claim “Our Truly Eco cups



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are the first plastic-free cups in Australia that can be recycled." This disclaimer is flagged by an asterisk included as part of the headline claim which links to the statement *"Truly Eco Cups are recyclable when collected as a clean stream of only Truly Eco cups. Please contact Pinnacle to discuss recycling options."* The explanatory statement is clearly worded and prominently displayed in close proximity to the headline claim. We consider that the headline claim has been properly qualified in this context.

- 5.39 On the other hand, we consider that the recyclability claims detailed in paragraph 5.34 which appear on the individual product pages of the Website (being images of the Products) and in the Brochure have not been properly qualified.
- 5.40 Accordingly, we find that the Advertiser has breached Sections 1.1, 1.2 and 1.4 of the Code of Ethics by making misleading or deceptive representations in respect of the nature and composition of the Products by making the Recyclability Claims.

Compostability Claims

Background

- 5.41 The Complainant alleges that the Advertiser has made the Compostability Claims in relation to the Products. These include the following:
- (a) the statement *"Compostable"* which is set out on the Product packaging, an image of which appears on the Website and in the Brochure;
 - (b) the statement *"Our Truly Eco cups are the first plastic-free cups in Australia that can be recycled or composted"* which appears on the Website;
 - (c) the statement *"Our Truly Eco cups can be recycled or composted. It's time to lower the impact of the environment by making the choice to reduce land fill"* in the Brochure; and
 - (d) the statement *"Certified home and industrial/commercial compostable"* which appears on the Website.
- 5.42 The Complainant asserts that Compostability Claims must be certified to:
- (a) AS4736:2006 Biodegradable plastic suitable for composting and other microbial treatment (**Australian Industrial Composting Standard**) if the claim relates to commercial scale composting; and
 - (b) AS 5810:2010 Biodegradable plastics suitable for home composting (**Australian Home Composting Standard**) if the claim relates to home composting.
- 5.43 The Advertiser claims that its Products are certified to these standards on the basis of the Din Certico Certification and the OWS Report. However, for the reasons stated in paragraphs 5.12 to 5.24 above, the Advertiser has not established that the Products are made of rePAPER.¹¹



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Therefore, we are unable to place any weight on the Din Certico Certification and the OWS Report.

Are the Compostability Claims misleading or deceptive in breach of the Code of Ethics?

- 5.44 The evidence provided by the Advertiser does not substantiate any of the Compostability Claims. As a result, we find that the Advertiser has breached Sections 1.1, 1.2 and 1.4 of the Code of Ethics by making misleading or deceptive representations in respect of the nature and composition of the Products by the Compostability Claims.

6. Advertiser Statement

- 6.1 On 2nd February 2022, the Advertiser was provided with a copy of the Industry Jury's determination. In accordance with the Guidelines and on the basis of the Industry Jury's determination, the Advertiser was requested to provide an Advertiser Statement indicating whether it would modify or discontinue the Advertisement.

- 6.2 On 10th February 2022, the Advertiser provided the following statement:

In relation to the upheld complaints: -

1. the Industry Jury erred in its findings set out in paragraphs 5.12 -- 5.24 inclusive of the Determination by non-acceptance of the Advertiser's Reports and Certifications by reason of (1) the purported contradictory evidence of rePaper (paragraph 5.21), (2) the purported non-establishment that the Truly Eco Cups are made from rePaper (paragraph 5.23) and (3) the acceptance of the Intertek Report without testing the purported sample (paragraph 5.31); and

2. Notwithstanding, and without accepting the accuracy of the Industry Jury's determination in relation to those complaints and without any admission that it has contravened any relevant legislation or the Code, the Advertiser will modify its Advertising Material by taking such steps to modify its website and the downloadable brochure also available on that website so as to ensure that in the future it can adequately substantiate the claims wrongly found to be in breach in the determination.

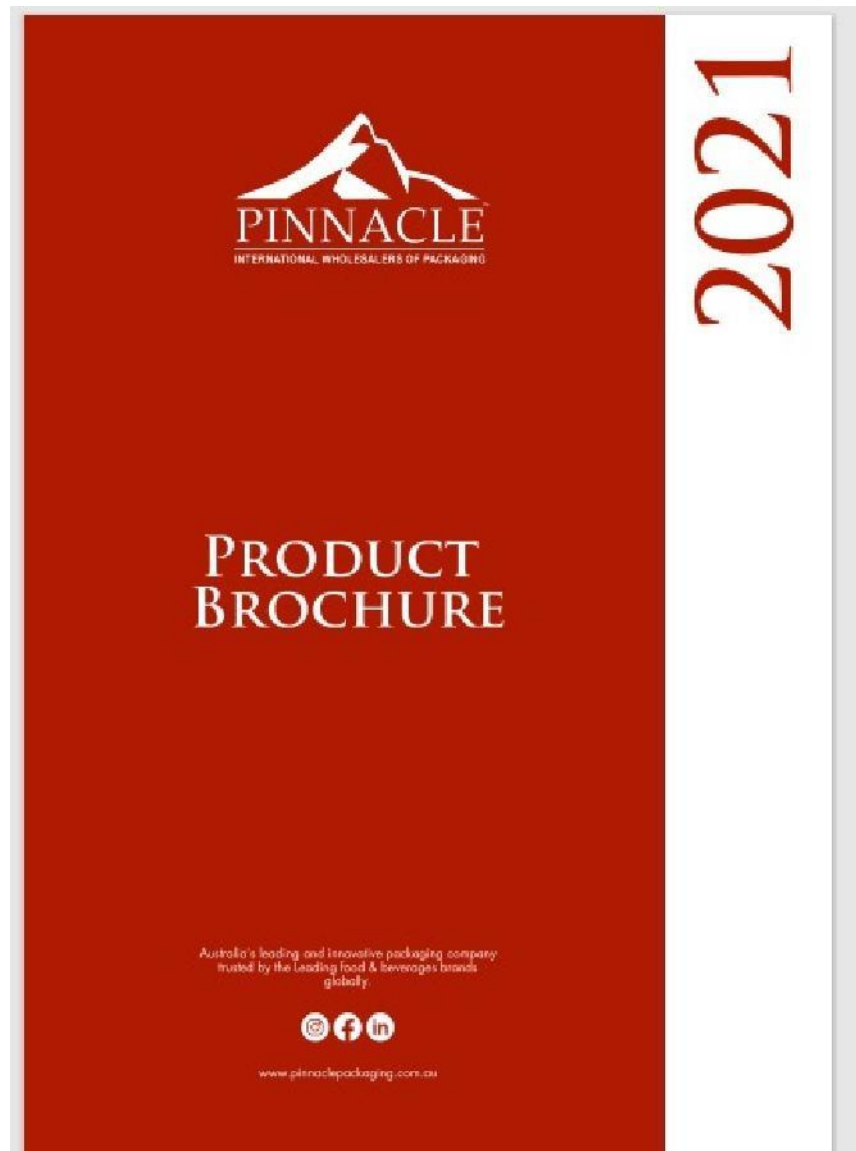


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Annexure A





Single Wall
Paper Coffee Cup



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Australia's leading and innovative packaging company
trusted by the leading food & beverages brands
globally.



TRULY ECO IS
PROUDLY PINNACLE.



SINGLE WALL CUPS AVAILABLE IN A VARIETY OF COLOURS

Pinnacle are proud to announce the release of our Truly Eco cup range. Our Truly Eco cups can be recycled or composted. It's time to lower the impact on our environment by making the choice to reduce land fill.

COLOUR	40Z	60Z	80Z	80Z UNI (90MM)	100Z SLIM (80MM)	120Z	160Z
White	SW04W-ECO	SW06W-ECO	SW08W-ECO	SW08UNIW-ECO	SW10W-ECO	SW12W-ECO	SW16W-ECO
Kraft	SW04KP-ECO	SW06KP-ECO	SW08KP-ECO	SW08UNIKP-ECO	SW10KP-ECO	SW12KP-ECO	SW16KP-ECO
Black	SW04B-ECO	SW06B-ECO	SW08B-ECO	SW08UNIB-ECO	*	SW12B-ECO	SW16B-ECO
Wham	*	*	SW08WHAM-ECO	SW08UNIWHAM-ECO	*	SW12WHAM-ECO	SW16WHAM-ECO

*Special order. Contact your accounts manager.



OUR COMMITMENT



100% PLASTIC FREE
WATER DISPERSION COATING
RECYCLABLE OR COMPOSTABLE TO AS4736
ALL SIZES AVAILABLE
CUSTOM BRANDING AVAILABLE
SUITS ALL PINNACLE TRAVEL AND SIPPER LIDS

03/08/2021

COFFEE CUPS — Pinnacle Packaging



[BACK TO PRODUCTS](#)

TRULY ECO PLASTIC FREE COFFEE CUPS



Truly Eco products are Truly Eco
Friendly.

Pinnacle are proud to announce the
release of our Truly Eco cup range. Our
Truly Eco cups are the first plastic-free
cups in Australia that can be recycled
or composted. By using our eco-
friendly cups you're making the choice
to lower the impact on our environment
and helping to reduce landfill.

**Available as a single or double
wall cup.**

[PRODUCT PDF](#)

ALL TRULY ECO BLACK CUP
TRULY ECO KRAFT CUP
TRULY ECO PLAIN WHITE CUP
TRULY ECO WHAM CUP



03/08/2021

COFFEE CUPS — Pinnacle Packaging



4 OZ TRULY ECO PLAIN WHITE CUP



4 OZ TRULY ECO KRAFT CUP



8 OZ 80MM OR UNI 90MM TRULY ECO
BLACK CUP

03/08/2021

COFFEE CUPS — Pinnacle Packaging



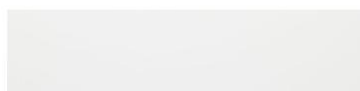
8OZ 80MM OR UNI 90MM TRULY ECO
KRAFT CUP



12OZ TRULY ECO BLACK CUP



10OZ SLIM TRULY ECO PLAIN WHITE
CUP



<https://www.pinnaclepackaging.com.au/truly-eco-plastic-free-coffee-cups-lids>

3/6

03/08/2021

COFFEE CUPS — Pinnacle Packaging



100Z SLIM TRULY ECO KRAFT CUP



16OZ TRULY ECO BLACK CUP



12OZ TRULY ECO PLAIN WHITE CUP



12OZ TRULY ECO KRAFT CUP

03/08/2021

COFFEE CUPS — Pinnacle Packaging



16OZ TRULY ECO WHITE CUP



16OZ TRULY ECO KRAFT CUP



8OZ 80MM OR UNI 90MM TRULY ECO WHAM CUP



12OZ TRULY ECO WHAM CUP

<https://www.pinnaclepackaging.com.au/truly-eco-plastic-free-coffee-cups-lids>

5/6

03/08/2021

COFFEE CUPS — Pinnacle Packaging



16OZ TRULY ECO WHAM CUP

ALL OUR
PRODUCTS

SUBSCRIBE
TO OUR
NEWSLETTER

Sign up with your email address to
receive news and updates.

Email Address

SIGN UP

We respect your privacy.



First introduced by Pinnacle packaging in 2019 as Australia's first to market plastic free cups that can be recycled or composted. By using our eco-friendly cups you're making the choice to lower the impact on our environment and helping to reduce landfill.



100% RECYCLABLE



100% COMPOSTABLE
PEELABLE PLASTIC
LID



100% PLASTIC FREE
NO GLUE OR STAPLES

[FULL DOWNLOAD BROCHURE](#)



AUSTRALIA'S LEADING FOOD PACKAGING
COMPANY TRUSTED GLOBALLY BY THE TOP
FOOD AND BEVERAGE BRANDS.

THE PINNACLE IS IN THE PACKAGING

The Pinnacle for us represents the ultimate peak point where humans exist in harmony with the planet.

The journey to this peak is all about keeping our eyes on the summit.

It's about striving to reach heights as a community of business owners and consumers that put the health of our planet first.

We know that the journey to this peak is continuously unfolding and requires consistent innovation.

[ALL OUR PRODUCTS](#)

OUR CORE VALUES



INTEGRITY

We believe in honesty and reliability in all our customer and business relationships.



QUALITY

We source quality, sturdy materials which are both sustainable and ethically sourced and produced.



INNOVATION

Our technological advancements in packaging have made us the leading innovators in the packaging industry.



COMMUNITY

We work within and employ diversity from our local community.



SUSTAINABILITY

We are serious about sustainability and we strive to leave behind a better world than the one we found.



RELIABILITY

We ensure that all our shipments and deliveries arrive consistently on time.