



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0035-22
2. Advertiser :	BHP
3. Product :	Other
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	23-Feb-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

This television advertisement refers to the environmental benefits due to the advertiser's involvement in production of materials for electric vehicles. The advertisement states:

VO: The future of a world full of low emissions transport is being built right now.

SUPER: LOW EMISSIONS TRANSPORT IS HAPPENING NOW

VO: Every day, the world is moving towards cleaner, more sustainable electric powered transport.

SUPER: SUSTAINABLE ELECTRIC TRANSPORT IS HAPPENING NOW

VO: It's not easy, But it's resources like the copper and nickel produced by BHP that help make it possible.

SUPER: ESSENTIAL RESOURCES RESPONSIBLY SOURCED IS HAPPENING NOW

VO: The future is clear...

SUPER: THE FUTURE IS CLEAR

VO: ...if we continue to Think Big.

THE COMPLAINT

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

Greenwashing.



Bhp advert claiming its environmental benefits from its involvement in production of materials for electric vehicles when in fact half of its business comes from fossil fuel extraction

THE ADVERTISER'S RESPONSE

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

Thank you for your letter of 14 February 2022 notifying BHP of the complaint with case reference number 0035-22 (Notification).

The complaint relates to a television advertisement by BHP that describes how resources like the copper and nickel produced by BHP are helping to make the future of more sustainable, low emissions transport possible.

We understand the complaint is in the following terms:

AD DESCRIPTION: Bhp advert claiming its environmental benefits from its involvement in production of materials for electric vehicles.

REASON FOR CONCERN: Greenwashing.

Bhp advert claiming its environmental benefits from its involvement in production of materials for electric vehicles when in fact half of its business comes from fossil fuel extraction.

In the Notification, Ad Standards identified compliance with parts of sections 1 and 2 of the Australian Association of National Advertisers (AANA) Environmental Claims Code (the AANA Environment Code) as matters to be addressed, based on an 'initial assessment of the complaint without having seen/heard the advertisement'.

BHP takes compliance with the AANA Codes very seriously, and firmly believes that the advertisement fully complies with the AANA Environmental Code, AANA Code of Ethics and all other relevant codes and laws. The following response addresses the potential concerns and issues raised in the Notification.

Background to the advertisement

The advertisement forms part of a campaign to highlight BHP's commitment to helping to build a better future and develop understanding of the role of essential resources for decarbonisation pathways in the energy transition. Many of the commodities that BHP produces are key to the energy transition for a lower carbon world, including the copper and nickel referenced in the advertisement used to produce copper-intensive electric vehicles and nickel-intensive batteries that can reduce the need for fossil fuels in transport and support decarbonisation. We note that BHP's products are not sold or marketed to individual consumers.



Since 22 August 2021, the advertisement has been published across free to air television (networks 7, 9, 10 & SBS), subscription television (Foxtel), online video (9Now, 10Play, 7Plus, Foxtel Go, Capify, Pedestrian, News.com, SMH and The Age), social media (Facebook / Instagram) and on BHP channels (bhp.com/betterworld and YouTube).

Response to the complaint

We consider that the advertisement is consistent with BHP's approach to environmental impacts and does not overstate or misrepresent the extent of the environmental benefits from BHP's business, whether in relation to copper and nickel production or as a whole, noting the following:

- *Environmental approach: BHP's approach to environmental management is embedded in our Purpose, Our Charter value of Sustainability and key company Position Statements and standards, which are available on our website at <https://www.bhp.com>. Our approach is based on the robust identification, assessment and management of risks, by which we seek to avoid, minimise and mitigate adverse environmental impacts across all phases of our operational activities, and on our promotion of product stewardship including by supporting greenhouse gas emissions reductions in our value chain. This applies not only to the production of copper and nickel but also to BHP's other main commodities: iron ore, coal (metallurgical and thermal) and oil and gas.*
- *Decarbonisation: BHP also recognises the role we must play in helping the world achieve its decarbonisation ambitions, and collaborating with others to achieve progress in managing the challenges of climate change. BHP has been taking action to address climate risks for decades, and has set targets and goals for reducing operational greenhouse gas emissions and helping to address emissions in our value chain in the BHP Climate Transition Action Plan 2021, available at <https://www.bhp.com/news/media-centre/releases/2021/09/bhp-releases-climate-transition-action-plan-2021>, which was strongly supported by shareholders through a 'Say on Climate' vote at our Annual General Meetings in late 2021. BHP is also pursuing opportunities to work with partners to develop and commercialise, at scale and acceptable cost, low emissions and negative emissions technologies that are critical to meet the Paris Agreement goals.*
- *Portfolio changes: We have also announced a number of strategic steps as we continue to grow our portfolio, including: investment in a top tier potash asset in Canada (to help feed the world's growing population more sustainably); our intention to merge our Petroleum assets with Woodside (which will remove oil and gas from our portfolio); and progress on divestment of certain of our coal interests as we move to focus our coal portfolio on higher-quality metallurgical coals used in steelmaking (which help to reduce emissions intensity).*
- *Further information: Further details on BHP's approach to environmental impacts and our existing partnerships can be found on our website at <https://www.bhp.com/sustainability/environment>, <https://www.bhp.com/sustainability/climate-change> and <https://www.bhp.com/news/case-studies>.*

Compliance with AANA Environment Code



BHP firmly believes that the advertisement fully complies with all sections of the AANA Environmental Code.

Section 1 (Truthful and factual presentation)

We do not consider that the average person in the target market for the advertisement would be likely to be misled or deceived by the advertisement. Each of the statements in the advertisement is factually accurate and clear, unambiguous and balanced, including in respect of the extent of the environmental benefit from BHP's business. Considering each statement separately:

"The future of a world full of low emissions transport is being built right now"; "Low emissions transport is happening now"; "Every day the world is moving towards cleaner, more sustainable electric powered transport"; "Sustainable electric transport is happening now"

- The number of electric vehicle (EVs) registered across the globe expanded substantially in 2020, according to the International Energy Agency (IEA), and this is expected to continue over the next decade. Electric car registrations increased by 41% in 2020, despite the pandemic-related worldwide downturn in car sales in which global car sales dropped 16%.*
- There were 11 million registered EVs on the road at the end of 2020. 10 million of these were cars. In the first-quarter of 2021, global electric car sales rose by around 140% compared to the same period in 2020, driven by sales in China of around 500,000 vehicles and in Europe of around 450,000 vehicles. In addition, US sales of electric cars more than doubled relative to the first quarter of 2020.*
- The total number of electric cars, buses, vans and trucks is projected to rise to 145 million, or 7% of all road transport, by the end of the decade under governments' existing energy and climate policies. With even bolder climate programmes and emission reduction targets, there could be up to 230 million EVs on our streets globally, or 12% of all road transport, by 2030 (excluding motorcycles and mopeds).*
- In Europe, France and Germany have both stepped up their support for EV take-up, while the UK brought forward its Internal Combustion Engine ban by 5 years to 2030. China has also reiterated its ambitious 20% sales target for 2025, on the back of its prior commitment to build 5 million public charging units by the end of calendar year 2020.*
- It is estimated that the first million EVs on the road will reduce global oil demand by 1.3 million barrels per day.*
- All of this points towards the electrification of transport as one of the major trends of the future that is beginning to happen now.*
- Sources: IEA Global EV Outlook 2001 and <https://www.weforum.org/agenda/2021/05/electric-vehicle-sales-sustainability-iaa/>.*
- "It's not easy. But it's resources like the copper and nickel produced by BHP that help make it possible"*
- The world needs cost effective, efficient batteries that are powerful, energy dense, thermally stable, capable of being recharged thousands of times,*



- and can reach a high charge in a matter of minutes. It also needs raw materials for battery storage systems that are in reliable supply.*
- *By 2027, copper demand stemming from EVs is expected to increase by 1.7 million tonnes. EVs use four times as much copper as petrol-based cars. See further: <https://www.bhp.com/what-we-do/products/copper>.*
 - *Demand for nickel in batteries is estimated to grow by over 500% over the next decade, in large part to support the world's rising demand for EVs. BHP now sells more than 75% of our nickel production to the EV battery materials industry. See further: <https://www.bhp.com/what-we-do/products/nickel>.*
 - *Sources: <https://www.iea.org/data-and-statistics/charts/minerals-used-in-electric-cars-compared-to-conventional-cars> and https://www.copper.org/publications/pub_list/pdf/A6192_ElectricVehicles-Infographic.pdf.*
 - *"Essential resources responsibly sourced is happening now"*
 - *BHP seeks to avoid, minimise and mitigate adverse environmental impacts at every stage in the life cycle of our operational activities and has comprehensive frameworks, policies and processes to identify and manage risks, including environmental risks, and achieve our environmental objectives. This approach applies to the production of all of our commodities, including copper and nickel.*
 - *In relation to copper, BHP's copper operations Escondida and Spence in Chile, and Olympic Dam in Australia, are recipients of the Copper Mark. The Copper Mark is an external assurance framework that independently verifies and recognises responsible production practices in the copper industry. Recipients of the Copper Mark are independently assessed as having implemented policies and practices conforming with responsible production criteria. See further <https://coppermark.org/participants-home/participants/>.*
 - *Escondida, the world's largest copper mine, has been planning a transition away from groundwater resources to desalinated seawater since the mid-2000s. In December 2019, BHP successfully stopped withdrawing water from underground aquifers for operational use at Escondida and transitioned to desalinated water. As a result, BHP now operates the biggest copper mine in the world with 100% desalinated water (with the exception of small quantities of groundwater extracted to allow safe mining, which is used for operational water consumption).*
 - *In 2019, BHP also entered into power agreements based on renewable energy sources for our Escondida and Spence copper operations in Chile. These contracts aim to displace 3 million tonnes of carbon dioxide equivalent emissions per year, compared with the fossil fuel-based contracts they are replacing. Escondida and Spence are now on track to have 100% renewable energy supply by the mid-2020s.*
 - *In relation to nickel, in 2021, BHP entered into a nickel supply agreement with Tesla Inc. for the supply of nickel from BHP's Nickel West asset in Western Australia, one of the most sustainable and lowest carbon emission nickel producers in the world. In addition to the supply agreement, BHP and Tesla*



- Inc. will collaborate on ways to make the battery supply chain more sustainable, with a focus on end-to-end raw material traceability using blockchain, technical exchange for battery raw materials production, and promotion of the importance of sustainability in the resources sector. BHP will also collaborate with Tesla Inc. on energy storage solutions to identify opportunities to lower carbon emissions in their respective operations through increased use of renewable energy paired with battery storage.*
- In 2021, BHP also signed a renewable power purchasing agreement to supply up to 50% of its electricity needs at BHP's Nickel West Kwinana Refinery from Merredin Solar Farm, the largest in Western Australia. The agreement will help BHP reduce emissions from electricity use at the refinery by up to 50% by 2024, based on FY2020 levels. BHP has also announced its plans to build, with its power partner in the Goldfields TransAlta, two solar farms and a battery storage system to help power the Mt Keith and Leinster operations (which form part of Nickel West), with construction to commence in Q2 FY2022 and expected to take 12-14 months. This will help BHP reduce emissions from electricity use at Mt Keith and Leinster by 12%, based on FY2020 levels.*
 - Also at BHP's Nickel West operations, a partnership with Toyota will also study how to reduce the emissions intensity of BHP's light vehicle fleet. It builds on other Light EV trials underway in South Australia and Queensland. Reducing BHP's reliance on diesel at our operations will help achieve our medium-term target of reducing operational greenhouse gas emissions by at least 30% by FY2030.*
 - In addition, in partnership with two of the world's other biggest resources companies, BHP has also launched the Charge On Innovation Challenge, a global competition for technology innovators to develop new concepts for large-scale haul truck electrification systems to help significantly cut emissions from surface mine operations and unlock safety, productivity, and operational improvements. BHP has also partnered with the Chinese automotive think tank, Automotive Data of China Co., Ltd. to support its research on the future electrification of transport in China.*
 - "The future is clear if we continue to Think Big"*
 - BHP believes the future is increasingly clear and our strategy, portfolio, capabilities and approach to social value position us to play an important role in meeting an accelerated energy transition, continued economic development, and improvement in living standards.*
 - Essential resources that BHP produces are critical for continued economic growth and many are key to the energy transition for a lower carbon world. BHP is committed to supplying our products more safely, responsibly and efficiently. This includes the copper and nickel used to produce copper-intensive electric vehicles and nickel-intensive batteries that can reduce the need for fossil fuels in transport and support decarbonisation.*
 - In addition, BHP's 2050 goal is to achieve net zero for our operational emissions (Scopes 1 and 2 from our operated assets). We have set goals for 2030 to help tackle Scope 3 emissions by working with our customers and partners in the steel and maritime industries, backed by US\$400 million of*



investment under our Climate Investment Program in areas like research and development in low carbon steelmaking and other low emissions technologies. The BHP Climate Transition Action Plan 2021, available at <https://www.bhp.com/climate>, also describes our pursuit of the goal of net zero Scope 3 emissions by 2050.

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 the environmental benefits from BHP's business, whether in relation to copper and nickel production or more generally. The advertisement is clear, relevant and specific in referencing BHP's commitment to supplying copper and nickel in a responsible manner for sustainable electric transport. We acknowledge that the nature of our business can have significant environmental impacts across the value chain. BHP is committed to minimising adverse environmental impacts and contributing more broadly to the resilience of the natural environment (as described further above) while we supply products essential for continued economic growth and decarbonisation.

As noted above, BHP's approach to the environment is embedded in our Purpose, Our Charter value of Sustainability and key company Position Statements and standards. Further details of our approach to environmental impacts and our existing partnerships are available on our website at <https://www.bhp.com/sustainability/environment>, <https://www.bhp.com/sustainability/climate-change> and <https://www.bhp.com/news/case-studies>.

Section 3 (Substantiation)

We consider that we have a reasonable basis for each statement in the advertisement. As explained above for Section 1, each of the statements in the advertisement has been verified and substantiated by supporting evidence. Further, BHP is very mindful of our obligations to ensure members of the community are not misled, and therefore has robust processes in place to ensure all public statements are appropriately substantiated. In the case of this advertisement, this included seeking and obtaining approval from ClearAds (FreeTV Australia) before it was aired – see attached letter of substantiation sent to ClearAds and ClearAds approval.

Compliance with AANA Code of Ethics

While the Notification did not raise any concerns under the AANA Code of Ethics, BHP also firmly believes that the advertisement fully complies 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 advertisement 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 advertisement did not employ sexual appeal or exploitive or degrading material.*



- *Section 2.3 (Violence) – The advertisement did not present or portray violence.*
- *Section 2.4 (Sex, sexuality and nudity) – The advertisement did not present or portray sex, sexuality or nudity.*
- *Section 2.5 (Language) – The advertisement did not use strong or obscene language.*
- *Section 2.6 (Health and safety) – The advertisement did not encourage or condone unhealthy or unsafe behaviour.*
- *Section 2.7 (Clearly distinguishable advertising) – The advertisement was 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 this advertisement.

Conclusion

For the reasons set out above, BHP firmly believes that the advertisement fully complies with the AANA Environmental Code, AANA Code of Ethics and all other relevant codes and laws, and respectfully submits that the complaint 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 in the advertisement BHP was claiming environmental benefits from its involvement in the production of materials for electric vehicles when in fact half of its business comes from fossil fuel extraction.

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 the super, “essential resources responsibly sourced is happening now,” and considered that while some members of the target audience may consider



responsibly sourced to be a reference to materials being sourced in an environmentally friendly manner, others would understand this to mean sourced from mines which use ethical labour. The Panel considered that the meaning of responsibly sourced is not clear and is not an Environmental Claim.

The Panel noted that the voice over in the advertisement states, “Every day, the world is moving towards cleaner, more sustainable electric powered transport. It’s not easy, but it’s resources like the copper and nickel produced by BHP that help make it possible.”

The Panel considered that this is an Environmental Claim that resources produced by BHP help make cleaner, more sustainable electric powered transport.

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.*

The Panel considered that the advertisement does not imply that the entirety of BHPs business is clean or sustainable, only that some resources produced by BHP are used in the production of cleaner and more sustainable electric transport. The Panel noted that the audience for the advertisement would be very broad, and considered that the target audience of Australian adults would likely understand the claim to be limited to this one situation.

The Panel considered that the Environmental Claim represents the extent of the environmental benefit as being limited to the production of materials used in clean and sustainable electric transport in a way which would be understood by its audience.

Section 1 c) conclusion

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



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

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

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

Consistent with the determination under Section 1(c), the Panel considered that the advertisement did not overstate the claim expressly or by implication.

Section 2 b) conclusion

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

Conclusion

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