

Case Report

1. Case Number :	0119-23
2. Advertiser :	Australian Petroleum Production & Exploration Association Limited (APPEA Ltd)
3. Product :	Other
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	28-Jun-2023
6. DETERMINATION :	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Environmental Code\1 Truthful and Factual
AANA Environmental Code\2 Genuine Environmental Benefit
AANA Environmental Code\3 Substantiation

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a voice-over saying, "Who keeps this running,



day and night? And this?" On the screen there is a picture of an ambulance and the word "Medical Supplies" followed by two people are seen to be unloading a truck, with the words "Refrigerated Trucks".

Another voice-over says, "Who keeps businesses like these running all around the country" with visions of businesses with the words, "Greenhouses", "Breweries", "Glass Making" and "Brickmaking".

The first voice-over says, "And who is one of Australia's main sources for generating electricity? It keeps the lights on."

Two men are seen wearing PPE, and one says, "We are. They all run on Australian natural gas".

The other man says, "As Australia shuts down coal, gas is picking up the load".

A woman in PPE says, "It's 50% cleaner, so together with renewables it gets emissions down."

Another man says, "And the more supply there is, the less it costs".

The first man says, "It'll help keep Australia running as we transition to a cleaner future".

A blue flame appears on screen with the words, "Natural gas keeping the country running".

THE COMPLAINT

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

The advert says that natural gas 'is 50% greener'. But a) it doesn't say what it is greener than. And B) the basis of this claim is not clear. It is a blanket and misleading statement that has is 'green' when in truth the exploration and extraction and transport and processing and logistics of gas are very damaging to the environment and emit a lot of greenhouse gas - especially methane. I think this advert is a version of greenwashing. Yes, gas is scientifically slightly less bad than some old coal and oil energy sources, but a lot of assumptions are baked into that and to just say '50% greener' is unacceptable

The advert states "it's 50% cleaner" but does not state what Australian natural gas is 50% cleaner than.

THE ADVERTISER'S RESPONSE

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

The Australian Petroleum Production and Exploration Association (APPEA) is the peak national body representing Australia's upstream oil and gas industry. The Association has more than 60 full member companies that explore for and produce Australia's oil and gas resources. In addition, APPEA also represents more than 140 associate member companies that provide a wide range of goods and services to industry. APPEA and its members are committed to net zero emissions by 2050 and are investing in practical actions and initiatives to deliver emissions reductions.

APPEA recently launched a public awareness campaign that highlights the important role of natural gas in Australia. The national campaign highlights the many roles natural gas plays in society – creating products critical to everyday life, delivering substantial economic benefits, supporting tens of thousands of jobs and reducing emissions to help Australia reach net zero by 2050.

The complaint received by Ad Standards on 15 June 2023 (case reference number: 0119-23) refers to a family of television commercials that are currently on Free to Air TV. APPEA provided full substantiation to ClearAds for the claims in the commercials. The commercials received ClearAds review and classification:

1. APP045: ClearAds #GAT64PLA, Rated G, classification date 19 May 2023.
2. APP030: ClearAds # GAT65PLA, Rated G, classification date 19 May 2023.
3. APP031: ClearAds # GATJVPLA, Rated G, classification date 24 May 2023.

The ads contain visual representations of different industries that use gas in their operations: medical supplies, refrigerated trucks, vegetables growing in a large-scale glasshouse, a brewery, glassworks, brickworks. The ad features the voices and images of a woman and two men in industry personal protective equipment who describe the role of natural gas in keeping the country running.

As well as providing visual examples of how natural gas is used across Australia, the campaign centres on a number of substantiated claims, including the claim identified in the complaint: That gas is around 50% cleaner than coal for generating electricity.

Contrary to terms of the complaint:

- *it is clear from the broader context of the ads that the relevant comparison is between coal and gas with respect to the generation of electricity; and*
- *the language complained about relates specifically to that issue and would not be understood by an ordinary member of the public as a general statement about whether or not gas is 'green'.*

Like coal, gas is used to make electricity. Gas is much cleaner when combusted for energy generation – around 50% cleaner than coal. This statistic has multiple sources: the Independent Review into the Future Security of the National Electricity Market, Dr Alan Finkel AO (2017) and The Role of Gas in Today's Energy Transitions, International Energy Agency (2019).

We believe the ad complies with all relevant Advertising Codes, including the AANA Environmental Code.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Environmental Claims in Advertising and Marketing Code (the Environmental Code).

The Panel noted the complainants' concerns that the advertisement is misleading and the comparison being made is unclear.

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 statement “50% cleaner”.

The Panel considered that the advertisement was making the claim that electricity generated by gas is 50% cleaner than electricity generated by coal.

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.

Any comparative claim should be specific and make clear the basis for the comparison. Points of comparison, where appropriate, should reflect a body of evidence including recognised benchmarks or standards where appropriate.

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. The Panel considered that the claim “50% cleaner” was made directly after the statement, “as Australia shuts down coal, gas is picking up the load”. The

Panel considered that an assumption may be made that the gas is 50% cleaner than coal, but considered that this comparison is not specific nor does it make clear the basis for the comparison.

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 is 50% cleaner than coal in energy production.

The Panel considered that this claim is misleading as the claim is not specific and does not make clear to the target audience the basis for comparison.

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 Claim was misleading or deceptive and did breach Section 1 a) 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 Claim in the advertisement was not sufficiently specific and did not clearly outline the significance of the Claim.

Section 2 a) conclusion

The Panel determined that the advertisement did breach Section 2 a) of the Environmental Code.

3 a) Environmental Claims...shall be able to be substantiated and verifiable. Supporting information shall include sufficient detail to allow evaluation of a claim

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

“Advertisers and marketers should have a reasonable basis for making a claim and therefore should hold appropriate, balanced, comprehensive and credible evidence to substantiate all express and implied claims. Information to support a claim may include, but is not limited to, documentary evidence or data evidencing conformity with an identified standard, research, studies, or an expert independent audit. There is no requirement to use third party verification or certification before an environmental claim is made. An advertiser’s own internal procedures may be able to provide the necessary substantiation.

In testing the validity of any claim the Community Panel will only rely on information/material provided by the advertiser and the complainant. The Community Panel may seek expert advice to assist in the consideration of material provided in relation to the complaint. It is not the intent for the Community Panel to act as an arbiter of scientific fact, or of philosophical approaches to understanding or addressing environmental concerns.”

The Panel noted that the advertiser is not required to provide substantiation of its claim within the advertisement itself, however best practice would be to refer to this information, perhaps at the bottom of the screen so that members of the public are able to understand the basis of the claim.

The Panel noted that the advertiser had provided substantiation for its claim in the form of two reports.

The Panel noted that the ‘Independent Review into the Future Security of the National Electricity Market’ by Dr Alan Finkel AO (2017) on page 109 states:

“The best gas-fired generation is less than half as emissions intensive than even the most efficient coal-fired plant, including ultra-super-critical coal generation, which is referred to as high efficiency, low emissions (HELE) generation.”

The Panel noted that ‘The Role of Gas in Today's Energy Transitions’, by the International Energy Agency states:

“While there is a wide variation across different sources of coal and gas, an estimated 98% of gas consumed today has a lower lifecycle emissions intensity than coal when used for power or heat. This analysis takes into account both CO₂ and methane emissions and shows that, on average, coal-to-gas switching reduces emissions by 50% when producing electricity”.

The minority of the Panel considered that the advertiser was able to provide substantiation of the claim in the form of two reports, which both contain statements similar to those made in the advertisement.

The majority of the Panel considered that the first source does not provide any information or sources showing how this figure was reached, or any qualifications stating what kinds of gas vs coal plants this applies to. The Panel also considered that the second source used qualifiers such as, “on average” and specifies “CO₂ and methane emissions”. The Panel considered that the content of this advertisement failed to qualify that this amount is an average and specify what is meant by ‘cleaner’.

The Panel considered that the ‘50% cleaner’ claim was not clearly stated in either report with supporting evidence and without the use of qualifiers, and as such the advertiser had not provided supporting evidence with sufficient detail to allow the evaluation of the claim. The Panel considered that the substantiation provided by the advertiser is not definitively adequate.

Section 3 a) conclusion

The Panel determined that the advertisement did breach Section 3 a) of the Environmental Code.

Conclusion

Finding that the advertisement breached Sections 1a), 2a) and 3a) of the Environmental Code the Panel upheld the complaints.

THE ADVERTISER’S RESPONSE TO DETERMINATION

APPEA acknowledges the Ad Standards Community Panel decision and appreciates the opportunity to provide an Advertisers Response.

Natural gas has never been more important in our energy mix, in our economy and in supporting greenhouse gas emissions reductions consistent with net zero goals. The Keeping the Country Running public awareness campaign seeks to explain how gas is ensuring reliable and essential energy for millions of Australian households and businesses while supporting the transition to a cleaner energy for millions of Australian households and businesses while supporting the transition to a cleaner energy future.

APPEA considers that the advertising was clear and factual. Taken in the context of the Keeping the Country Running advertisement as a whole, the statement complained of is a representation that electricity generation using gas is 50% cleaner than using coal in terms of greenhouse gas emissions. The advertisement states:

"And who is one of Australia's main sources for generating electricity? It keeps the lights on. We are, they all run on Australian natural gas. As Australia shuts down coal, gas is picking up the load. It's 50% cleaner so together with renewables it gets emissions down."

The statement is supported by robust international and Australian research:

- International Energy Agency: As an autonomous intergovernmental organisation, the International Energy Agency (IEA) is the leading global voice on energy policies for a secure and sustainable future. Australia became a member of the IEA in 1979.

According to the IEA the lifecycle emissions of natural gas are, on average, 50% lower than coal in power generation:

While there is a wide variation across different sources of coal and gas, an estimated 98% of gas consumed today has a lower lifecycle emissions intensity than coal when used for power or heat. This analysis takes into account both CO₂ and methane emissions and shows that, on average, coal-to-gas switching reduces emissions by 50% when producing electricity and by 33% when providing heat [1]

- United States Energy Information Administration (EIA): The EIA is the US government agency that collects, analyses, and disseminates independent and impartial energy information. EIA research shows that gas produces 57 percent lower CO₂ emissions than coal:

When generating electricity, coal emits significantly more CO₂ than natural gas. In 2019, coal-fired generation produced 2,257 pounds of CO₂ per megawatt-hour (MWh) of electricity. Natural gas-fired generation produced less than half that amount at 976 pounds of CO₂/MWh [2]

-United States Department of Energy (DOE): The US Department of Energy's National Technology Energy Laboratory provides detailed technical comparisons of the emissions performance of natural gas and bituminous coal in electricity generation, finding that gas emits 50 to 60 percent less CO₂ (and substantially fewer sulphur oxide (SO_x), nitrogen oxide (NO_x) and particulate matter (PM) emissions) when combusted in a combined cycle gas turbine (CCGT) compared with emissions from a typical new coal plant [3]

- Independent Review into the Future Security of the National Electricity Market (Finkel Review): The Independent Review was Chaired by Dr Alan Finkel AO, Australia's Chief Scientist, and confirmed that "gas contributes to emissions reductions" in electricity generation and that, on a like-for-like basis:

"The best gas fired generation is less than half as emissions intensive than even the most efficient coal-fired plant" [4]

In public commentary re-affirming his findings in the Independent Review, Dr Finkel pointed to a peer reviewed meta-analysis published in the Proceedings of the National Academy of Sciences (PNAS) which found:

“per unit electrical output, the central tendency of current estimates of [greenhouse gas] emissions from shale gas-generated electricity indicates life cycle emissions less than half those from coal and roughly equivalent to those from conventional natural gas.” [5]

For the reasons outlined above, APPEA does not agree with the Community Panel’s findings. However, we acknowledge the decision and have taken immediate steps to modify the advertisement and other campaign collateral to ensure that the general public can substantiate the messages presented in the Keeping the Country Running campaign. Circulation of the advertisement containing the 50% cleaner message has been paused until the modified version is available. Updated advertising material also invites the audience to visit the www.futureofgas.com.au website for more detailed information.

[1] International Energy Agency (2019) The Role of Gas in Today’s Energy Transitions, p4,8 <https://www.iea.org/reports/therole-of-gas-in-todays-energy-transitions>

[2] United States Energy Information Administration (2021), Electric power sector CO2 emissions drop as generation mix shifts from coal to natural gas, www.eia.gov/todayinenergy/detail.php?id=48296

[3] United States Department of Energy National Energy Technology Laboratory (2019) Cost and Performance Baseline for Fossil Energy Plants Volume 1: Bituminous Coal and Natural Gas to Electricity, Revision 2, p7 www.netl.doe.gov/projects/files/CostAndPerformanceBaselineForFossilEnergyPlantsVol1BitumCoalAndNGtoElectBBRRev41_092419.pdf

[4] Finkel et al (2017), Independent Review into the Future Security of the National Electricity Market: Blueprint for the Future, p109 www.energy.gov.au/sites/default/files/independent-review-future-nem-blueprint-for-the-future-2017.pdf

[5] Heath et al (2014), Harmonization of initial estimates of shale gas life cycle greenhouse gas emissions for electric power generation, www.pnas.org/doi/epdf/10.1073/pnas.1309334111