



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0180-22
2. Advertiser :	Australian Gas Networks
3. Product :	Other
4. Type of Advertisement/Media :	Internet
5. Date of Determination	24-Aug-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

This advertisement is a sponsored article or advertorial dated 6 July 2022 appearing on theage.com.au with the headline "An orange flame will be the signal you're cooking with (renewable) gas".

THE COMPLAINT

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

- 1. We act for the Australian Conservation Foundation (ACF). The ACF is Australia's national environmental organisation with over 700,000 supporters.*
- 2. We are writing on their behalf to ask that you investigate the advertorial/ advertisement by Australian Gas Networks Limited (ACN 078 551 685) (AGN) in the Age on 6 July 2020. The advertorial is in breach of the Environmental Claims Code under the AANA Self-regulatory system. Details of the representations made in the advertisement are set out at Annexure A to this complaint.*
- 3. ACF are concerned that the representations in the advertorial are misleading or deceptive for stating that:
(1) Hydrogen is renewable and assists in the transition to net zero emissions and "decarbonising" when not all forms of hydrogen are renewable, and hydrogen produced with hydrocarbon gas produces greenhouse gas emissions;*



(2) Hydrogen blended with hydrocarbon gas is renewable when there is not clear information in the advertorial about whether hydrogen blended with gas is renewable and what proportion of the product is renewable.

Misleading or deceptive conduct under Environmental Claims Code

4. 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. We have outlined below how we believe these advertorials breach these provisions of the Code.

5. The advertorial is misleading in breach of Clause 1 of the Code because of the general impression that hydrogen is renewable, and the failure to explain that most of the product currently being developed is not “renewable” hydrogen because it is being produced by blending with hydrocarbon gas. This raises the issue of whether the conduct viewed as a whole tends to lead a person into error. [1] There is also very little by way of qualification or disclaimers to ensure that any misleading information is corrected or appropriately qualified. Overall, the advertisements overstate that gas is renewable to ensure that the public is of the impression that “renewable” gas is a green and climate friendly product, even though hydrogen made with fossil fuels is not renewable. This breach relates to Clause 2 of the Code. The claims are like earlier advertisements which Ads Standards found misleading in relation to gas being “cleaner and greener” than other energy sources.[2] Similar claims around net zero gas in New Zealand have also been found by the equivalent NZ Advertising Standards Board to be misleading [3] The NZ advertisements suggested consumers could continue using gas without adding carbon, a very similar imputation to the representations made here.

What is renewable?

6. A key to these issues is the definition of renewable. The Australian Renewable Energy Authority’s definition of renewable energy is “energy produced using natural resources that are constantly replaced and never run out”. [4] It follows that hydrogen produced by natural gas or other fossil fuels are not renewable energy sources. Hydrogen produced using wind or solar that are constantly replaced is appropriately classified as renewable energy.

7. In this case, the representations around “renewable gas” do not contain a disclaimer that natural gas is not renewable and clarify exactly in what circumstances hydrogen can be classified as renewable. This is concerning as AGN is seeking to overstate the benefits of hydrogen gas to ensure that the product is seen as more



climate friendly than it is. These types of advertisements could genuinely harm competitors who are providing renewable energy, such as solar, hydro or wind power or green hydrogen and involve minimal greenhouse gas emissions.

Representation 1- Not all hydrogen is renewable and has zero carbon emissions

8. The advertorial as stated above makes broad claims that suggest hydrogen is renewable and fail to make any disclaimers around the use of the term. Hydrogen can be produced from renewable sources such as solar or wind, as well as non-renewable sources such as coal and natural gas. Hydrogen produced from renewable sources does not produce greenhouse gas emissions, but hydrogen produced with hydrocarbon gas, even when used in conjunction with carbon capture and storage technology, produces more greenhouse gases than natural gas or coal.[5]

9. These types of representations are important given the latest scientific information about the impact of fossil fuels including gas on global warming. The Intergovernmental Panel on Climate Change (IPCC) has found that emissions from fossil fuels are the dominant cause of global warming. The IPCC has warned that fossil fuel emissions must decline by 45% from 2010 levels by 2030 if global warming is to be limited to 1.5 degrees.[6] Warming above 1.5 degrees risks further sea level rise, extreme weather, biodiversity loss and species extinction, as well as food scarcity, worsening health and poverty for millions of people worldwide. [7]

10. The advertorial uses the term “decarbonising natural gas through renewable hydrogen’ to cause confusion for consumers. There is no qualification that not all methods of producing hydrogen, including through using an electrolyser from water, are renewable and contain no greenhouse gas emissions. This is important because it gives the overall impression to consumer that all hydrogen contains no carbon emissions. Most users will not be familiar with how hydrogen is made and could be confused about the representations after reading the website. This is important as many consumers want to use products that they believe are “renewable” or low in emissions and could be misled by such broad claims that are not qualified. By referring to current programs using blended gas, is also confusing, as these products are not currently made solely with renewable energy.

Representation 2- hydrogen blended with gas is not renewable

11. The advertorial discusses a current program to provide “renewable gas” in South Australia. There could be considerable confusion as to representations about blended gas. It is not made clear that blended gas only contains a small proportion of renewal gas in its current form. The product will generate significant greenhouse emissions given only 5% of the product comes from renewable sources. The advertorial doesn’t discuss that the current blending situation uses only a small proportion of renewal gas and focuses on the future situation without making it clear the transition time to the use of gas produced with completely renewable resources and risks around the conversion process. This will encourage gas users to keep using gas in the meantime without considering the impact on emissions in the short term.



12. The advertorial also does not discuss the limitations of using gas blended with hydrogen in existing gas networks. A recent study by International Renewable Energy Agency (IRENA) found that while blending can be an option to use existing gas infrastructure it faces multiple challenge,[13] The benefits of blending in terms of reduced CO2 emissions is small, it increases gas prices, is only at pilot project scale and is not an option that is readily available. Based on this reasoning, blending is not included in their analysis of viable options as the challenges outweighed the benefits.[14]

1 *Campbell v Backoffice Investments Pty Ltd (2009) 238 CLR 304, 319- French CJ.*

2 *Ad Standards, Case Report, 0202-20*

3 <https://www.lawyersforclimateaction.nz/news-events/firstgas-decision>

4 *Arena -what is renewable energy- <<https://arena.gov.au/what-is-renewable-energy/> accessed 16/6/2022>*

5 *Robert W Howarth & Mark Z Jacobsen, "How green is blue hydrogen", (2021) Energy Science & Engineering 1:Thomas Longden et al, "Clean hydrogen- comparing the emissions and costs of fossil fuels versus renewable electricity-based hydrogen" (2022) 306 Applied Energy 1*

6 *IPCC, Special Report: Global Warming of 1.5 degrees -Summary for Policymakers-C.1 <https://www.ipcc.ch/sr15/chapter/spm/>*

7 *IPCC, Special Report: Global Warming of 1.5 degrees -Summary for Policymakers- <https://www.ipcc.ch/sr15/chapter/spm/>*

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 Australian Gas Networks Limited (AGN) of the Complaint and providing the opportunity to respond.

AGN acknowledges and appreciates the important role of the AANA Code of Ethics for Advertising and Marketing (Code) and the AANA Environmental Claims Code (Environmental Code) in both ensuring rigorous standards are met by advertisers, and in increasing consumer confidence for the benefit of the environment, consumers and industry.

AGN therefore endeavours at all times to ensure the guidelines set out in the Codes are followed.

A. Description of the Advertisement

1. *The Complaint relates to an advertorial published online on The Age website on 6 June 2022 (the Advertorial).*



2. *The Advertorial features an interview with Kristin Ramen (Acting Executive General Manager of People and Strategy at AGIG) and refers to AGN's current and planned future changes to the natural gas network so as to replace natural gas with 100% renewable gas by 2050.*

3. *For reference we attach a PDF copy of the Advertorial as published on The Age website on 6 July 2022.*

4. *The Advertorial only appeared online, and was accessed via The Age website.*

5. *The Advertorial was produced with the assistance of the Australian Financial Review.*

B. Summary of AGN's Response

6. *The complainant has raised a number of concerns about the Advertorial, as detailed in the complaint.*

7. *In brief, the complainant asserts that the Advertorial gives the general impression that both hydrogen, and hydrogen blended with hydrocarbon gas, are renewable, without appropriately qualifying that not all forms of hydrogen are renewable, or providing sufficient information as to the proportion of renewable product present in blended gas.*

8. *AGN's detailed response to the Complaint is set out below, including responses to each of the matters raised by the Complainant, as well as comments on the other parts of the Code to which the Community Panel may have regard.*

9. *In summary, AGN's position is that:*

9.1. *AGN agrees that not all types of hydrogen are renewable, but says that the Advertorial does not either expressly or impliedly suggest that they are;*

9.2. *Rather, the Advertorial distinguishes between renewable and non-renewable types of hydrogen, and explains AGN's plans to decarbonise its own network through using renewable hydrogen, with its goal being to transition to 100% renewable gas (using renewable hydrogen and biogas) by 2050;*

9.3. *As for blended gas (i.e. a blend of renewable hydrogen with natural gas), the Advertorial does not represent that the blended gas currently supplied in some locations by AGN's network is renewable, nor that blended hydrocarbon gas is renewable, nor that the transition to 100% renewable gas is imminent;*

9.4. *The Advertorial appropriately conveys to consumers that the use of blended gas is intended as a temporary means of partially reducing emissions prior to the transition to 100% renewable gas in 2050.*



C. AGN's Detailed Response to Complaint

The Alleged Representations

10. *In paragraph 3 of the Complaint the complainant alleges that the Advertorial is misleading and deceptive "for stating" that:*

1. *"Hydrogen is renewable and assists in the transition to net zero emissions and 'decarbonising'" when not all forms of hydrogen are renewable, and hydrogen produced with hydrocarbon gas produces greenhouse gas emissions;*

2. *"Hydrogen blended with hydrocarbon gas is renewable" when there is not clear information in the Advertorial about whether hydrogen blended with gas is renewable and what proportion of the product is renewable, (the Alleged Representations).*

11. *At the outset, AGN notes that the Advertorial does not contain the statements quoted in the Alleged Representations.*

12. *Instead, AGN understands that the complainant is concerned that the Advertorial gives rise to a general or overall impression of the Alleged Representation, as described in paragraphs 5 to 12 of the Complaint,.*

13. *AGN therefore responds to the Complaint on this basis, noting that the Complainant has not pointed to any particular sentence of the Advertorial which contains an error of fact.*

AGN Comments on the Overall Impression of the Advertorial

14. *By way of background, there are various types of hydrogen that can be produced. In simple terms, the method used to produce the hydrogen (specifically the type of energy used to produce the hydrogen) will determine whether that hydrogen is renewable or not.*

15. *The Advertorial makes it clear from the outset that it is concerned with renewable hydrogen (that is, hydrogen produced using renewable energy) rather than all types of hydrogen. The Advertorial makes no representations about hydrogen more broadly. This is apparent from the use of the term "renewable hydrogen" or "clean hydrogen" throughout the Advertorial.*

16. *The Advertorial also makes it clear that the term 'renewable gas' is a reference to a blend of gas incorporating renewable hydrogen with other renewable gas such as biomethane. At the beginning of the Advertorial it is stated:*

"Renewable gas is not just a new name, but a new gas including renewable hydrogen and biomethane that will be delivered by the current gas network."

17. *Importantly, the Advertorial conveys that there is to be a transition to the use of renewable gas in AGN's networks. The Advertorial discusses a forward looking plan*



where the transition from the current carbon emitting natural gas supply to green hydrogen will take place over a number of years through the use of blended hydrocarbon gas, where the proportion of renewable gas will be incrementally increased. The forward looking nature of the Advertorial is emphasised by the discussion of the ground breaking work being undertaken by UK gas network SGN, which uses 100% green hydrogen in the pilot known as H100 Fife.

18. Therefore the overall impression of the Advertorial is that AGN plans to decarbonise its own network in the future through the use of greener, renewable gas, involving the use of renewable hydrogen.

19. As to the accuracy of that overall impression, AGN notes its plan to implement a board endorsed low carbon strategy to convert its natural gas distribution networks to renewable gas. We are targeting a 10% blend of renewable hydrogen in our gas distribution networks by 2030, moving to a full conversion to renewable hydrogen by 2050 at the latest.

20. This plan is consistent with:

20.1. Australian State, Territory and Federal ambitions which collectively target net zero carbon emissions by 2050; and

20.2. The Australian Government's "National Hydrogen Strategy" and South Australia's Hydrogen Action Plan, which treat the development of the green hydrogen industry as an essential aspect of the energy transition.

Comparison with Earlier Decisions

21. The complainant draws a comparison between this matter and case report number 0202-20, in which a complaint about a previous AGN advertisement was upheld. In that matter the Community Panel was satisfied that the advertisement conveyed that natural gas was a cleaner source of energy than any other sources of energy that may be used for cooking.

22. The advertisement in that case is distinguishable from the Advertorial now under consideration. The Advertorial is focused on the ways that AGN is working to make natural gas cleaner, as opposed to making any representations as to the environmental benefits of natural gas as compared to other forms of energy.

23. Similarly, the complainant's comparison to the complaint upheld by the ASA Complaints Board (New Zealand) in complaint number 21/194 is misconceived. In that case (which of course applied the standards applicable in New Zealand), the ASA Complaints Board found that an advertisement conveyed the impression that a change to zero carbon gas was to happen "imminently" or in the "near future", when in fact that was not the case.



24. *By contrast, the Advertorial makes it abundantly clear that the transition to 100% renewable supply is still many years away, with the goal being 2050.*

D. *AGN Detailed Response regarding The Environmental Code*

25. *AGN now deals with each relevant section of the Environmental Code in turn.*

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;*

26. *Having regard to the above matters of overall impression, the Advertorial does not make the Alleged Representations, and is not misleading or deceptive, or likely to mislead or deceive, because:*

26.1. *Whilst not all hydrogen is produced using renewable methods (including the use of renewable energy), the Advertorial refers to the renewable kind of hydrogen, as identified both at the top of the Advertorial (“carbon-neutral renewable hydrogen gas”), and throughout, for example:*

“Renewable gas is not just a new name, but a new gas including renewable hydrogen and biomethane that will be delivered by the current gas network.”

“...decarbonising natural gas through renewable hydrogen...”

26.2. *Other references to hydrogen throughout the Advertorial are also preceded with qualifying descriptors similar to the above, including “renewable gas”, “renewable hydrogen”, “clean hydrogen gas”, “decarbonisation renewable gas”, and “green hydrogen”;*

26.3. *Conversely, no statements are made about hydrogen more generally being renewable;*

26.4. *Insofar as the Advertorial refers to the use of renewable hydrogen by AGN, that is factually correct, in that the hydrogen used in our projects and our networks is created using solar and wind energy;*

26.5. *Insofar as the Advertorial refers to AGN’s transition to renewable gas, that is also factually correct. As set out above, AGN is implementing a board endorsed low carbon strategy to convert its natural gas networks to renewable gas. AGN has already started to trial implementation of these changes in its South Australian network, and has similar projects in advanced planning stages in Queensland and Victoria.*

26.6. *Indeed, the purpose and overall impression of the Advertorial (as discussed above) is to explain AGN’s (and the broader Australian Gas Infrastructure Group’s)*



plans regarding this transition. The Advertorial is intended to generate interest and further research about the pathway we have commenced in order to meet our net zero carbon emissions target.

26.7. As to the blended hydrocarbon gas, the Advertorial clearly distinguishes between “renewable hydrogen” and blended hydrocarbon gas, which is intended as a temporary means of partially reducing emissions as the industry transitions to 100% renewable gas. AGN does not state nor imply in the Advertorial that renewable gas blended with natural gas is a renewable product.

26.8. The Advertorial clearly communicates that renewable gas (being renewable hydrogen and/or biomethane) is not currently in use. This is conveyed by the statement that: “Our commitment to safety underpins everything we do, and we must be satisfied that our renewable gas demonstration projects are safe before first production.”

26.9. AGN disagrees that consumers could be confused as to the amount of renewable gas currently within its networks.

26.10. The Advertorial states that in South Australia, AGN is already blending renewable hydrogen into the natural gas supply. It is apparent from the surrounding discussion (including for example comments to the effect that changes to appliances will be needed once the amount of hydrogen increases to 10 or 20%) that the current blend includes lower than 10% renewable hydrogen.

26.11. The discussion of AGN’s decarbonisation project goal of 2050 also conveys to the consumer that AGN is some significant time away from supplying 100% renewable gas to households. In discussing the other work undertaken by UK gas network SGN, the Advertorial suggests that the work undertaken in the UK is groundbreaking, and something which AGN is looking at and working towards in the future, rather than implementing either now or imminently.

26.12. As to the suitability of existing gas networks to supply natural gas blended with renewable hydrogen, the Article is correct in stating that the majority of AGN’s networks are predominantly polyethylene, which is compatible with renewable gas. The Advertorial also conveys to the consumer that there is more work to be done, in order to safely transition to 100% renewable gas by 2050.

26.13. As such, the Advertorial does not either expressly or impliedly suggest that hydrogen blended with hydrocarbon gas is renewable, or that 100% renewable gas is presently being supplied, or will be supplied in the near future.

b) shall display any disclaimers or important limitations and qualifications prominently, in clear, plain and specific language



27. *Insofar as there is reference to natural gas in the Advertorial, no disclaimer, limitation or qualification is required because there is no claim, statement or other implication to the effect that natural gas is renewable.*

28. *Similarly as to hydrogen, no disclaimer, limitation or qualification is required because there is no claim, statement, or other implication to the effect that all hydrogen is renewable.*

29. *Indeed, as discussed in paragraph 27 above, the Advertorial refers in clear language to renewable hydrogen, identified at the top of the article (“carbon-neutral renewable hydrogen gas”), and throughout by:*

29.1. *clearly describing what is meant by renewable hydrogen;*

29.2. *using qualifying descriptors when discussing renewable hydrogen (as opposed to hydrogen generally or natural gas); and*

29.3. *making direct distinctions between renewable hydrogen and hydrogen generally, natural gas and blended hydrogen.*

30. *Finally, insofar as the Advertorial deals with a blend of renewable hydrogen and natural gas, no disclaimer, limitation or qualification is required because, as discussed in paragraph 26 above, there is no claim, statement or other implication to the effect that the blend of renewable hydrogen and natural gas is renewable, nor to the effect that there is presently a high proportion of renewable hydrogen blended with natural gas delivered by AGN’s networks.*

31. *The Advertorial’s message is to promote renewable gas (such as renewable hydrogen or <https://arena.gov.au/renewable-energy/hydrogen/> or ‘green hydrogen’) and to demonstrate how AGN is working to ensure there is more of it. This renewable gas future is widely accepted and endorsed at all levels of government in Australia as well as internationally. The Advertorial shows consumers that AGN has factored renewable gas into its own future and is planning for decarbonisation, but importantly does not suggest that such decarbonisation has already taken place, such that a disclaimer would be required.*

32. *We note the complainant’s reference to the case of Singtel Optus Pty Ltd v ACCC [2012] FCAFC 20. That case concerned the advertising of broadband internet plans, in which Singtel Optus failed to make disclosures as to the level of service to be provided for the advertised fee. That is entirely different to the Advertorial presently being considered by the Community Panel. What is complained of here are alleged representations about the renewable nature of gas, as opposed to the terms and conditions applicable when obtaining an advertised product.*

33. *For the above reasons we consider the advertisement is compliant with this requirement of the Code.*



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.

34. The Advertorial does not make any representations about the environmental benefits of natural gas supply. Rather the intent of the Advertorial is to make consumers aware of the renewable gas future we are planning for the existing gas network. Insofar as the Advertorial suggests there are environmental benefits from the use of renewable gas, that is represented in a straightforward and understandable way.

35. Renewable gas is a green and an environmentally friendly product (as the complainant has identified in Section 6 of the Complaint). The renewable hydrogen gas that AGN uses or plans to use in our projects is produced using electricity from solar and wind, and can therefore fairly be expressed and understood by consumers to be a greener option than pure natural gas.

36. We consider that the advertisement is compliant with this requirement of the Code.

Section 2. Genuine Benefit to the Environment.

Environmental Claims must:

a) be relevant, specific and clearly explain the significance of the claim;

37. As discussed above, the intention of the Advertorial is to highlight the planned transition to renewable gas, which will begin (and in South Australia has already begun) with the blending of gas supplied by AGN's natural gas distribution networks.

38. This transition has and will have a genuine environmental benefit and is consistent with both State and Federal government plans to develop the renewable hydrogen industry as a key aspect of the decarbonisation journey.

39. Accordingly, we consider that the advertisement is compliant with this section of the Code.

b) not overstate the claim expressly or by implication;

40. The Advertorial does not overstate, either expressly or by implication, the current amount of renewable gas being used in its networks, nor the speed with which the transition to 100% renewable gas will occur.

41. Rather the Advertorial conveys that the transition will involve a relatively slow process (completed by 2050 at the latest), where cutting edge technologies currently being piloted overseas will be applied, and in circumstances where the transition will be underpinned by AGN's commitment to safety.



42. *Nor does the Advertorial overstate, either expressly or by implication, the significance of the work that is being carried out to ensure a transition to 100% renewable gas. As explained above, the transition is supported by the Federal and State governments, including through government funded projects which are already underway to facilitate the transition from natural gas to renewable gas.*

43. *Finally, AGN does not overstate the work currently being done to ensure a transition to 100% renewable gas in the future. AGN is currently implementing a board endorsed strategy with renewable gas blending already commenced in a demonstration project in South Australia, and two other projects in the advanced stages of planning.*

44. *Like electricity, which has been moving towards more renewable energy for over 20 years, the transition to renewable gas will take time and AGN's customers are aware of this.*

45. *We believe that the advertisement is compliant with this section of the Code.*

c) *not imply that a product or service is more socially acceptable on the whole.*

46. *The Advertorial refers to AGN's plan for the natural gas in its gas networks to transition to a cleaner fuel (renewable gas) in the future. This may suggest that renewable gas is more socially acceptable (if people are seeking cleaner fuels), however that statement is factually accurate.*

47. *The Advertorial does not suggest that alternative energy options are not socially acceptable.*

48. *We consider that the advertisement is compliant with this section of the Code.*

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;*

49. *To the extent that there are any Environmental Claims in the Advertorial concerning AGN's transition to 100% renewable gas, or as to the 'greener' nature of renewable gas as compared with natural gas, these claims can be substantiated and verified by:*

49.1. *the renewable hydrogen projects currently being undertaken by both AGN (and the Australian Gas Infrastructure Group more broadly) and other organisations in the energy industry;*



49.2. *AGN's board endorsed low carbon strategy which provides us with a roadmap to reach 100% renewable hydrogen in our distribution networks;*

49.3. *the State and Federal government funding that has been and is being made available in support of the transition to decarbonisation and cleaner fuels for gas consumers; and*

49.4. *the State and Federal Government strategies released in recent years with respect to renewable hydrogen, such as the Commonwealth Government National Hydrogen Strategy and the South Australian Government's Hydrogen Action Plan.*

50. *All of the above supports the notion that renewable gas is a real commodity, when blended with natural gas creates a cleaner fuel than natural gas on its own, is supported by government, and that AGN's plans are not only well developed, but are being implemented.*

b) *shall meet any applicable standards that apply to the benefit or advantage claimed;*

51. *AGN does not consider that the Advertorial is subject to additional applicable standards regarding the benefit claimed.*

c) *containing testimonials shall reflect the genuine, informed and current opinion of the person giving the testimonial.*

52. *The Advertorial is compliant with this section of the Environmental Code as no testimonials from consumers are present in the Advertorial.*

E. *AANA Code of Ethics for Advertising and Marketing*

53. *AGN addresses below Section 2 of the Code, which relates to Consumer Complaints.*

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.

53.1. *The Advertorial does not breach this section of the Code as it does not depict material that discriminates or vilifies a person or section of the community as identified in section 2.1*

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.



53.2. The Advertorial does not breach this section of the Code as it does not employ sexual appeal against Minors or in a manner that is exploitative or degrading to any individual or group of people as identified in 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.

53.3. The Advertorial does not breach this section of the Code as it does not present or portray violence as identified in section 2.3.

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

53.4. The Advertorial does not breach this section of the Code as there is no sex, sexuality or nudity present.

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.

53.5. The Advertorial does not breach this section of the Code as there is no strong or obscene language used.

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

53.6. The Advertorial does not breach this section of the Code as it does not depict material contrary to Prevailing Community Standards on health and safety.

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

53.7. The Advertorial does not breach this section of the Code as our advert is clearly distinguishable to its relevant audience.

We trust the above response addresses any concerns regarding the Advertorial and provides the Community Panel with sufficient information for their review. However, 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 by stating that hydrogen is renewable and that in particular hydrogen blended with hydrocarbon gas is renewable.

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 includes the following statements:

- Sooner than you expect...you're using carbon-neutral renewable hydrogen gas, whose only by-product is pure water.
- ...our gas networks are shifting towards a greener approach
- The company is aiming for 100 per cent renewable supply...by 2050 at the latest
- Renewable gas...a new gas including renewable hydrogen and biomethane
- Other types of renewable gas, such as biomethane, will appear just like natural gas is today
- In South Australia we are already blending renewable hydrogen into the natural gas supply
- Renewable gas will allow...homes and business to continue to enjoy the reliable, lowest cost decarbonisation renewable gas in their home.

The Panel considered that the advertisement contains the following Environmental Claims, that:

- The only by-product of hydrogen gas is water and therefore it is carbon-neutral
- The advertiser is aiming for 100 per cent renewable gas by 2050, which will consist of renewable hydrogen and biomethane.

1 a) Environmental Claims in Advertising or Marketing Communication shall not be misleading or deceptive or be likely to mislead or deceive



The Panel noted that the Practice Note for this section of the Environmental Code includes:

“It is not intended that legal tests be applied to determine whether advertisements are misleading or deceptive, or likely to mislead or deceive, in the areas of concern to this Code.

Instead, consideration will be given as to whether the average consumer in the target market would be likely to be misled or deceived by the material.

Factors to consider include:

An advertisement may be misleading or deceptive directly or by implication or through emphasis, comparisons, contrasts or omissions. It does not matter whether the advertisement actually misled anyone, or whether the advertiser intended to mislead – if the advertisement is likely to mislead or deceive there will be a breach of the Code.

Environmental claims relating to future matters or commitments should be based on reasonable grounds as at the time the claim was made, even if the future matter does not come to pass. The fact that a person may believe in a particular state of affairs does not necessarily mean that there are reasonable grounds for the belief.

The target market or likely audience of the advertising or marketing communication should be carefully considered when making environmental claims. Therefore all advertising should be clear, unambiguous and balanced, and the use of technical or scientific jargon carefully considered.”

The Panel noted the complainant’s concerns that the advertisement gives the general impression that hydrogen is renewable, which is misleading because the advertisement fails to communicate that the product currently being developed is not renewable as it is being produced by blending with hydrocarbon gas, and that hydrogen which is produced with fossil fuels is not renewable.

The Panel noted the advertiser’s response that the advertisement does not suggest that all forms of hydrogen are renewable, that the advertisement clearly distinguishes between renewable and non-renewable hydrogen and outlines its goal to transition to 100% renewable gas by 2050. The Panel noted the advertiser’s further response that the advertisement does not state that blended hydrocarbon gas is renewable.

The Panel noted that the advertisement does not mention that for the hydrogen to be renewable it will need to be produced with electricity sourced from renewable sources. The Panel also noted that the opening lines of the advertisement included the words ‘sooner than you think’ and ‘this is the decade’ which suggest a more imminent move to renewable gas (than by 2050). The Panel was concerned that the advertisement may have a greenwashing effect on some readers.



However, the Panel considered that the advertisement goes on to explain the timeframes for the plan, and that it must consider consumers who read the entire advertisement, who would not be led to believe that renewable gas would be available now, or in the near future.

The Panel also considered that the average consumer in the target market for this advertisement would understand renewable hydrogen to be a reference to hydrogen which has been produced using only renewable resources. The Panel considered that while the advertisement doesn't explain the difference between renewable hydrogen and hydrogen produced using electricity from non-renewable sources, the references to 'clean hydrogen' and 'renewable hydrogen' in the article are references to the advertiser's plan to move to hydrogen produced using renewable sources. The Panel considered that consumers would not be misled by the term 'renewable hydrogen' as it is used in this article.

Overall, the Panel considered that the advertisement would not mislead or deceive the target market into believing that all hydrogen gas is renewable or that renewable gas is currently in use.

1 a) conclusion

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

1 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 noted the complainant's concern that the advertisement does not make it clear that the current South Australian project uses only a small amount of renewable gas.



The Panel noted the advertiser's response that the advertisement does not represent that the blended gas currently supplied in some locations is renewable.

The Panel noted the advertisement states that "In South Australia we are already blending renewable hydrogen into the natural gas supply". The Panel considered that this statement does not suggest that the blended gas is renewable, only that a proportion of renewable hydrogen gas is used in the process. The Panel noted that the article previously stated that currently household appliances have only been tested with blends of up to 10 per cent hydrogen. The Panel considered that consumers who read the entire article would understand that the South Australian project would be using a blend which contained less than 10 per cent hydrogen.

The Panel also noted the complainant's concern that the advertisement does not discuss the limitations of using gas blended with hydrogen in existing gas networks.

The Panel noted the advertiser's response that the advertisement does not state that the transition to renewable gas is imminent.

The Panel considered that the advertisement does discuss some limitations in working towards 100% renewable gas, including that current household appliances would not work with that blend and that the advertiser is still working towards ensuring that the renewable gas demonstration projects are safe.

The Panel considered that the Environmental Claim represents the extent of the environmental benefit as being limited to currently small blends, and that a move to 100% renewable gas is not imminent, in a way which would be clearly 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 Sections 1a and 1c, the Panel considered that the Environmental Claims in the advertisement are relevant and specific and clearly outlines the specifics of the Claim.

Section 2 a) conclusion

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

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

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

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

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

Section 2 b) conclusion

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

Conclusion

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