



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
ACN 084 452 666

## Case Report

<b>1. Case Number :</b>	<b>0181-22</b>
<b>2. Advertiser :</b>	<b>Australian Gas Networks</b>
<b>3. Product :</b>	<b>Other</b>
<b>4. Type of Advertisement/Media :</b>	<b>Internet</b>
<b>5. Date of Determination</b>	<b>14-Sep-2022</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

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

### DESCRIPTION OF ADVERTISEMENT

This advertisement is the content of the landing page at <https://renewable-gas.com.au/>

### 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 whether statements made by Australian Gas Networks Limited (ACN 078 551 685) (AGN) on their website <https://renewable-gas.com.au/> are in breach of the Environmental Claims Code under the AANA Self-regulatory system. Similar claims are also made on their general website at [australiangasnetworks.com.au](http://australiangasnetworks.com.au). Details of the representations are set out at Annexure A to this complaint.*
- 3. ACF are concerned that the broad representations on the AGN website are misleading or deceptive for stating that:*



*(1) Hydrogen is renewable and has zero carbon emissions 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 on the website 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 advertisements breach these provisions of the Code.*

*5. The advertisements are 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 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 throughout the site 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 gas 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 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 advertisements as stated above make 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 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. Many of the key pages of the website refer to renewable gas and refer to hydrogen being renewable and have zero carbon emissions. The difficulty with the layout of the website is that unqualified statements are located on the most prominent parts of the website which refer broadly to renewable gas, and statements that clarify the type of hydrogen being used are not prominent. It is only towards the end of the website that information is included that discusses only hydrogen using renewable sources such as solar or wind is produced with zero emissions. The lack of prominent disclaimers has been found by the Courts to be misleading and deceptive- see *Singtel Optus v ACCC*. [8]

11. The website also uses the terms hydrogen and renewable hydrogen interchangeably which may lead to some confusion for consumers. For example, the main statement on the website discusses renewable hydrogen, without clarifying what that is, and refers to hydrogen gas having “zero emissions.” There is a series of further questions that refer to “What is hydrogen?” and “Why renewable hydrogen.” The question notes “when burned as a fuel, it releases just heat and water, zero carbon emissions.” Under the heading “How it is made?” it states, “There are a number of ways to make it, but the hydrogen we plan to deliver to your home is produced by an electrolyser from water.”



12. 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.

*Representation 2- hydrogen blended with gas is not renewable*

13. The website then goes onto discuss the blended hydrogen gas currently available in South Australia. Under the heading “when will I get renewable gas?”, there is a statement “the first blended renewable gas delivered in the Adelaide natural gas network.” The website refers to “2025-10% at key locations” and then “100% renewable gas available in 2030 at new home sites” and “100% renewable gas across the entire network”. There could be considerable confusion as to representations about blended gas and how renewable they are, as while some of the quotes above include the proportion, it is not always made clear that blended gas only contains a small proportion of renewal gas in its current form and will contain a considerable number of emissions given only 5% of the product comes from renewable sources.

14. None of the material produced by AGN discusses 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/>*

8 *Singtel Optus Pty Ltd v ACCC [2012] FCAFC 20 where prominent advertisement related to unlimiteddownloads that were subject to major limitations that were not clearly disclosed except in fine print.*



## *ANNEXURE A – Renewable gas representations*

*Renewable gas- we are changing gas for good- <https://renewable-gas.com.au/>*

*The AGN linked website markets “renewable gas- we are changing gas for good”:  
Australians love natural gas. It’s a reliable, cost-effective energy for the appliances we use for cooking, heating and hot water. But we can’t use natural gas forever if we are serious about reducing our emissions.*

*Australia needs a new renewable solution for homes and businesses into the future- say hello to renewable gas.*

*The website states:*

*“Renewable gas has already started making its way into homes in South Australia in the form of renewable hydrogen blended with natural gas. Hydrogen gas provides all the great benefits of natural gas but has zero carbon emissions.*

*The AGN website <https://www.australiangasnetworks.com.au/> also contains a few statements about renewable gas as follows:*

*The future of Australian gas is renewable.*

*What is renewable gas?*

*Renewable and carbon-neutral gases such as hydrogen and biomethane can be used in the same way as natural gas is today, but do not result in additional carbon emissions to the atmosphere. By blending and ultimately replacing natural gas with renewable gas we can use our existing infrastructure to supply renewable gas to our customers.*

*The photograph used next to the picture suggests that “renewable gas” is produced using renewable energy (solar and wind), despite the mention of the blending with natural gas in the text.*

## **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 above complaint and for providing the opportunity to respond.*

*AGN acknowledges and appreciates the important role of the AANA Code of Ethics (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 both Codes.*

A. *Description of the Advertisement*



1 *The Complaint relates to statements published online on the website at the address <<https://renewable-gas.com.au>> (The Website).*

2 *The Website was created by AGN with support from several other businesses. It was created to raise awareness of renewable gas, and to highlight 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 a link to the Website below:*

*<https://renewable-gas.com.au/>*

4 *No advertising agency has been involved in producing or promoting the Website.*

#### *B. Summary of AGN's Response*

5 *In summary, the complainant asserts that the Website 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.*

6 *AGN's detailed response to each of the matters raised by the complainant is set out below, along with comments on the other parts of the Code to which the Community Panel may have regard.*

7 *In summary, AGN's position is as follows:*

7.1 *AGN agrees that not all types of hydrogen are renewable but says that the Website neither expressly nor impliedly suggests that they are;*

7.2 *To the contrary, the Website clearly describes the circumstances in which hydrogen can be considered renewable, and raises awareness of AGN's (and the plans of the other named businesses) to decarbonise the natural gas network through using renewable hydrogen, with its goal being to transition to 100% renewable gas (using renewable hydrogen) by 2050;*

7.3 *As for blended gas (i.e. a blend of renewable hydrogen with natural gas), the Website 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;*

7.4 *The Website 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 by 2050.*

#### *C. AGN's Detailed Response to Complaint*



### *The Alleged Representations*

8 *In paragraph 3 of the Complaint the complainant alleges that broad representations on the Website are misleading and deceptive for stating that:*

8.1 *“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;*

8.2 *“Hydrogen blended with hydrocarbon gas is renewable” when there is not clear information on the website about whether hydrogen blended with gas is renewable and what proportion of the product is renewable, (the Alleged Representations).*

9 *At the outset, AGN notes that the Website does not contain the statements as quoted by the complainant in paragraph 3 of the Complaint.*

10 *Instead, AGN understands that the complainant is concerned, as described in paragraphs 5 to 14 of the Complaint, that the Website gives rise to a general or overall impression of the Alleged Representations.*

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

### *AGN Comments on the Overall Impression of the Website*

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

13 *The Website explains, through an easy to understand description of what hydrogen is and how to produce it in a renewable way, that the innovations being discussed in the Website involve the use of renewable hydrogen (that is, hydrogen produced using renewable energy). While there are references to ‘hydrogen’, consumers are directed to a prominent description of what renewable hydrogen is.*

14 *Importantly, the Website conveys that there is to be a transition to the use of renewable gas in the natural gas networks. The Website 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 incrementally increase with the transition not ultimately complete until 2050.*



15 *Therefore the overall impression of the Website is that AGN and the other participants intend to decarbonise the network in the future through the use of greener, renewable gas, involving the use of renewable hydrogen.*

16 *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. This is consistent with:*

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

16.2 *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 Previous Decisions*

17 *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.*

18 *The advertisement in that case is distinguishable from the Website now under consideration. Importantly, the Website is focused on ways in which the gas industry 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.*

19 *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 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.*

20 *By contrast, the Website conveys to consumers that the transition to 100% renewable supply is still many years away, with the goal being 2050. The Website refers to a forward-looking plan implemented over a number of years to transition from the current carbon emitting natural gas supply to green hydrogen (for "2.1 million homes and businesses nationwide by 2050 at the latest").*

21 *Specific examples of how the Website defines "renewable hydrogen" and makes these distinctions between renewable and non-renewable products are provided below in the more detailed discussions in relation to each Representation.*





D. *AGN Detailed Response regarding the Environmental Code*

22 *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*

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

23.1 *Whilst not all hydrogen is produced using renewable methods (including the use of renewable energy), the Website refers to the renewable kind of hydrogen, and makes no representations about the renewable nature of hydrogen more broadly:*

(i) *The Website explains in a straightforward manner what hydrogen is, and then how it can be produced using renewable energy, such that it can be considered renewable hydrogen: "When produced using renewable energy, hydrogen gas is 100% clean, sustainable and renewable." (See "What is renewable gas?" page of Website).*

(ii) *The Website then describes how hydrogen can be produced using electrolysis and says "by using renewable energy (electricity generated from wind and solar) the electrolyser process is carbon free!". The diagram on page 6 of the Website headed "How is Hydrogen made?" shows the production of "renewable hydrogen".*

23.2 *Insofar as the Website suggests the use of renewable hydrogen by AGN, that is factually correct, in that the hydrogen that is produced by our projects and our networks is created using solar and wind energy.*

23.3 *Insofar as the Website refers to the industry'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, targeting a 10% blend of renewable hydrogen in our gas distribution networks by 2030, moving to a full conversion to renewable hydrogen by 2050. 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.*

23.4 *Indeed, the purpose and overall impression of the Website (as discussed above) is to explain the industry's plans regarding this transition. The Website is intended to generate interest and further research about the path that the industry has started to meet the target net zero carbon emissions.*

23.5 *As to blended hydrocarbon gas, the Website clearly distinguishes between "renewable hydrogen" and blended hydrocarbon gas, which is intended as a temporary means of partially reducing emissions prior to a transition to 100% renewable hydrogen.*



23.6 AGN disagrees that consumers could be confused as to the amount of renewable gas currently within its networks. There is an easy to understand page of the Website headed “When will I get renewable gas?” which explains the incremental transition. Page 7 of the Website sets out that currently a “5% renewable gas blend” is already being delivered in part of South Australia “with 10% renewable gas planned for other parts of the country” and an aim to transition to 100% renewable (hydrogen) gas by 2050.

23.7 The Website also explains, in the section headed “What does renewable gas mean for me?” that once the blend of renewable gas is over 10% some changes to appliances will be needed. This accurately conveys to consumers that there is not more than 10% renewable gas being presently delivered

23.8 As to the suitability of existing gas networks to supply natural gas blended with renewable hydrogen, the Website is correct in stating that “Renewable gas can be safely delivered through the existing gas network and for now, it won’t change how your appliances work”, as the large proportion of AGN’s networks are predominantly polyethylene, which is compatible with renewable gas, and in any event it is made clear that less than 10% renewable gas is presently being delivered. It is made clear in the Website that there is more work to be done, given the target for 100% renewable gas is 2050.

23.9 As such, the Website does not imply or suggest that hydrocarbon blended with hydrocarbon gas is renewable, nor that 100% renewable gas is presently being supplied, or will be supplied in the near future.

24 We therefore consider the Website is compliant with this requirement of the Code.

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

25 Insofar as there is reference to natural gas on the Website, no disclaimer, limitation or qualification is required because there is no claim, statement or other implication to the effect that natural gas is renewable.

26 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.

27 As discussed in paragraph 23 above, to the extent that the Website is discussing the current product provided to consumers via AGN’s networks the Website does make clear important limitations and qualifications prominently and in clear, plain and specific language:



27.1 clearly describing what is meant by renewable hydrogen and hydrogen more generally and explaining how renewable hydrogen is made;

27.2 linking to further detail on the second of only seven pages on the website (and which has been referred to in Annexure A of the complaint) where it is clearly stated: “when produced using renewable energy, hydrogen gas is 100% clean, sustainable and renewable”.

28 Finally, insofar as the Website deals with a blend of renewable hydrogen and natural gas, no disclaimer, limitation or qualification is required because, as discussed in paragraph 23 above, there is no claim, statement or other implication to the effect that there is presently a high proportion of renewable hydrogen blended with natural gas and delivered by AGN’s networks.

29 The Website’s message is to promote renewable gas (such as renewable 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 Website 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.

30 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 Website 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.

31 For the above reasons we consider that the Website 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.

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

33 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 and plans to use in our projects is produced using electricity from solar



*and wind, and can fairly be expressed and understood by consumers to be a greener option than pure natural gas.*

*34 Finally, AGN describes, on the Website home page (and with links to further detail), what hydrogen is. There is an easily accessible and prominent explanation about what a renewable form of hydrogen is.*

*35 We consider that the Website 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;*

*36 As discussed above, the intention of the Website 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.*

*37 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*

*38 Accordingly, we consider that the Website is compliant with this section of the Code.*

*b) not overstate the claim expressly or by implication;*

*39 The Website does not overstate, either expressly or by implication, the current amount of renewable hydrogen gas being used in its networks, nor the speed with which the transition to 100% renewable hydrogen gas is planned to occur.*

*40 Rather, the Website prominently sets out the current usage of renewable gas in the AGN network (5% in some parts of South Australia) and the intended timeline for the transition to 100% renewable gas by 2050 (see home page, heading "100% renewable gas by 2050").*

*41 The Website does not, either expressly or impliedly, overstate the benefits of hydrogen or make it seem more environmentally friendly than it is, as it is clear that the hydrogen gas referred to on the Website is produced in a renewable way by electrolysis powered by electricity generated from wind and solar.*

*42 Finally, AGN does not overstate the work currently being done to ensure a transition to 100% renewable gas in the future. As stated above 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.*



43 *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.*

44 *Accordingly, we believe that the Website is compliant with this section of the Code.*

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

45 *The Website refers to our plan for the natural gas in our gas networks to transition to a cleaner fuel (renewable gas) in the future. This may imply that renewable gas will be more socially acceptable (if people are seeking cleaner fuels), however that statement is factually accurate.*

46 *The Website does not suggest that alternative energy options are not socially acceptable.*

47 *We consider that the Website 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;*

48 *To the extent that there are any Environmental Claims on the Website concerning the 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:*

48.1 *the renewable hydrogen projects currently being undertaken by both AGN and other organisations in the energy industry;*

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

48.3 *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*

48.4 *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.*

49 *All of the above supports the notion that renewable gas is a real commodity which, 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.*



50 *As such, AGN considers that the Website is compliant with this section of the Code.*

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

51 *AGN does not consider that the Website 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 Website is compliant with this section of the Code of Practice as no testimonials are present on the Website.*

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

53 *We have also addressed Section 2 of the AANA Code of Ethics for Advertising and Marketing, 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 Website does not breach this section of the Advertiser Code of Ethics 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 Website 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 Website 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 Website 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 Website 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 Website 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 Website does not breach this section of the Code as it is clearly distinguishable to its relevant audience.*

*We trust the above response addresses any concerns regarding the Website 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:

- Renewable gas We’re changing gas, for good
- We’re changing gas for a better future
- Your home, powered by renewable gas - Renewable gas has already started making its way into homes in South Australia in the form of renewable hydrogen blended with natural gas. Renewable hydrogen gas provides all the great benefits of natural gas but has zero carbon emissions. So while we keep work on improving the supply, you can be comfortable that the only thing changing is the gas.
- Why renewable hydrogen? When burned as a fuel it releases just heat and water – zero carbon emissions. It’s safe and reliable to use and performs just like natural gas
- How is it made? There are a number of ways to make it, but the hydrogen we plan to deliver to your home is produced by an electrolyser from water.
- You don’t have to lift a finger – we’ve got this. Renewable gas can be safely delivered through the existing gas network and for now, it won’t change how your appliances work. As an industry, we’re decarbonising the gas sector and the best part is, you don’t need to do a thing except feel good about a renewable energy future!
- 100% renewable gas by 2050 - A 5% renewable gas blend is already being delivered in part of South Australia with 10% renewable gas planned for other parts of the country. Together, we aim to transition the entire gas network to run on renewable gas by 2050.
- By 2025 100% renewable gas available for selected new home estates
- By 2030 the whole network supplied with 10% renewable gas blend
- By 2050 the whole network supplied with 100% renewable gas.

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, with a 10% target by 2030
- Renewable gas can be safely delivered through the existing network for now.

**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, 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 landing page of the advertisement does not mention that for the hydrogen to be renewable it will need to be produced with electricity sourced from renewable sources, however this information is provided through the link ‘find out more’ under the ‘how is hydrogen made?’ section.

The Panel 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 contain a disclaimer that natural gas is not renewable and clarify what circumstances hydrogen gas can be classified as renewable.

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 considered that the advertisement does state exactly what is meant by renewable hydrogen, and that references to renewable gas are only in relation to the percentages of the blended product that are, or are planned to be, renewable



hydrogen. The Panel considered that the advertisement does not state or imply that natural gas is renewable.

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 outline the specifics 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.”*

The Panel also noted that the lines of the advertisement included the words “You don’t have to lift a finger – we’ve got this. Renewable gas can be safely delivered through the existing gas network and for now, it won’t change how your appliances work. As an industry, we’re decarbonising the gas sector and the best part is, you don’t need to do a thing except feel good about a renewable energy future!” which could be seen to suggest that the existing network is able to handle the planned change to 100% hydrogen gas by 2050.

However, the Panel considered that the advertisement does use the qualifier “for now” and the “More about what it means for you” link immediately below does clearly state that existing appliances can only handle up to 10% blended hydrogen. The Panel considered that the advertisement did provide sufficient disclosure of the negative impact of needing to replace appliances in the future.

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.