



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0190/11</b>
<b>2</b>	<b>Advertiser</b>	<b>Jemena</b>
<b>3</b>	<b>Product</b>	<b>House goods/services</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>22/06/2011</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

1 - Truthful and Factual      1)i misleading or deceptive

### DESCRIPTION OF THE ADVERTISEMENT

We see images of a hot air balloon being inflated in an open field at dawn. Followed by an image of a female jogging down a street early in the morning. We then see shots of several balloons travelling overhead and the female jogger enters a house and has a shower. We then see more images of a balloon travelling and see a family enjoying a BBQ lunch and we then see the balloon overhead outside a house at night and see a family in front of a fireplace in the evening. The end of the commercial features three balloons over a city skyline with the words "Make your Choice" and the Natural Gas web address and logo.

### THE COMPLAINT

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

*AGL is promoting their gas as natural - when in fact if you go to their website you can easily find out that they are mixing their natural gas with 6% Coal Seam gas and this percentage is only going to increase.*

*They are advertising their product as a clean green natural product when the inclusion of Coal Seam gas has massive environmental implications as well as having a greater impact on climate change than coal!*

*AGL should be honest and inform the public exactly what they are getting in their gas supply. They are promoting themselves as environmentally friendly energy source but not mentioning that they are pumping 6% Coal Seam Gas into the natural gas supply. Proven to damage the environment and people's health.*

## **THE ADVERTISER'S RESPONSE**

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

*Following is our response to the complaint that was recently received regarding "The Glow" 30 second TV commercial, which is advertising awareness of the energy resource Natural Gas for Jemena Gas Networks (NSW) Limited (Jemena). Some specific points we would like to make in response to the complaint are:*

*(1) AGL and Jemena are not related entities:*

*The complaint references AGL and we would like to clarify that AGL and Jemena are not related corporate entities.*

*(2) The TV Commercial makes no Environmental Claims:*

*In terms the complainants specific claim that "AGL is promoting their gas as a natural" when that person believes it is not, we would like to respond with the following:*

*(a) The TV commercial was specifically created to generate awareness of natural gas and the benefits to consumers of its domestic application. In the television commercial we see a hot air balloon inflating and travelling across a skyline, which was conceived as a glowing device to represent warmth and heat. The whole intention of the television commercial is to portray a day in the life of natural gas users and we see three specific applications, one scene with a natural gas hot water shower and second with a natural gas BBQ and the third with heating with a natural gas fireplace. In the entire communication there is no message that relates to the environment or any claims to the environmental credentials of natural gas as an energy source.*

*(b) At the end of the TV Commercial there is a graphic which says "Make your Choice" which has been our brand message for over 4 years as we encourage people to choose "natural gas" as their energy option. There is no voiceover and only a music track and the only other reference is our web address and the 'Natural Gas' logo. When the commercial is viewed in its entirety, it is difficult to understand how any conclusion could be drawn that we are communicating any environmental claims about Natural Gas to consumers.*

*(c) The only other elements in the TV Commercial are the Natural Gas logo, which features the words "Natural Gas. The Natural Choice" and the website which is named [www.thenaturalchoice.com.au](http://www.thenaturalchoice.com.au). We would like to make the distinction between specific claims made in advertising copy and endlines or advertising slogans that are part of the overall brand communication. Statements or words used as part of brand properties are not really making a specific advertising claim but are rather more a general branding device to help position a brand. There are many examples of brands that include endlines with the purpose of positioning the brand or product but they need to be viewed in context of an overall marketing strategy. For example did Coke actually "Add Life" or does the National Australia Bank actually "Give more and Take Less" for all of its customers, and are BMWs the ultimate driving machine? We have always presented Natural Gas as "The Natural Choice" as it is a naturally occurring product, and the choice for consumers is a natural one given its competitive cost and excellent performance as energy source.*

*(3) Judging the Paid communication with no links to website communication:*

*The reference to AGL's website is erroneous. There is no reference as stated in the complaint on the Natural Gas brand website [www.thenaturalchoice.com.au](http://www.thenaturalchoice.com.au) or on the Jemena*

corporate website. If this is a claim made by AGL it has no relationship to Jemena and it also unreasonable to link a third party piece of communication (the television commercial) with claims that may or may not be made on a website. The Glow TV commercial should be judged solely as a TV commercial and the message that it conveys and without reference to another medium from another company which is in no way linked to Jemena.

(4) Natural Gas is a naturally occurring energy source, as is Cold Seam Gas:

As mentioned earlier AGL and Jemena are not related corporate entities. Jemena is a Gas Network provider and only distributes gas on behalf of Gas Retailers like AGL that conform to the Australian Standard AS 4564 "Specification for general purpose natural gas". The AS4564 Standard has the following definition in its scope. The specification applies to natural gas: -

(a) From petroleum, landfill, biogas, coal seam and other sources where these sources provide gas for direct or blended supply on a commercial basis through supply systems serving general purpose customers

(i) From the above by definition coal seam methane is natural gas.

(ii) Coal seam methane (CSM) CO<sub>2</sub> emissions are defined in the Federal Government's National Greenhouse and Energy Reporting Scheme (NGERS). The CSM emission factor is slightly lower than the emission factor for traditional pipeline natural gas, indicating that it has a lower CO<sub>2</sub> impact when consumed than traditional pipeline natural gas.

(iii) Both traditional pipeline natural gas and CSM are naturally occurring compounds that are extracted from rock strata below the ground surface. The extracted gas undergoes limited processing to filter and separate impurities.

(5) Assessing the TV Commercial within Advertiser Code of Ethics (Sect. 2):

Together with our Advertising Agency Pulse Marketing Group and the Communications Council, as requested we have carefully reviewed the AANA Advertiser Code of Ethics with particular reference to Section 2 of the Advertiser Code of Ethics and we can see no areas where there are any claims made or any depictions which could contravene the Code.

Specifically, there is:

(a) No depiction of people which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.

(b) No portrayal of violence.

(c) No scenes involving sexuality and nudity.

(d) Nothing in the communication aimed at children, as we are targeting (both creatively and in our media buy) Home Owners aged between 25-54 years who are looking to install Natural Gas in their home or increase the application or usage of Natural Gas in their homes.

(e) There is no use of strong or obscene language.

(f) There is no material contrary to Prevailing Community Standards on health and safety.

(g) We are not advertising motor vehicles.

(h) We are not advertising Food or beverage products.

In summary Jemena do not believe we make any environmental claims in the "Glow" Natural Gas TVC and its sole intention was to increase awareness of natural gas with some visual depiction of its domestic application like hot water, cooking and heating. There is no claim made in the commercial, either in visual storyline or in the voiceover relating to the environmental credentials of natural gas. The website [www.thenaturalchoice.com.au](http://www.thenaturalchoice.com.au) and our logo features the words "Natural Gas. The Natural Choice" but we believe this must be viewed not in isolation but as part of the overall context or intent of the TV commercial. Jemena stands by this reference as being fair and correct, as Natural Gas is a naturally occurring product, and the choice for consumers is a natural one given its competitive cost and excellent performance as energy source.

## **THE DETERMINATION**

The Advertising Standards Board (“Board”) considered whether this advertisement breaches the AANA Environmental Claims in Advertising and Marketing Code (the Environment Code).

The Board noted the complainants’ concerns that the advertisement is misleading in its representation of Jemena’s gas as natural.

The Board noted that the Environment Code applies to 'environmental claims' which are defined as 'any representation that indicates or suggests an Environmental Aspect of a product or service, a component or packaging of, or a quality relating to, a product or service.'

An Environmental Aspect means ‘the element of a product, a component or packaging or service that interacts with or influences (or has the capacity to interact with or influence) the Environment.'

The Board noted that the advertisement shows hot air balloons as well as various people using gas powered appliances, and that the text on screen at the end of the advertisement reads, “Natural Gas. Natural Choice.”

The Board noted the advertiser’s response that no claims are made in the advertisement and that the words, “Natural Gas. Natural Choice” is a brand message they have used for over four years. The Board noted that ‘natural gas’ is an industry term.

The Board considered that the advertisement does not fall under the Environment Code because it does not make any environmental claims.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaints.