



**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>0225-22</b>
<b>2. Advertiser :</b>	<b>Glencore Australia Holdings Pty Limited</b>
<b>3. Product :</b>	<b>Other</b>
<b>4. Type of Advertisement/Media :</b>	<b>Internet - Social - Facebook</b>
<b>5. Date of Determination</b>	<b>28-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 sponsored Facebook advertisement features the caption, "We're the largest mining company you've probably never heard of. Responsibly mining the materials for a low carbon future." A video features images of mining, farmland, and bushland. A voice-over says, ""Every mine eventually comes to an end but the use of the land never should. It's why Glencore is a leader in mine rehabilitation in Australia. Working with local communities and going beyond what's expected to return our mines to native forests and farmland. We do this because we believe it's the responsible thing to do. Glencore. Advancing responsibly. Advancing everyday life."

### THE COMPLAINT

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

*The recent launch of the advertising campaign by Glencore is headlined "Advancing everyday life", connected to their net zero by 2050 campaign. It discusses Glencore's involvement in mining of essential minerals that are "laying the foundation for a low carbon future" while being silent on their current mining operations that are focused on coal mining.*

*Advancing everyday life campaign - Glencore Australia.*



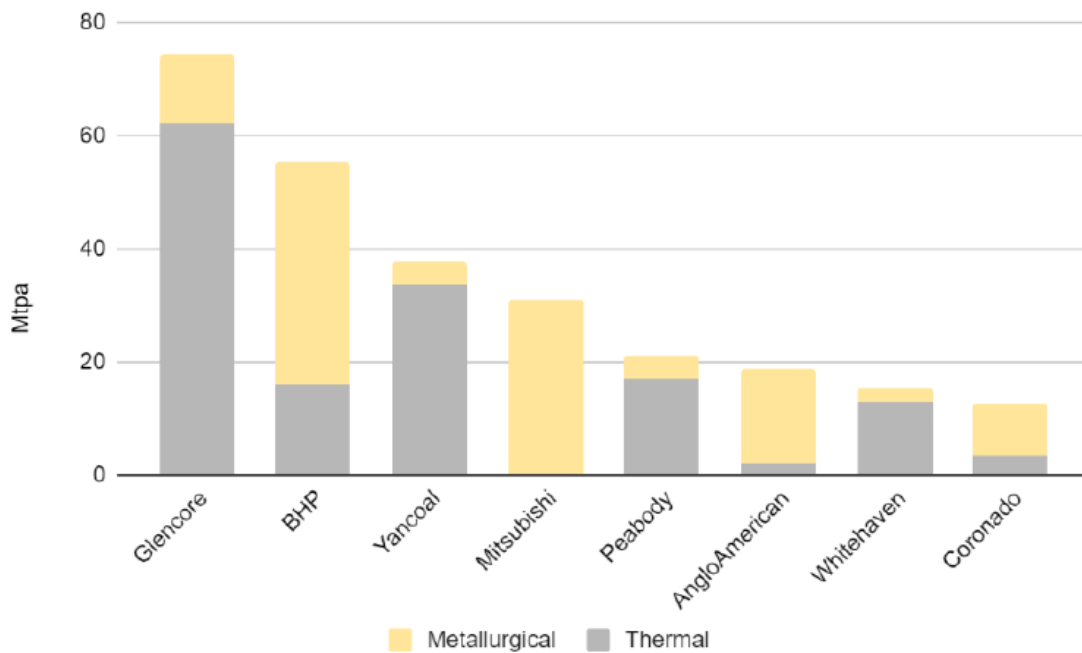
*1. We act for the Lock the Gate Alliance, Comms Declare and the Plains Clan of Wonnarua people (PCWP). We are writing on their behalf to ask that you investigate whether advertisements made by Glencore Australia on their Australian website breach the Environmental Claims Code. The recent launch of the advertising campaign by Glencore is headlined “Advancing everyday life”, connected to their net zero by 2050 campaign. [1] It discusses Glencore’s involvement in mining of essential minerals that are “laying the foundation for a low carbon future” while being silent on their current mining operations that are focused on coal mining. A description of the representations in the advertising can be found at Annexure A.*

*Environmental Claims Code*

*2. 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.*

*3. Lock the Gate and PCWP are concerned that the current advertising campaign on the Glencore websites overstates that Glencore are committed to addressing climate change and their mining is focused on supporting smart phones and electric cars and other renewable resources. It is misleading as it is silent on their current mining production and investment in Australia being mostly related to coal. Glencore has invested around \$259 million in the expansion of thermal coal and only around \$2million in the expansion of minerals supporting renewables such as cobalt, nickel and copper in 2020 and 2021. [2] Of their 24 mines in Australia, 17 are involved in coal mining. To suggest they are climate friendly and investing significantly in renewable resources and the mining that supports those industries is not currently correct. It will take some time for Glencore to transition to focus on renewables, with the majority of their coal mines operating until 2040 and several new mine expansions occurring at present. The omissions of these details are particularly misleading to consumers in breach of clause of the Environmental Claims Code. Details of the range of ways that Glencore’s net zero claims are misleading can be found at Annexure B. This is a copy of a recently lodged complaint with both ASIC and ACCC about misleading or deceptive conduct relating to net zero representations made by Glencore PLC and its Australian subsidiaries.*

*4. Glencore is the largest coal producer in Australia, see the chart below relating to their production in 2019.*



5. Glencore does mine other resources. However the bulk of their greenhouse gas emissions are created from their coal production, rather than their other resources. This means their coal products are having a significant impact on climate change. See ACCR analysis below.

MtCO2e	Scope 1	Scope 2	Scope 3*
<b>Coal</b>	5.9	1.2	300.0
<b>Copper</b>	1.3	1.6	4.5
<b>Ferroalloys</b>	3.0	4.1	4.5
<b>Nickel</b>	2.6	0.0	4.5
<b>Oil</b>	0.2	0.0	25.0
<b>Zinc</b>	2.0	2.4	4.5
<b>Total</b>	<b>15.0</b>	<b>9.3</b>	<b>343.0</b>

\*Estimated commodity breakdowns

6. Given recent concern about greenhouse gas emissions, these statements form a strong overall impression of Glencore’s commitment to addressing climate change to



*differentiate itself to investors and consumers from other fossil fuel companies. Companies cannot cherry-pick the “green” part of their operations in advertising where it misleads consumers about the overall nature of their business and fossil fuel plans in accordance with clause 2 of the Environmental Claims Code. International action by UK and Dutch Advertising Standards Associations*

*7. The United Kingdom Ad Standards Authority has reviewed many environmental claims and found the following:*

*Since September, we have carried out our planned reviews of environmental claims in the heating/energy and transport sectors, which have identified a number of issues in ads for products and services in these sectors. The main issues we have identified for follow up action are:*

- Aspirational claims about advertisers’ intentions to transition to net zero by particular dates (for example, 2030 or 2050), and the appropriate evidence needed to back up such claims*
- Claims by high-emitting companies, which focus on narrow environmentally beneficial aspects of their businesses but may not provide a complete picture of their overall environmental impact [3]*

*8. We understand from media reports that the UK Ad Standards may be in fact ruling on a greenwashing by omission claim against HSBC bank. They quoted:*

*In a draft seen by the paper, the ASA said people seeing the ads would assume the bank to be making “a positive overall environmental contribution as a company” while in fact the bank funded £14.3bn of fossil fuels last year, according to the Rainforest Action Network. [4]*

*9. The Dutch Advertising Standards has also ruled on a similar advertisement by Shell where is advertised it was “the driver of the energy transition” and “we’re changing”. It found:*

*The Commission considers it plausible that the average consumer will interpret the contested statement in such a way that Shell is currently undergoing a process of change in which it is changing its core strategic activity, also known as its core business, and is already investing to a significant extent in renewable energy at the expense of fossil fuels. After all, the announcement that Shell is turning into one of the biggest drivers of the energy transition implies that this process has already started and that a real change in the core business is taking place. However, as acknowledged, it has been established that, in addition to investing in transition projects, Shell is currently maintaining its investments in fossil fuels and is only phasing out very slowly. In that situation, the Commission considers it unjustifiable for Shell to refer to itself as “one of the biggest drivers of the energy transition”, giving the impression that it is an initiator and accelerator of the transition. [5]*

*[1] <https://www.glencore.com.au/who-we-are/advancing-everyday-life>*

*[2] <https://www.theguardian.com/environment/2022/jul/21/mining-giant-glencores-australian-pr-blitz-forgetsthe-coal-driving-the-climate-crisis>.*

*[3] <https://www.asa.org.uk/news/asa-statement-on-world-environment-day.html>.*

*[4] <https://esgclarity.com/hsbc-ad-warning-sets-industry-precedent/>.*



[5] <https://verbieidfossielereclame.nl/shell-may-not-call-itself-driver-of-the-energy-transition-rules-dutch-adwatchdog/>.

## THE ADVERTISER'S RESPONSE

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

*Glencore's response, as set out below, addresses both the Webpage Complaint and the Facebook Complaint.*

*From the notifications of Complaint and our emails with Ad Standards on 19 September 2022, we understand that:*

- for the Webpage Complaint, Ad Standards will consider the entire content of the webpage located at the URL 'https://www.glencore.com.au/who-we-are/advancing-everyday-life', including the text and video content appearing on the page (Webpage), but not including the sub-links, except to the extent that there is evidence/substantiation on these pages that Glencore seeks to rely upon; and*
- for the Facebook Complaint, the advertisement which is the subject of this complaint and which will be considered by Ad Standards is the Facebook advertisement viewed by the EDO on 4 August 2022, and which is shown as a screenshot in the email received from Ad Standards on 19 September 2022. Accordingly, we consider the advertisement to comprise the caption 'We're the largest mining company you've probably never heard of. Responsibly mining the materials for a low carbon future', the 'Advancing Responsibly' video displayed in the post, and the post-script link to the 'Advancing Responsibly' sub-page of the Advancing Everyday Life website (Facebook Ad) via the 'Learn More' button, but not the information on that webpage. If this is not the case, please inform us and provide us with a further opportunity to respond in relation to any additional materials.*

*In the notifications of Complaint, Ad Standards identifies Section 1 ('truthful and factual presentation') and 2 ('genuine benefit to the environment') of the Australian Association of National Advertisers Environmental Claims in Advertising Code (the AANA Environmental Code) as being potentially relevant issues raised by the Webpage Complaint and the Facebook Complaint. We address each of these sections in our response below, as well as Section 3 ('substantiation') for completeness.*

*We note that each of the Complaints identifies the 'Reason for Concern' as 'The recent launch of the advertising campaign by Glencore is headlined 'Advancing everyday life', connected to their net zero by 2050 campaign. It discusses Glencore's involvement in mining of essential minerals that are "laying the foundation for a low carbon future" while being silent on their current mining operations that are focused on coal mining'. For the reasons set out below, Glencore strongly rejects this allegation.*

*Glencore takes its compliance with the AANA Environmental Code seriously, and is strongly of the view that the Webpage and Facebook Ad are fully compliant with that code, as well as the AANA Code of Ethics, and all other relevant codes and laws,*



including the Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010 (Cth)).

#### *Background to Glencore*

*Glencore was founded in the 1970s as a trading company. Glencore is now one of the world's largest globally diversified natural resource companies, operating in over 35 countries with more than 150 mining and metallurgical sites and oil production assets around the world. Glencore's global headquarters are located in Baar, Switzerland. In Australia, Glencore currently operates 25 mines across New South Wales, Queensland, Western Australia and the Northern Territory. We are Australia's largest producer of coal, and also Australia's largest producer of cobalt and zinc, and second-largest producer of nickel and copper. The volumes of each material produced in Australia are different and differ each year, depending on factors such as availability of the resource, and market demand.*

#### *Background to Advancing Everyday Life campaign*

*The Webpage and Facebook Ad are a part of Glencore's 'Advancing Everyday Life' campaign. The campaign has been implemented across a range of media and includes the 'Advancing Everyday Life' webpage, a number of TV commercials, social media and digital platforms including Facebook, Instagram, Twitter, LinkedIn and YouTube, subscription video on demand channels and billboards. The campaign launched on 19 June 2022 and is intended to run until 30 June 2023.*

*The campaign has a broad focus and covers a number of aspects of Glencore and its business, including:*

- an introduction to Glencore as a mining company with a 25 year history in Australia, producing materials that are used to power homes and business and build a wide range of products ('Introduction to Glencore');*
- the production of high quality Australian coal (both thermal and coking coal) to meet today's global energy and construction needs ('Providing for Today');*
- Glencore's commitment to rehabilitation of land before, during, and upon the closure of mining operations ('Advancing Responsibly');*
- the mining of metals that are necessary materials for renewable energy and low emission technology, to facilitate the transition to a low carbon future ('Preparing for Tomorrow');*
- Glencore's contribution to the Australian economy, including: the employment of over 17,000 Australian workers; payment of significant Australian taxes and royalties; and support for a large number of local businesses and suppliers (Economic Contribution); and*
- Glencore's 'Mine to Market' business strategy by which Glencore's coal, nickel, cobalt, copper and zinc is sourced responsibly and supplied globally for use in the production of a wide range of products and materials ('Mine to Market').*

*Accordingly, considered in context, one aspect of Glencore's commitments to 'Advancing Everyday Life' is our ambition of net zero total emissions by 2050. To this extent, the implicit suggestion in the Complaints that the 'Advancing Everyday Life' campaign is only making representations relating to Glencore's net zero by 2050 strategy is incorrect.*

#### *Glencore's climate change strategy and action*



As set out in Glencore's 2021 Climate Report, Glencore:

- recognises the climate change science as set out by the Intergovernmental Panel on Climate Change (IPCC); and
- supports the global climate change goals outlined in the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement.

In line with the range of 1.5°C scenarios set out by the IPCC, as one part of Glencore's climate strategy, Glencore is targeting a short-term emissions reduction target of 15% by 2026 (Scope 1, 2 and 3). Our medium-term 50% reduction of our total emissions (Scope 1, 2 and 3) by 2035 on 2019 levels is aligned to the International Energy Agency's scenario for Net Zero Emissions by 2050, which is consistent with IPCC SSP1-1.9, the 'very low GHG emissions' scenario. Post-2035, our ambition is to achieve, with a supportive policy environment, net zero total emissions by 2050.

One aspect of Glencore's net-zero ambition is the depletion of our global coal operations over time, in accordance with the life of mine sites. Glencore has voluntarily put a cap on its coal production, and we are committed to depleting our global coal assets safely and responsibly over time. We remain on track to deliver a 15% reduction of our total emissions by 2026 through the progressive rehabilitation and closure of some of our Australian assets – the Liddell, Integra and Newlands mines – in the near term.

Other aspects of our decarbonisation pathway, and our position on climate change, are outlined in our Climate Change Factsheet Australia December 2020 and Pathway to Net Zero 2021 Progress Report, including:

- prioritising investment in our metals business;
- pursuing energy efficiency and fuel switching; and
- pursuing carbon offset projects and implementing carbon capture, use and storage technology. Currently, Glencore's wholly-owned subsidiary, the Carbon Transport and Storage Company Pty Ltd (CTSCo), is developing a Carbon Capture Use and Storage (CCUS) Project in connection with a coal-fired power station in Queensland.

## Response to the Complaints

### Issue 1

The Complaints allege, first, that the Webpage and Facebook Ad 'discuss[] Glencore's involvement in mining of essential minerals that are "laying the foundation for a low carbon future" while being silent on their current mining operations that are focused on coal mining'.

A related complaint is that the Webpage and Facebook Ad 'overstate[] that Glencore are committed to addressing climate change and their mining is focused on supporting smart phones, electric cars and other renewable resources', and that by these statements the Webpage and Facebook Ad are misleading because each is 'silent on [Glencore's] current mining production and investment in Australia being mostly related to coal'.

Glencore does not agree with these allegations, or that any misrepresentations arise on the Webpage or Facebook Ad. As a general comment, we consider that the allegations reflect a mischaracterisation by the EDO of the 'Advancing Everyday Life' campaign as a whole, including by adopting a highly selective approach by focusing



*only on aspects relating to the mining of metals and failing to consider the entirety of the Webpage or the Facebook Ad.*

*The tagline ‘Responsibly mining materials for a low carbon future’, appears on the Facebook Ad, appeared (as at the date of access by the EDO) on the Webpage, and this or similar statements are also referred to in the narration of a number of the videos on the Webpage. Glencore is strongly of the view that this statement (and similar statements) is clear, unambiguous, and factually correct, both on its own and in the context in which it appears. It is a reference to all of the aspects of the ‘Advancing Everyday Life’ campaign, as set out above. Further, and in particular:*

- Glencore recognises the need for action on climate change and is committed to delivering on its ambition of net zero by 2050. This includes an updated target of reducing total emissions (scope 1, 2 and 3) by 15% by 2026 and 50% by 2035 on 2019 levels;*
- Glencore is currently Australia’s largest producer of cobalt and zinc, and second-largest producer of copper and nickel, which materials are well recognised as key to a low carbon future as they are critical to the production of renewable energy and deployment of electric vehicles;*
- Glencore is committed to responsibly supplying coal that is critical to meeting the current energy demands to power Australian homes and businesses, during the transition towards a low carbon future;*
- Glencore is also committed to transitioning away from coal over time by the responsible depletion of our global coal portfolio (see ‘A responsible transition’ video on the ‘Providing for Today’ webpage at <https://www.glencore.com.au/who-we-are/advancing-everyday-life/providing-for-today>);*
- Glencore is committed to managing our land in a productive and sustainable manner ensuring proactive stewardship of our landholdings, including those that have not undergone industrial activity. This includes aligning our approach to cultural heritage and archaeologically sensitive locations on our landholdings with local regulatory requirements and best practice. We respect legally designated areas and commit to neither mine nor explore in World Heritage Sites;*
- One of Glencore’s core values is the responsible stewardship of the land, which involves early planning for rehabilitation of mine sites, including before the mine is opened). This includes the recording of the number and types of trees on the site, mapping of the land, and the collection of seeds from local trees. Rehabilitation is then factored into our daily and yearly plans;*
- In line with Glencore’s values, our first priority in the workplace is to protect the safety, health and wellbeing of all our people. We take a proactive, preventative approach towards health and safety at all of our sites; and*
- Glencore is committed to maintaining a strong ethics and compliance culture, through the Glencore Ethics and Compliance Program.*

*Glencore does not agree with the allegation in the Complaints that the campaign does not refer to Glencore’s coal mining operations in Australia. Both the Facebook Ad and the Webpage clearly and unambiguously reference Glencore as a large and diversified mining company which includes significant coal operations in Australia:*





- *In relation to the Facebook Ad, the captions specifically identify the sites depicted in the video as coal mines in Australia. This is further supported by the visual imagery, including large coal trucks in the background and imagery of Australian native trees.*
- *The text on the Webpage and Facebook Ad, and the opening narration of the video ‘Who is Glencore?’ (on the Webpage), state that Glencore is ‘one of the world’s largest mining companies that you’ve probably never heard of’. Given the Australian context, a viewer is likely to understand this language as being a reference to a coal mining company.*
- *The Webpage specifically states that Glencore provides ‘natural resources like coal, nickel, cobalt, copper and zinc’ and that Glencore operates 25 mines across Australia.*
- *The ‘Introduction to Glencore’ video features a Glencore employee (Coal Operations Manager) standing in front of large coal mining machinery at the Glencore Mangoola coal mine.*
- *The opening sequence of ‘Advancing Responsibly’ video, on both the Webpage and the Facebook Ad, opens with a Glencore employee (Coal Operations Manager) walking in front of large coal mining machinery at the Glencore Mangoola coal mine, with the voice over ‘every mine eventually comes to an end’. It is a clear reference to Glencore’s operations involving coal mines, and the lifecycle of those operations. The focal message of the video is the responsible rehabilitation of mine sites. Each of the mine sites depicted is also described in the text captions as ‘[location] Coal Mine’.*
- *The video ‘Providing for Today’ explicitly states ‘Glencore is responsibly supplying the high-quality coal needed to reliably power homes and businesses today, while also providing green metals vital to delivering our low carbon economy’. It contains visual sequences of an employee (Coal Operations Manager) walking in front of large coal mining machinery, a group of employees standing in front of an operational bucket-wheel excavator, and an aerial shot panning over the Port Waratah Coal Services coal terminal at the Port of Newcastle. The concluding image is the same as the concluding image in the ‘Introduction to Glencore’ video, described above.*
- *The video ‘Preparing for Tomorrow’ explicitly states ‘We all want a smarter and greener world. Which is why, in addition to supplying high quality coal, Glencore is one of Australia’s leading providers of the metals needed to create a low carbon future’. It also contains the visual sequences of a group of employees standing in front of an operational bucket-wheel excavator, and the aerial shot panning over the Port Waratah Coal Services coal terminal at the Port of Newcastle.*
- *Given this, the average viewer of such materials would not be misled or deceived by the Webpage or the Facebook Ad (which includes an invitation to ‘Learn More’ and a link to the ‘Advancing Responsibly’ webpage). Each of the statements in the advertisement is factually accurate, clear, unambiguous and balanced.*
- *Glencore also rejects the allegation that we have been misleading in relation to our investment in Australia.*



*When considering the value of capital investment, both sustaining capital expenditure as well as expansionary capital investment are relevant. In quoting the US\$259 million in expansionary capital expenditure for thermal coal and US\$2 million in expansionary capital expenditure for metals, the EDO has failed to take into account the US\$827M of investment in the form of sustaining capital expenditure that was incurred over the same time period for our metals business in Australia. As set out in Glencore's 2021 Annual Report, the total capital expenditure position for Glencore's mining operations in Australia was as follows (figures are in US\$ millions).*

<b>2021</b>		<b>2020</b>		<b>Total</b>
Copper	81		87	168
Zinc	281		294	575
Nickel	51		33	84
Metals Sustaining	413		414	827
Zinc Expansionary			2	
<b>Total metals</b>	<b>415</b>		<b>414</b>	<b>829</b>
Coking Coal	132		138	270
Sustaining				
Coking Coal	8		39	47
Expansionary				
<b>Coking Coal Total</b>	<b>140</b>		<b>177</b>	<b>317</b>
Thermal Coal	279		256	535
Sustaining				
Thermal Coal	146		113	259
Expansionary				
<b>Thermal Coal Total</b>	<b>425</b>		<b>369</b>	<b>794</b>
<b>Total Coal</b>	<b>565</b>		<b>546</b>	<b>1,111</b>

*This demonstrates that Glencore's capital expenditure in Australia for metals, in the years 2020 and 2021 combined, in fact exceeded its capital expenditure on Australian thermal coal. Also in the same years, Glencore's total capital expenditure for metals was not materially less than the total capital expenditure for coal (both coking and thermal). 17 of Glencore's 25 operating mines in Australia are coal mines and the coal operations therefore comprise a large proportion of Glencore's operating footprint in Australia. Notwithstanding this, Glencore remains Australia's largest producer of cobalt and zinc and Australia's second largest producer of copper and nickel. At a global scale, Glencore's 2021 total capital expenditure in metals and minerals was US\$3.5 billion compared to total capital expenditure of US\$819 million for energy products (which includes coal).*

<b>2021</b>	<b>Sustaining</b>	<b>Expansionary</b>	<b>Total</b>
Metals and Minerals	2,884	689	3,573
Energy Products	662	157	819
Corporate and Other		31	31



3,546

877

4,423

*Glencore therefore rejects the suggestion that we have ‘overstated’, and thereby misled, the target audience as to Glencore’s significant investment in the mining of materials necessary for low carbon technologies.*

#### *Issue 2*

*The notifications of Complaint allege that statements on the Webpage and Facebook Ad ‘form a strong overall impression of Glencore’s commitment to addressing climate change to differentiate itself to investors and consumers from other fossil fuel companies’ which is said to be misleading because of the ‘overall nature of Glencore’s business and fossil fuel plans’.*

*For the reasons stated above, the Webpage and Facebook Ad are much broader in scope than Glencore’s commitments to addressing climate change. We do not consider that the average viewer would be likely to be misled or deceived as to key aspects of Glencore’s current operations, strategy and future commitments, for the reasons set out above. Each of the statements in the advertisement is factually accurate, clear, unambiguous and balanced.*

#### *International Action by UK and Dutch Advertising Standards Associations*

*Both the Facebook Complaint and the Webpage Complaint refer to alleged action taken by the Advertising Standards Associations in the UK and the Netherlands. Both the actions by the UK authority referred to in the complaints and the ruling by the Dutch Advertising Standards against Shell are not relevant to the assessment of the Facebook and Webpage Complaints, including for the following reasons:*

- in each case, any review or assessment by the overseas authority would have been considered in context, including different advertising codes and standards, different processes, different jurisdictions and at different times. Further, any decisions or conclusions of the overseas authorities would be based upon the particular information and submissions available to them at the relevant time.*
- in relation to the alleged investigation by the ASA into HSBC, in addition to the comments made above, it is not possible to comment on media reports based on a leaked draft paper, in the absence of a final and official decision;*
- the decision in the Netherlands, which we understand is a reference to the decision of the Stichting Reclame Code (SRC) in Complaint number 2021/00576/A, can also be distinguished from the current Complaints. The Dutch decision relates to radio advertising by Shell in the Netherlands which included the statement “We are turning into one of the biggest drivers of the energy transition in the Netherlands. Change with it. Discover how we are changing”. The Commission found that use of the word ‘driver’ was misleading in the particular circumstances of this case because it suggested Shell was an initiator and accelerator of the transition to renewable energy and gave an incorrect picture of the contribution that Shell was currently making to the energy transition.*

#### *AANA Environmental Code*

*Section 1 (Truthful and factual presentation) – We do not consider that any of the claims on the Webpage or Facebook Ad are misleading, deceptive, or likely to mislead*



*or deceive, when properly considered in context. The language of the Webpage and Facebook Ad is clear, plain, and unambiguous, and the statements are factually correct.*

*Section 2 (Genuine benefit to the environment) – We do not consider that the advertisement either expressly or by implication overstates or misrepresents the extent of Glencore’s mining operations concerning coal and metals. The advertisement is clear, relevant and specific in referencing Glencore’s ongoing commitment to mining the nickel, cobalt, copper and zinc necessary for low carbon technologies as Australia’s leading producer of these materials; whilst also reflecting Glencore’s current and ongoing supply of high-quality Australian coal.*

*Section 3 (Substantiation) – Although not raised in the notifications of Complaint, Glencore is very mindful of our obligations to ensure members of the community are not misled, and therefore has robust processes in place to ensure there is a reasonable basis for all public statements. In the case of the ‘Introduction to Glencore’, ‘Providing for Today’ and ‘Preparing for Tomorrow’ videos on the Webpage, and the ‘Advancing Responsibly’ video displayed on the Webpage and Facebook Ad, this included seeking and obtaining prior approval from ClearAds (FreeTV Australia). For completeness, we also attach letters of substantiation provided to ClearAds in relation to these videos.*

#### *Compliance with AANA Code of Ethics*

*While the notifications of Complaint did not raise any concerns under the AANA Code of Ethics, Glencore also firmly believes that the Webpage and Facebook Ad fully comply with all sections of that Code. Compliance with Section 1 of the AANA Code of Ethics has been addressed through the responses provided above in relation to compliance with the AANA Environmental Code. Addressing each part of Section 2 of the AANA Code of Ethics separately:*

- Section 2.1 (Discrimination or vilification) – The Webpage and Facebook Ad did not portray people or depict material in a way which discriminates against or vilifies a person or section of the community.*
- Section 2.2 (Exploitative or degrading) – The Webpage and Facebook Ad did not employ sexual appeal or exploitive or degrading material.*
- Section 2.3 (Violence) – The Webpage and Facebook Ad did not present or portray violence.*
- Section 2.4 (Sex, sexuality and nudity) – The Webpage and Facebook Ad did not present or portray sex, sexuality or nudity.*
- Section 2.5 (Language) – The Webpage and Facebook Ad did not use strong or obscene language.*
- Section 2.6 (Health and safety) – The Webpage and Facebook Ad did not encourage or condone unhealthy or unsafe behaviour.*
- Section 2.7 (Clearly distinguishable advertising) – The Webpage and Facebook Ad are clearly distinguishable as advertising.*

*For completeness, the AANA Code for Advertising and Marketing Communications to Children, the AANA Food and Beverages Code Marketing and Communications Code and the AANA Wagering Advertising Code are not relevant to the Webpage and Facebook Ad.*

#### *Conclusion*



*For the reasons set out above, Glencore firmly believes that the Webpage and Facebook Ad fully comply with the AANA Environmental Code and all other relevant codes and laws, and respectfully submits that each of the complaints should be dismissed.*

*Please do not hesitate to contact us if you require any further information or details.*

## **THE DETERMINATION**

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

The Panel noted the complainant's concerns that the advertisement is making misleading or deceptive claims because:

- It is silent on its current mining production and investment in Australia mostly being related to coal. Glencore has invested \$259 million in the expansion of thermal coal and only \$2 million in the expansion of minerals supporting renewables.
- The advertisement misleads consumers about the overall nature of the business and its fossil fuel plans.

The Panel viewed the advertisement and noted the advertiser's response.

### **Is an environmental claim being made?**

The Panel considered whether the advertisement made an Environmental Claim.

The Environment Code applies to 'Environmental Claims' in advertising and marketing communications.

The Code defines Environmental Claims as *"any express or implied representation that an aspect of a product or service as a whole, or a component or packaging of, or a quality relating to, a product or service, interacts with or influences (or has the capacity to interact with or influence) the Environment"*.

The Panel noted that the advertisement included a number of statements which could be considered environmental claims, both in the caption and in the videos. In summary, the Panel considered that the advertisement made four main claims:

- Claim one: Glencore is responsibly mining the materials for a low carbon future
- Claim two: Glencore is a leader in mine rehabilitation, and goes beyond what's expected to return mines to native forest and farmland



## **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 considered that the target market for this advertisement was people interested in the operations of the mines who were looking to find out more.

### Claim one: Glencore is responsibly mining the materials for a low carbon future

The Panel noted the advertiser’s response had provided substantiation that it is a leading producer of green metals and is making significant investments in this area.

The Panel noted the complainant’s concern that the advertisement is silent on Glencore’s current mining production and investment in Australia mostly being related to coal. Glencore has invested \$259 million in the expansion of thermal coal and only \$2 million in the expansion of minerals supporting renewables.



The Panel noted the advertiser's response that the advertisement clearly and unambiguously refers to Glencore as a mining company including significant coal operations and that it is Australia's largest producer of cobalt and zinc, and second-largest producer of copper and nickel. The Panel also noted the advertiser's response that its total capital expenditure for metals in 2020 and 2021 was not materially less than the total capital expenditure for coal.

The Panel noted that the video includes a man walking in front of coal mining equipment, and superimposed text which names the former mines as coal mines. The Panel noted that this advertisement did not directly refer to any materials other than coal.

The Panel considered that the phrase 'responsibly mining' would most likely be interpreted as mining within current regulations and was not an indication that the advertiser did not mine coal. The Panel also considered that the phrase 'responsibly mining' in combination with the video would most likely be interpreted as references to the mine rehabilitation projects. The Panel considered that the Claim that Glencore is responsibly mining the materials for a low carbon future is a reference to the long-term projects of mine rehabilitation and is not misleading or deceptive.

Claim two: Glencore is a leader in mine rehabilitation, and goes beyond what's expected to return mines to native forest and farmland

The Panel noted that the advertiser had provided substantiation to support the claims of rehabilitation works being undertaken. The Panel considered that the examples shown in one video of mines which had been rehabilitated also supported this claim. The Panel considered that the claim that Glencore is a leader in mine rehabilitation was not misleading or deceptive.

**1 a) conclusion**

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

**1(b) Environmental Claims in Advertising or Marketing Communication shall display any disclaimers or important limitations and qualifications prominently, in clear, plain and specific language;**

The Panel noted that the Practice Note for this Section of the Code provides:

*"A disclaimer can clarify, expand or reasonably qualify a representation but should not contradict, diminish or retract it. As a general guideline, the main body of the advertisement, apart from the disclaimer, should be capable of standing alone without being misleading."*



Claim one: Glencore is responsibly mining the materials for a low carbon future.

The Panel note the complainant's concern that the advertisement is silent on Glencore's current mining production and investment in Australia mostly being related to coal. Glencore has invested \$259 million in the expansion of thermal coal and only \$2 million in the expansion of minerals supporting renewables.

The Panel noted the advertiser's response that the advertisement clearly and unambiguously refers to Glencore as a mining company including significant coal operations and that it is Australia's largest producer of cobalt and zinc, and second-largest producer of copper and nickel. The Panel also noted the advertiser's response that its total capital expenditure for metals in 2020 and 2021 was not materially less than the total capital expenditure for coal.

Consistent with the determination under 1(a) the Panel considered that the Claim made was not misleading or deceptive, and did not require further disclaimers or qualifications.

Claim two: Glencore is a leader in mine rehabilitation, and go beyond what's expected to return mines to native forest and farmland

Consistent with the determination under 1(a) the Panel considered that the claim that Glencore is a leader in mine rehabilitation was not misleading or deceptive, and did not require further disclaimers or qualifications.

**Section 1(b) conclusion**

The Panel determined that the advertisement did not breach Section 1 b) 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.*





Consistent with the discussion under Sections 1a and 1b, the Panel considered that the advertisement provided sufficient detail to support the Claims as they relate to the organisation in a manner which can be 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 Section 1, the Panel considered that the Environmental Claims in the advertisement are relevant and specific and clearly outline the significance 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.”*

Claim one: Glencore is responsibly mining the materials for a low carbon future.



The Panel noted the complainant's concern that the advertisement is silent on Glencore's current mining production and investment in Australia mostly being related to coal. Glencore has invested \$259 million in the expansion of thermal coal and only \$2 million in the expansion of minerals supporting renewables.

The Panel noted the advertiser's response that the advertisement clearly and unambiguously refers to Glencore as a mining company including significant coal operations and that it is Australia's largest producer of cobalt and zinc, and second-largest producer of copper and nickel. The Panel also noted the advertiser's response that its total capital expenditure for metals in 2020 and 2021 was not materially less than the total capital expenditure for coal.

Consistent with the determination Section 1 the Panel considered that the Claim made was not misleading or deceptive, and was not overstated.

Claim two: Glencore is a leader in mine rehabilitation, and goes beyond what's expected to return mines to native forest and farmland

Consistent with the determination under Section 1 the Panel considered that the claim that Glencore is a leader in mine rehabilitation was not misleading or deceptive, and was not overstated.

## **Section 2 b) conclusion**

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

## **2(c) Environmental Claims not imply that a product or service is more socially acceptable on the whole.**

The Practice Note for this Section states:

*"Consideration should be given to the relationship of the environmental claims to other aspects of a product/service. For example, advertisers should use care not to imply a product or service is more socially acceptable overall by implying another non-environmental attribute/detriment is of lesser importance."*

Claim one: Glencore is responsibly mining the materials for a low carbon future.

The Panel noted the complainant's concern that the advertisement misleads consumers about the overall nature of the business and its fossil fuel plans, and that the statements form a strong overall impression of Glencore's commitment to addressing climate change to differentiate itself to investors and consumers from other fossil fuel companies.



The Panel considered that while this advertisement did have messaging relating to the environmental actions of the advertiser, it also contained clear information about the fact it is also a coal mining company. The Panel considered that the Claims made are factual and supportable. The Panel considered that the overall impression of the advertisement is not that the entire company and its current actions are environmentally friendly, rather it is that that the company is engaging in mine rehabilitation as part of their environmental goals. The Panel considered that while the advertiser is clearly wishing to convey as favourable impression as possible, the claim that Glencore mines materials which are essential for a low carbon future does not imply that the organisation is more socially acceptable as a whole.

Claim two: Glencore is a leader in mine rehabilitation, and goes beyond what's expected to return mines to native forest and farmland

The Panel considered that statements made in relation to mine rehabilitation are limited to this practice and do not imply that the organisation is more socially acceptable as a whole.

#### **Section 2 c) conclusion**

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

#### **Conclusion**

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