



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0260/17</b>
<b>2</b>	<b>Advertiser</b>	<b>TransForce</b>
<b>3</b>	<b>Product</b>	<b>Professional Service</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Transport</b>
<b>5</b>	<b>Date of Determination</b>	<b>07/06/2017</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

Green Code 3 - Substantiation 3)i - claims able to be substantiated and verifiable  
Green Code 3 - Substantiation 3)ii - claims must meet applicable standards  
Green Code 3 - Substantiation 3)iv - qualified or limited claims acceptable if substantiated

## DESCRIPTION OF THE ADVERTISEMENT

This transport advertisement features the Transforce name with the text, “Carbon Neutral Freight Solutions” written underneath. To the side is a green logo which reads, “National Carbon offset standard. Carbon Neutral Certified”.

## THE COMPLAINT

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

*All carbon emissions limit the country's ability to meet the Paris 2015 zero net emissions target that Australia is a signatory to. To achieve that target, all fossil fuel powered cars and trucks need to be replaced by electric cars and trucks or electric buses and trains. Without taking such action, TransForce continues to contribute to the global warming problem and is misrepresenting the significance of the limited actions it is taking.*

## THE ADVERTISER’S RESPONSE

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

*Thank you for providing us an opportunity to respond to the above referenced complaint.*

*Transforce strongly rejects the allegations made by the plaintiff who stated that “...TransForce continues to contribute to the global warming problem and is misrepresenting the significance of the limited actions it is taking.”*

*Transforce voluntarily participate in the Carbon Neutral Program due to the commitment of the shareholder to the environment and the preservation of the environment for future generations.*

*We trust that our submission and supportive evidence will demonstrate that Transforce, after complying with requirements of the Carbon Neutral Program, is allowed under a license agreement with the Commonwealth of Australia as represented by Department of the Environment and Energy to use the Carbon Neutral trademark and state its Carbon Neutral standing.*

*In addition, we trust that you will find that Transforce makes disclosures required under its license agreement with the Department of the Environment and Energy to demonstrate changes in emission levels over time as well as the scope of the emission reduction actions.*

*Transforce, by promoting its Carbon Neutral achievement on the company website, does not misrepresent the company’s contributions; the company merely does what it is allowed to do under a valid license agreement.*

*We request that, due to commercial sensitivity, only documents not clearly marked with a red heading “COMMERCIAL IN CONFIDENCE – DO NOT DISTRIBUTE OR DISCLOSE TO PLAINTIFF” be made available to the plaintiff or parties other than those involved in the investigation and evaluation of evidence pertaining to the above complaint.*

## **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 complainant’s concerns that the advertisement is misrepresenting the business as being a carbon neutral transport company.

The Board viewed the advertisement and noted the advertiser’s response.

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 Environment is given a broad definition in the Code but, according to the dictionary definition means ‘the broad natural surrounding conditions, such as the bush, the rivers, the air, the sea in which human beings live.’

The Board considered whether the advertisement contained any environmental claims ie: is there a representation that suggests that part of the product interacts with or influences the natural conditions in which we live.

The Board noted that the transport signage features the name of the business and includes a green logo with one arrow pointing downwards and the words National Carbon Offset Standard accompanied by the statement ‘Carbon Neutral Freight Solutions.’

The Board considered that the trucks as a whole did not present information about the business or any information about the carbon neutral status.

The Board considered Section 1 (i) of the Environmental Code which provides that: ‘Environmental Claims in Advertising or Marketing Communications shall not be misleading or deceptive or be likely to mislead or deceive.’”

The Board noted that the practice note to the Environment Code does not require the Board to apply legal tests in its determination of whether advertisements are, or are likely to, mislead or deceive, or otherwise contravene prevailing community standards in the areas of concern to the Code but rather to determine whether statements would be reasonably understood to be literally true and therefore not require substantiation.

The Board noted the advertiser’s response that “after complying with requirements of the Carbon Neutral Program, Transforce is allowed under a license agreement with the Commonwealth of Australia as represented by Department of the Environment and Energy to use the Carbon Neutral trademark and state its Carbon Neutral standing.”

The Board noted that the Department of the Environment had confirmed Transforce’s Carbon Neutral certification.

Based on the supporting information from the advertiser the Board then considered the use of the logo and whether this could be interpreted as misleading consumers about the carbon neutral status of the business.

The Board noted community concerns regarding the environment and environmental damage and considered that most reasonable members of the community would recognise and understand the issue of carbon neutrality. The Board considered that although the use of the certification logo is not of itself suggesting the business is 100% carbon neutral; the authorised use of this logo demonstrates that the business is meeting a set of standards or guidelines developed by Government for the purpose of enabling companies to claim carbon neutral status.

The Board determined that the use of the logo was not intended to mislead or deceive and did not make inaccurate claims about the carbon neutral status of the business.

The Board determined that the advertisement did not breach Section 1 (i) of the Environment Code.

The Board then considered Section 3 of the Environmental Code which provides that: 'Environmental Claims in Advertising or Marketing Communications must be substantiated and verifiable. Supporting information must include sufficient details to allow evaluation of a claim.

The Board considered that the information provided by the advertiser regarding the advertisement and noted the availability of information on the website about being carbon neutral was sufficiently accessible and was substantiated and verifiable. Specifically the information describes the way Transforce is carbon neutral.

How do we stay carbon neutral?

To stay on the path to carbon neutrality, we follow best practice guidelines, including:

Measuring our carbon footprint, including all direct emissions from our sites and facilities and indirect emissions from things we purchase, such as electricity, paper and other resources.  
Reducing our carbon footprint by avoiding unnecessary emissions and reducing emissions by changing what we do, eg switching to lower emissions fuels.  
Monitoring our carbon footprint and establishing a new footprint at least once a year.  
Purchasing carbon credits to offset our remaining emissions, effectively reducing our footprint to zero.

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