

Case Report

1. Case Number :	0280-22
2. Advertiser :	Shell Company of Australia Ltd
3. Product :	Other
4. Type of Advertisement/Media :	Internet
5. Date of Determination	25-Jan-2023
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

This advertisement is material placed on the advertiser's website.

Website section: The Energy Future (Australian Website)

Relevant Extracts: "Our climate target. Shell is aiming to become a net-zero emissions energy business by 2050 or sooner." "We Intend to meet our customers' demand for cleaner energy, keeping in pace with society."

Website section: The Energy Future (Australian Website)

Relevant Extracts: "Becoming a net-zero emissions energy business means that we are reducing emissions from our operations, and other energy products we sell to our customers. It also means capturing and storing any remaining emissions using technology or balancing them with offsets."

Website section: The Energy Future: A Journey (Australian Website)

Relevant Extracts: "Becoming a net-zero emissions energy business by 2050 in-step with society. Nice words, you say, but what does it actually mean? Well, it means net-zero emissions when we produce and process energy, and net-zero emissions when people use the energy we sell. This is the target at the heart of our Powering Progress strategy, and it supports the more ambitious goal of the United Nations Paris Agreement, which is to limit the global rise of temperature to 1.5 degrees Celsius above pre-industrial levels."

Website section: The Energy Future: A Journey (Australian Website)

Relevant Extracts: We are transforming our business to meet our target, providing more low-carbon energy such as hydrogen, electricity generated by solar power and investing in carbon farming. We are also working with our customers as they make

changes too, including in sectors that are difficult to decarbonise such as aviation, shipping, road freight and industry. It is going to take a lot of work. We are on a journey and recognise the need to change.”

Website section: The Energy Future: A Journey (Australian Website)

Relevant Extracts: “Shell will reduce emissions from our own operations, including the production of oil and gas, addressing energy efficiency over time and capturing or offsetting unavoidable greenhouse gas emissions. Most GHG emissions come from our customers’ use of our products. So we are also looking for ways to help customers cut these emissions.”

Website section: Sustainability and Environment (Australian Website)

Relevant Extracts: "Shell provides energy in a responsible way, helping the world move towards a future in which the energy used causes minimal impact on the planet."

THE COMPLAINT

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

1. *We act for Comms Declare. Comms Declare is a not-for-profit group of communications professionals dedicated to climate action.*
2. *We are writing on their behalf to ask that you investigate whether statements made by Shell Australia Pty Ltd, a subsidiary of Shell PLC, on its website are misleading or deceptive. Specifically, Comms Declare are concerned that Shell PLC’s representations around its plan to reach net zero by 2050 are seeking to capitalise on consumer preferences for climate friendly and renewable products when Shell has no intention of significantly altering its business plans as a fossil fuel company.*

The Representations

3. *Shell makes a number of representations relating to its net zero plan on its “The Energy Future” page on its website (Found at Annexure A). In essence, these representations are as follows:*
 - i. *Shell is aiming to become a net-zero emissions energy business by 2050 or sooner;*
 - ii. *Shell provides energy in a responsible way, helping the world move towards a future in which the energy used causes minimal impact on the planet;*
 - ii. *Shells climate targets support the ambitious goal of the United Nations Paris Agreement, which is to limit the global rise of temperature to 1.5 degrees;*

- iii. We (Shell) are reducing emissions from our operations and other energy products we sell to our customers;*
- v. We are transforming our business to meet our target, providing more low-carbon energy such as hydrogen, electricity generated by solar power and investing in carbon farming;*
- vi. Shell will reduce emissions from our owner operations, including the production of oil and gas, addressing energy efficiency over time, and capturing or offsetting unavoidable greenhouse gas emissions (GHG).*

4. Individually these representations lead to the following imputations about the nature of Shell's operations:

- i. Shell genuinely intends to become a net zero business by 2050;*
- ii. It aims to take appropriate steps to comply with the Paris Agreement and to conduct its business to keep temperature rises below 1.5 degree;*
- ii. It will reduce its emissions;*
- iii. It will transform its business model to adopt renewable energy (the imputations);*

5. These representations and imputations are misleading or deceptive for the following reasons:

- i. Shell is continuing to explore new oil and gas projects which is not consistent with the Paris Agreement;*
- ii. Shell is still primarily an oil and gas company and is not transitioning significant portions of its business into renewable or low-carbon energy;*
- iv. Shell has no intention of implementing its net zero business plan according to evidence presented to the US House of Representatives;*
- v. Shell's climate targets deliberately exclude the petrochemical and trading parts of their business;*
- vi. Shell's net zero plan relies heavily on Carbon Capture, Utilisation and Storage (CCUS) and offsets (misleading claims);*

Misleading or Deceptive Conduct under the Environmental Claims Code

6. *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.*

7. *Comms Declare are concerned that the representations made on Shell's website overstate Shells commitment to addressing climate change. The overall conduct of reproducing these representations creates the impression to consumers and investors that Shell is taking responsibility for its environmental impact. It is misleading as far as it suggests that Shell is actively taking steps, that are appropriate given the size, scope, and nature of their impact, to reduce their emissions across their business in a way which is consistent with the Paris Agreement, when this is not the case. We have outlined below how we believe Shells claims breach these provisions of the Code.*

Claim 1: Shell is continuing to explore new oil and gas projects which is not consistent with Paris Agreement

8. *Despite Shell's representations that it is working towards net zero by 2050 it continues to actively expand gas projects through Australia and has no plan to reduce the overall amount of oil and gas it produces by 2030.[1] This is despite the latest findings by the Intergovernmental Panel on Climate Change (IPCC) about the impacts of fossil fuels and reductions needed to stay on a path to 1.5°C.*

"Estimates of future CO2 emissions from existing fossil fuel infrastructures already exceed remaining cumulative net CO2 emissions in pathways limiting warming to 1.5°C with no or limited overshoot (high confidence). Assuming variations in historic patterns of use and decommissioning, estimated future CO2 emissions from existing fossil fuel infrastructure alone are 660(460-890) GtCO2 and from existing and currently planned infrastructure 850 (600-1100) GtCO2. This compares to overall cumulative net CO2 emissions until reaching net zero CO2 of 510 (330-710) GtCO2 29 in pathways that limit warming to 1.5°C with no or limited overshoot, and 890 (640-1160) GtCO2 in 3 pathways that likely limit warming to 2°C (high confidence). While most future CO2 emissions from existing and currently planned fossil fuel infrastructure are situated in the power sector, most remaining fossil fuel CO2 emissions in pathways that likely limit warming to 2°C and below are from non-electric energy – most importantly from the industry and transportation sectors (high confidence). Decommissioning and reduced utilisation of existing fossil fuel installations in the power sector as well as cancellation of new installations are required to align future CO2 emissions from the power sector with projections in these pathways (high confidence).[2]

9. Despite the IPCC findings, Shell's investment and fossil fuel production have not undergone any meaningful change. Shell still maintains stakes in the Gorgon and North- West Shelf gas projects (which it has no intention of decommissioning) and has recently invested in the new Crux Project, yet another gas project off the north-west coast of Australia.[3] The final investment decision for this proposal was made in May 2022, several months after the dissemination of Shell's net zero 2050 plan.[4] The proposal involves the construction of five new wells and the first production of gas is not expected until 2027.[5]

10. In addition, Shell aims to expand its capacity to export Liquid Natural Gas (LNG) by another 7 million tonnes a year by 2025.[6] Part of this will be acquired through 145 new gas wells built in Queensland over the next three years. Shell Australia Chairman Tony Nunan has been quoted as saying that "gas will be crucial to the energy transition" and that the investment in these projects marked the "next phase" of onshore gas in QLD which will boost the country's "reputation as a global LNG supplier".[7]

11. Globally, Shell continues to seek out and participate in new gas projects including as a partner to QatarEnergy in the North Field East expansion project which will be the single largest project in the history of the LNG industry.[8]

12. The Investor Group on Climate Change (IGCC) has provided a guide that assists in determining key matters that it should examine in any net zero or transition plan.[9] It also refers to the need to provide immediate goals to decarbonise, stating "restricting temperature increases to 1.5 degrees requires action to halve emissions by 2030". International research in The Production Gap undertakes an analysis of the decline of coal, gas and oil production needed to stay consistent with 1.5 degrees set out by the IPCC.[10] It emphasises the need for an immediate decline in global fossil fuel production to be consistent with 1.5 degrees. To be consistent with 1.5-degree pathways there is a need for an average decline of 11% for coal, 4% for oil, and 3% of gas between 2020 and 2030. Climate 100 benchmarks suggest that Shell's current targets are not aligned with the goal of limiting global warming below 1.5 degrees as set out in the Paris Agreement and by the IPCC because their production is not reducing by 4% per year.

Claim 2: Shell is still primarily an oil and gas company and is not significantly transitioning its business into renewable energy

13. Shell is primarily an oil and gas company. Between 2010 and 2018, Shell was estimated to have dedicated just 1% of its long-term investments to sources of low-carbon energy like wind and solar, and in 2015-2017 only 0.4% of its revenue to low-carbon technology R+D.[11]

14. In Australia, Shell is yet to introduce Electric Vehicle (EV) charging. Shell Australia Chair, Tony Nunan said that "Shell was continuing to search for the right opportunities locally to expand its offering into EV charging stations." [12]

15. Shell's total capital expenditure for 2019 was listed as \$22.9 billion, and for 2020 was \$16.5 billion. Shell's 2020 Annual Report lists its near-term investment priorities as including \$2-3 billion per year in its 'Renewables and Energy Solutions' low-carbon business. Integrated Gas, Chemicals and Products and Upstream fossil fuels are slated to receive a total of around \$17 billion.

16. According to the Climate Action 100+ Benchmark Assessments, whilst Shell does have "ambitions" to reach net zero by 2050 it has not aligned its capital allocation (investments) with its targets. This highlights a more prominent issue with Shell's plans, specifically that it only partially meets the criteria in terms of its decarbonisation strategy. For example, Shell does identify the actions it intends to take but it does not quantify them. In addition, Shell does not specify the role of "green revenues" and does not show any intent to increase the share of green revenues in its overall sales.

17. Shell's carbon targets for the next 14 years are based upon the "carbon intensity" of its energy. In effect, this allows Shell to meet these targets without any reduction in absolute emissions, relying entirely on an increase in sales of clean energy alternatives to lower the intensity of energy overall.[13]

18. Shell has stated in its Emissions Explainer that "scope 3 emissions are out of Shell's operational control." [14] Their Powering Progress Strategy therefore makes no claim that they will stop selling products that contribute to scope 3 emissions such as oil and gas. Instead, their strategy relies heavily upon offering additional low and zero-carbon products, into which they have so far invested little, with a goal to "encourage" decarbonisation through shifting demand away from fossil fuel-based products.[15]

Claim 3: Shell has no intention of implementing its net zero business plan according to evidence presented to the US House of Representatives

19. The Congress of the United States, House of Representatives, Committee on Oversight and Reform released a Memorandum in September 2022 on the investigation of fossil fuel industry misinformation.[16] The Committee's investigation has shown that, rather than outright deny global warming, the fossil fuel industry has "greenwashed" its record through deceptive advertising and climate pledges—without meaningfully reducing emissions.[17] Shell has touted its "Sky scenario" as an ambitious path to achieve net zero emissions, but internal emails emphasize this is "not a Shell business plan" and has "nothing to do with our business plans." [18] Internal Shell messaging guidance—which was developed to "insulate Shell" from lawsuits about "greenwashing" and "misleading investors" on climate change—called on employees to emphasize that net-zero emissions is "a collective ambition for the world" rather than a "Shell goal or target." The guidance urges Shell employees, "Please do not give the impression that Shell is willing to reduce carbon dioxide emissions to levels that do not make business sense." [19]

20. Shell divests carbon-intensive assets by selling them to other fossil fuel companies “to enhance our operations’ average energy intensity...[but] has no immediate plans to move to a net-zero emissions portfolio.”[20] Shell’s “Sky scenario” for reaching net-zero emissions—which relies in part on widespread implementation of unproven carbon capture and storage technology—is “not a Shell business plan, but a technically possible, although challenging scenario for how global society might meet the goals of the Paris Agreement.”[21]

21. In 2018, after releasing Shell’s Sky scenario, Shell made disclaimers “While we seek to enhance our operations’ average energy intensity through both the development of new projects and divestments, we have no immediate plans to move to a net-zero emissions portfolio over our investment horizon of 10-20 years. Although, we have no immediate plans to move to a net-zero emissions portfolio, in November of 2017, we announced our ambition to reduce our net carbon footprint in accordance with society’s implementation of the Paris Agreement’s goal of holding global average temperature to well below 2°C above pre-industrial levels”.[22]

22. Internal messaging guidance obtained by the Committee set out Shell’s efforts to keep the Sky scenario and the company’s climate pledges vague and to avoid making commitments to reduce emissions.[23] For example, in company emails an executive, Ms. Powers replied that other colleagues were already preparing material for the rollout of Shell’s “Net Zero Emissions ambition”—in other words, Shell’s climate plan. Ms. O’Connor explained in response: “[T]he brand campaign focused on Shell’s climate ambition is a different topic to the U.S. Net Zero Emissions 2050 thought-leadership material ... I don’t think I want to link the two in the same post or article because one impacts Shell’s business portfolio and one is a scenario and so nothing to do with our business plans, but if we’re not careful we could easily confuse external stakeholders if we start ta[l]king about both together.”[24]

23. An internal Shell email discussing carbon capture, utilization, and storage (CCUS) warned an executive, “We want to be careful to not talk about CCUS as prolonging the life of oil, gas or fossil fuels writ large.”[25]

Claim 4: Shell’s climate targets do not include all aspects of their business and exclude petrochemical and trading parts of their business

24. The Climate Action 100+ Net Zero Company Benchmark found that Shell only meets some of the Benchmark’s targets criteria – Shell does not have both an ambition to reach ‘net-zero’ and net zero-aligned short, medium, and long-term GHG reduction targets, which cover all its relevant emissions. Its emissions targets do not include its petrochemical operation. Shell’s targets are limited to its own ‘Net Carbon Footprint’ metric. Despite the massive climate impacts of petrochemicals used for plastics, Shell’s Scope 3 net-zero target is limited to energy products – and entirely excludes its petrochemicals business, which supplies 17 million tonnes of chemicals per year. The company also opts not to count some of its large fossil fuel trading operations.

Claim 5: Shell's net zero plan relies heavily on CCUS and offsets

25. Shell says it plans significant growth in CCUS and 'nature-based offsets,' including through planting trees, alongside continued fossil fuel production. This goes against industry guidance, which states that offsets should not be used as an alternative to absolute reductions, but only for residual or unavoidable emissions. The Science-based Targets initiative, for instance, under its Net Zero Standard, does not accept the use of offsets to contribute towards near-term emissions reduction targets, with credits only being accepted in relation to the neutralisation of residual emissions or to finance additional climate mitigation beyond absolute reduction targets.[26] Similarly, the investor group IGCC states that "over-reliance on offsets and nature-based solutions potentially delays efforts to abate emissions within a company's value chain and may not account for the limited land and space available to host additional tree coverage or overestimates carbon storage potential." [27]

26. Shell also relies heavily on CCUS in its Plans. The IPCC has confirmed that CCUS involves risks in its recent reports, stating that "Implementation of CCS currently faces technological, economic, institutional, ecological-environmental and socio-cultural barriers. Currently, global rates of CCS deployment are far below those in modelled pathways limiting global warming to 1.5°C or 2°C." [28] The IGCC has also stated that "The economic and technological challenges posed by CCUS are significant. Simply put, if CCUS cannot be commercialised and used at scale, gas demand may drop further as alternatives like green hydrogen and/or renewables with storage mature. [29] The International Energy Association (IEA) CCUS tracking report states that in 2021, "only one commercial power plant equipped with CCUS... [remained]... in operation". Moreover, the IEA tracking report states that "[b]ased on projects currently in early and advanced deployment, the potential capture capacity of all CCUS deployment in power is projected to reach 60 Mt CO₂ in 2030 – well short of the 430 Mt CO₂ per year in the Net Zero Emissions by 2025 Scenario." [30]

27. Shell's published pathway for the world to meet the Paris 1.5C goal also includes a continued significant role for fossil fuels even in 2100 and relies on massive CCS use and planting trees over an area roughly the size of Brazil.

International actions brought against Shell

28. In May 2021, a court in the Netherlands ruled that Shell must reduce its emissions. Specifically, Shell must cut its CO₂ emissions by 45% compared to 2019 levels across both emissions from its own operations and emissions from the use of the oil it produces. It found that:

the CO₂ emissions which RDS (Royal Dutch Shell) can be held responsible by their nature pose a very serious threat with a high risk of damage to Dutch residents and the inhabitants [of] the Wadden region and with serious human rights impacts. This applies to both current and future generations. A characteristic feature of dangerous climate change is that every emission of CO₂ and other greenhouse gases, anywhere

in the world and caused in whatever manner, contributes to this development. In turn, each reduction of greenhouse gas emissions positively contributes to countering dangerous climate. After all, each reduction means that there is more room in the carbon budget. RDS is able to effectuate a reduction by changing its energy package. This all justifies a reduction obligation concerning the policy formation by RDS for the entire, globally operating Shell group.[31]

29. The Dutch Advertising Standards also ruled on a Shell advertisement that claimed that it was “the driver of 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.[32]

30. Similar decisions have been observed by the Ad Standards Authority (ASA) in the United Kingdom, specifically in relation to Shell’s “Drive Carbon Neutral” campaign.[33] The ad proposed that by paying a small amount extra per litre on fuel you could offset your emissions using carbon credits. The UK Ad Standards found the advertisement misleading because a listener would believe a fuel for which Shell would offset the carbon emissions related to that fuel purchase such that the customer could “Drive carbon-neutral” when this was not the case as it related to joining a loyalty program. More generally, the UK ASA has reviewed many environmental claims and identified several issues for follow up action including:

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[34]

31. In the United Kingdom, ClientEarth has recently brought legal action against Shell’s Board of Directors on the basis that it has put the long-term value of the company at risk by failing to adequately prepare for its transition to net zero.[35] ClientEarth’s claim asserts that by mismanaging foreseeable climate risks the Board of Directors is in breach of its legal duties. ClientEarth cites the overreliance upon the ‘carbon

intensity' of energy, the failure to address scope 3 emissions and continued investment in fossil fuels as issues with Shell's Energy Transition Plan which bring into question the long-term viability of the company. By focusing on these issues, it is possible to see that there is a disconnect between Shell's public climate commitments and Shell's business plans. ClientEarth's claim argues that this disconnect opens Shell up to market and societal shifts (which Shell are trying to avoid through greenwashing) which could cause limitations on its operations. Furthermore, it exposes Shell to potential legal issues in the future and ensures that Shell fail to capitalise on opportunities presented by renewable energy projects.

32. In the United States, the state of New Jersey has filed a lawsuit against Shell and four other major oil companies.[36] The lawsuit alleges that the companies have known about the impact of fossil fuels on the climate for decades. Despite this the oil majors have intentionally withheld this information and engaged in campaigns of misinformation. The lawsuit ultimately seeks monetary penalties for the environmental damage that the defendants have caused to the climate and in particular the state of New Jersey.

Harm associated with the conduct

33. Greenwashing causes harm on multiple fronts. As established above, the conduct engaged in by Shell is misleading and deceptive. Moreover, the representations both explicitly and implicitly overstate Shell's positive impact on addressing climate change by supposing that they are actively meeting their net zero by 2050 target. This gives the false impression to its audience that Shell's products are meeting the "growing demand for cleaner energy." The latest scientific information about the impact of fossil fuels on global warming highlights how this kind of conduct can be so damaging. The IPCC has found that emissions from fossil fuels are the dominant cause of global warming and must be reduced by 45% from 2010 levels by 2030 if global warming is to be limited to 1.5 degrees (in line with the Paris Agreement).[37] This 1.5-degree limit is based upon the scientific understanding that warming beyond this range risks sea levels rising and an increase in extreme weather events, biodiversity loss and species extinction, as well as food scarcity, worsening health and poverty for millions of people worldwide.[38] Shell plays a particularly important role in this process given that its emissions account for 1.6% of the global carbon budget and it is one of the top 10 emitters in the world.[39]

34. In addition, misleading net zero claims provide consumers with the impression that purchasing Shell products is socially acceptable on the basis that it is undertaking steps to improve its business operations and investing significantly in less emissions intensive and renewable energy, when this is not the case. In this way, Shell is capitalising on green steps it was not prepared to take thus potentially increasing its revenue and its environmental harm.

35. Overall, greenwashing serves to reduce consumer trust in green products as it becomes difficult to differentiate between genuine and bogus claims. As such, there is a broader public policy benefit to be had from strict enforcement of green claims.

References:

1 <https://www.theguardian.com/business/2021/feb/11/shell-grow-gas-business-energy-net-zero-carbon>.

2 IPCC AR6 Working Group III, Technical Summary, ?pg.TS-26-Figure TS.8, ?{2.7.2, 2.7.3, Figure 2.26, Table 37 2.6, Table 2.7.

3 <https://www.shell.com.au/about-us/projects-and-locations/joint-ventures.html>.

4 <https://www.shell.com.au/about-us/projects-and-locations/the-crux-project/project-overview.html>.

5 <https://www.offshore-energy.biz/shell-seeking-approval-for-development-drilling-on-gas-project-off-australia/>; [https://www.shell.com.au/about-us/projects-and-locations/the-crux-project/_jcr_content/par/relatedtopics_1767396225.stream/1645524028533/7ac43a52eacd2a24574bcb79b7](https://www.shell.com.au/about-us/projects-and-locations/the-crux-project/_jcr_content/par/relatedtopics_1767396225.stream/1645524028533/7ac43a52eacd2a24574bcb79b70257c093244a8a/crux-drilling-ep-factsheet-final-feb.pdf)

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6 <https://www.theguardian.com/business/2021/feb/11/shell-grow-gas-business-energy-net-zero-carbon>.

7 <https://www.smh.com.au/business/companies/shell-s-next-phase-in-australia-includes-drilling-145-new-gas-wells-20220208-p59upu.html>.

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9 Corporate Climate Transition Plans: A Guide To?Investor?Expectations.

10 The Production Gap, Special Report 2020- pg. ?15.

11

12 <https://thedriven.io/2021/03/25/shell-searching-for-right-opportunities-for-australian-ev-charging-and-hydrogen/>.

13 <https://www.theguardian.com/business/2021/feb/11/shell-grow-gas-business-energy-net-zero-carbon>.

14

https://fourleafdigital.shell.com/webapps/climate_ambition/downloads/EmissionsExplainer.pdf.

15 Ibid.

16 <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022.09.14%20FINAL%20COR%20Supplemental%20Memo.pdf>

17 House of Representatives, 117th Congress of the United States (2021-2022) Committee on Oversight and

Reform. Memorandum: Investigation of the Fossil Fuel Industry (24 September 2022).

<https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022.09.14%20FINAL%20COR%20Supplemental%20Memo.pdf> p. 1-2.

18 Ibid, pg. 3.

19 Ibid, pg. 3.

20 Ibid, pg. 7

22 House of Representatives, 117th Congress of the United States (2021-2022) Committee on Oversight and Reform. Memorandum: Investigation of the Fossil Fuel Industry (24 September 2022).
<https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022.09.14%20FINAL%20COR%20Supplemental%20Memo.pdf> pg. 16.

23 Ibid, pg. 16.

24 Ibid, p. 19

26 SBTi, Does SBTi accept all approaches to reducing emissions?
<https://sciencebasedtargets.org/faqs#does-the-sbti-accept-all-approaches-to-reducing-emissions>.

27 IGCC, Corporate Climate Transition Plans: A guide to investor expectations.
<https://igcc.org.au/wp-content/uploads/2022/03/IGCC-corporate-transition-plan-investor-expectations.pdf>, pg. 8.

28 IPCC, Sixth Working Group- Climate Change 2022-Mitigation of Climate Change,
https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_SP_M.pdf, pg. 32, C4.6

29 Investor Group on Climate Change, A changing climate for Australian Gas- a new 1.5°C scenario analysis of new Australian gas projects, pg. 22

30 <https://www.iea.org/reports/ccus-in-power>.³⁴ <https://www.asa.org.uk/news/asa-statement-on-world-environment-day.html>.

31 District Court of The Hague, Milieudéfensie et al. v Royal Dutch Shell PLC (26 May 2021) C/09/571932/HA ZA 19-379, English Version (Milieudéfensie v RDS) para 4.4.54.

32 <https://verbiedfossielereclame.nl/shell-may-not-call-itself-driver-of-the-energy-transition-rules-dutch-ad-watchdog/>.

33 <https://www.asa.org.uk/rulings/shell-uk-ltd-g20-1049869-shell-uk-ltd.html>.

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35 <https://www.clientearth.org/redirecting-shell/>.

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

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

39 <https://www.theguardian.com/environment/2019/oct/09/revealed-20-firms-third-carbon-emissions>.

THE ADVERTISER'S RESPONSE

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

We refer to a complaint lodged by Comms Declare with Ad Standards Australia as notified to Shell Australia Pty Ltd ("**Shell Australia**") on 24 November 2022 (with case reference number 0280-22) (the "**Complaint**"). Shell Australia appreciates the opportunity to provide input into the Ad Standards Community Panel's consideration of the Complaint.

The substance of the Complaint concerns six statements taken from two webpages of the www.shell.com.au website (the "**Statements**"). For the reasons outlined below, Shell Australia submits that the Statements forming the subject of the Complaint are not 'Environmental Claims' (as defined in the AANA Environmental Claims Code (**ECC**)), are in any case truthfully and factually presented, are substantiated and would therefore not mislead or deceive the average person in the target audience. Shell Australia respectfully submits that the website content and YouTube video do not breach the AANA Code of Ethics or ECC (to the extent it applies) and are otherwise in compliance with all other relevant codes and laws. The Complaint should be dismissed by the Panel.

1. EXECUTIVE SUMMARY

1.1 Substance of the Complaint

1.1.1 The six Statements are listed in paragraph 3 of the Complaint.

- (a) **Statements (i) and (iii), (iv), (v) and (vi)**¹ refer to Shell's² target to become a net-zero emissions energy business by 2050 and the steps Shell is taking to achieve that target. These are contained on the "*Energy and innovation > The energy future*" webpage of shell.com.au ("**Webpage 1**") and in a YouTube [video](#) found on that webpage.
- (b) **Statement (ii)** is taken from the "*Sustainability > Environment*" webpage of shell.com.au ("**Webpage 2**") and relates to Shell Australia's reporting on Health, Safety, Security and Environment and Social Performance outcomes, rather than the energy transition specifically.

1.1.2 The full text of Webpage 1 is in **Annexure 1** and can be viewed [here](#); the full text of Webpage 2 is in **Annexure 2** and can be viewed [here](#). The transcript of the YouTube video is in **Annexure 3**.

¹ Shell Australia refers to each of "The Representations" as Statements (i) to (vi) using a chronological approach to the numbering referred to in paragraph 3 of the Complaint.

² The companies in which Shell plc directly and indirectly owns investments are separate entities. In this response, the expression "Shell" or "Shell group" is sometimes used for convenience where references are made to Shell plc and its subsidiaries in general. Likewise, the words "we", "us" and "our" are also used to refer to Shell plc and its subsidiaries in general or those who work for them. These expressions are also used where no useful purpose is served by identifying the particular entity or entities

1.2 Target Audience

- 1.2.1 The **Target Audience** of the Webpages where these Statements appear are individuals who actively navigate to the shell.com.au website and then to Webpages 1 and/or 2 because they have an interest in: Shell Australia's projects and assets, Shell's climate strategy, the energy industry and/or the energy transition.³
- 1.2.2 The Statements are intended to be read by the Target Audience in the context of the full content of the respective Webpages. The two Webpages also contain links that allow readers to obtain further information about the Statements, including "Climate FAQs" to explain technical or scientific terms, to ensure the Webpage content is clear, plain and unambiguous.

1.3 Statements (i) and (iii), (iv), (v) and (vi) on Webpage 1 or in YouTube video: Net-zero emissions energy business by 2050

- 1.3.1 The Statements on Webpage 1 and in the YouTube video refer to Shell's corporate targets, activities or strategy. They are truthful and factual and are substantiated by Shell's corporate strategy documents (also found on Shell's webpages). When read either alone or in the full context of the shell.com.au website, the Target Audience would not likely be misled or deceived by these Statements. A summary of Shell Australia's response is below with further detail in Section 4.
- 1.3.2 Shell is an energy provider. Shell is transparent about this, including Shell's view that: (a) the world, including Australia, will need to meet societal demand for energy in the context of a growing population with rising living standards for everyone; and (b) to address climate change, which requires urgent action if society is to mitigate its impacts, energy must increasingly come from lower-carbon sources.⁴
- 1.3.3 Shell is changing its global portfolio of products to provide customers with lower carbon energy products such as biofuels, hydrogen and renewable electricity to help to drive forward the energy transition; it wants to be part of the solution.
- 1.3.4 Shell's target is to become a net-zero emissions energy business by 2050. A net-zero emissions energy business is one that does not add to the total stock of greenhouse gases in the atmosphere.⁵ This is a long-term target for Shell. Shell has stated its intent to meet this target publicly and it is at the heart of Shell's Energy Transition Strategy, which was supported by its shareholders.⁶

³ See the Panel's previous consideration of similar matters in [0181-22.pdf \(adstandards.com.au\)](#), page 17 and [0225-22.pdf \(adstandards.com.au\)](#), page 14.

⁴ Shell's Powering Progress Strategy, which was launched in 2021, sets out how Shell seeks to play a leading role in helping society to meet that challenge.

⁵ Shell's "Our Climate Target FAQs" ([link](#)).

⁶ Shell's Energy Transition Strategy was put to an advisory shareholder vote at the Annual General Meeting in 2021, where it secured 89% of the vote. Energy Transition Progress Report, p. 3 ([link](#)).

- 1.35 In addition to its net-zero by 2050 target, Shell has set several short- to medium-term *interim* targets, which set the pace at which the company plans to transition:⁷
- (a) Shell has set a target to halve the absolute emissions from its own operations (known as **Scope 1** emissions), plus the energy it buys to run them (**Scope 2** emissions), by 2030 compared with 2016 levels, on a net basis for emissions under its operational control. By the end of 2021, Shell had reduced these emissions by 18% (compared to 2016), which “*shows significant progress towards achieving our target of a 50% reduction by 2030*”.⁸ For more detail on how Shell has done this, refer to Section 4; and
 - (b) Shell has also set interim targets to reduce the net carbon intensity of the energy products that it sells. **Carbon intensity** is the total amount of greenhouse gas emissions associated with each unit of energy Shell sells to its customers. Crucially, this reflects both a reduction in sales of oil and gas products, and growth in sales of low- and zero-carbon products and services. Shell has set a target of reducing the net carbon intensity of the energy products it sells by 20% by 2030, 45% by 2035, and 100% by 2050 (in each case relative to 2016).⁹ At the end of 2021, Shell had reduced the net carbon intensity of the energy products it sells by 2.5% compared to 2016 (meeting its target of a 2-3% reduction by 2021).¹⁰ For more detail on how Shell has done this, refer to Section 4.
- 1.3.6 Shell believes its climate targets are aligned with the more ambitious goal of the Paris Agreement: to limit the increase in the global average temperature to 1.5°C above pre-industrial levels. Because there is no standard methodology for aligning an energy supplier's plans and targets with the goals of the Paris Agreement, Shell studied a subset of the United Nations’ Intergovernmental Panel on Climate Change (“**IPCC**”) scenarios that achieved that goal, as explained further below at paragraphs 4.4.5 to 4.5.8.

1.4 Statement (ii) on Webpage 2: Responsible business

- 1.4.1 Statement (ii) includes the phrase “*Shell provides energy in a responsible way,*” which is intended to convey that Shell Australia seeks to comply with relevant laws and regulations and good industry practice for all of its activities as an energy business. This is, therefore, an accurate and factual statement and is thus not likely to mislead or

⁷ Key concepts are further explained in the YouTube video ([link](#)) and in Shell's "Our Climate Target FAQs" ([link](#)).

⁸ Energy Transition Progress Report, p. 10 ([link](#)). See also "Our Climate Target: FAQs" ([link](#)). Note that progress figures for the year 2022 are not yet available.

⁹ Energy Transition Strategy ([link](#)), p. 5.

¹⁰ Energy Transition Progress Report, p. 13 ([link](#)).

deceive the Target Audience. It is also substantiated by reference to further information on Webpage 2 (as detailed in Section 4 below).

1.4.2 As one of the world's major suppliers of energy, Shell takes a responsible approach to the energy transition, recognising that its customers need to be supplied with the energy they need today and into the future. Shell Australia takes seriously its compliance with applicable laws, regulations and good industry practice.

1.4.3 Contrary to what is suggested by the Complainant, it is unreasonable to interpret the Statement as suggesting that Shell Australia is no longer involved in gas projects, not least because Webpage 2 prominently features information about the Prelude Floating Liquefied Natural Gas ("**Prelude FLNG**") Project. Webpage 2 also provides an accurate explanation of Shell's regulatory, environmental and social impact.

1.5 **Statements are not Environmental Claims**

1.5.1 To the extent the Statements are regarded as "Environmental Claims" (which Shell Australia considers they are not for the reasons explained in Section 3), Shell Australia respectfully submits that the Panel should conclude that the Statements each comply with the requirements of the AANA Code of Ethics and ECC and that the Complaint be dismissed.

1.6 **Response Structure:**

- Section 2 provides a brief summary of Shell's business and activities and its website;
- Section 3 addresses the application and compliance with the Code of Ethics and ECC;
- Section 4 contains a more detailed response to the Complaint; and
- Section 5 sets out Shell Australia's conclusion.

2. **BACKGROUND TO SHELL**

2.1 **Shell's business as an energy provider**

2.1.1 Shell seeks to meet the world's need for energy solutions in ways that are economically, environmentally and socially responsible. To achieve this, Shell is working with its customers and across industry sectors to accelerate the energy transition, assisting customers to reduce their emissions by offering lower-carbon products, and helping grow demand for alternative energy products. Shell is therefore well placed to play an active, leading role in the energy transition in a way that encourages the reduction of carbon emissions, while continuing to deliver the energy that society needs.

2.1.2 Shell has been present in Australia for more than 120 years. Today, Shell Australia's business spans natural gas production, power retailing,

gas and solar power generation and trading, solar and onshore wind development, battery storage and carbon farming and abatement activities. Retail service stations in Australia that have Shell branding are not owned by Shell Australia. These service stations are owned and operated by Viva Energy Australia, which licences the right to use Shell branding.

2.2 Shell Websites

- 2.2.1 Shell takes seriously the need to ensure all of its public statements are accurate and not misleading. Information published on its website is subject to Shell's global disclosure standard ("**Disclosure Standard**"), which is designed to ensure that all public disclosures that Shell makes are, in all material respects, fair, balanced, accurate and complete, and in compliance with all applicable laws, regulations, codes of practices and stock exchange rules. Shell believes that the Disclosure Standard helps to ensure that statements on the shell.com.au website meet the requirements of the Code of Ethics and the ECC.
- 2.2.2 Shell's global website (shell.com) is the primary online channel to communicate Shell's purpose and strategy. Shell uses its website to publish information about its business, because it is committed to conducting its business in an ethical and transparent way.¹¹
- 2.2.3 The global website provides, amongst other things:
- (a) an overview of Shell's global business, purpose and people;
 - (b) an explanation of Shell's Powering Progress Strategy, including its Energy Transition Strategy and progress updates (as set out in this document);
 - (c) an overview of Shell's approach to sustainability and governance; and
 - (d) investor related reports and filings.
- 2.2.4 The shell.com.au webpages draw content from the shell.com global webpages in addition to including more detailed information on Shell's activities in Australia. Content on the shell.com.au website, including disclaimers, is updated from time to time, including to reflect changes to the global website.
- 2.2.5 This response addresses the Statements as they appeared on the Webpages at the time of the Complaint.

3. APPLICATION AND COMPLIANCE WITH CODE OF ETHICS AND THE ECC

3.1 Compliance with the Code of Ethics

¹¹ Shell plc Sustainability Report 2021, page 10 [link on shell.com](#)

- 3.1.1 The Panel can be satisfied that the six Statements comply with section 2 of the ANAA Code of Ethics, in that the Statements, Webpages and YouTube video:
- (a) do not include material which is discriminatory or engages in vilification of any kind;
 - (b) are not exploitative or degrading or otherwise employ any sexual appeal;
 - (c) do not contain scenes of violence;
 - (d) do not contain scenes of sex, sexuality, or nudity;
 - (e) do not include offensive or obscene language;
 - (f) do not depict scenes or material which contravene principles of health and safety; and
 - (g) are clearly distinguishable as advertising.¹²

3.2 Application and compliance with the ECC

3.2.1 In a general sense, the Statements and YouTube video relate to the Environment. However, the ECC is concerned with 'Environmental Claims', and the Complaint itself does not specify why the Statements constitute Environmental Claims. For the reasons set out below, Shell submits that there is sufficient basis for the Panel to decide that the Statements are not Environmental Claims.

3.2.2 In any event, Shell Australia stands behind the Statements and YouTube video as being accurate and truthful statements of its corporate strategy, targets, activities and operations. Detailed substantiation for these materials is set out in Section 4.

3.2.3 The ECC defines an Environmental Claim 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.

3.2.4 Shell Australia considers that the Statements or YouTube video are not "Environmental Claims" within the meaning of the ECC because:

- (a) Statements (i) and (iii)-(vi) and the YouTube video concern Shell's global corporate strategy rather than any particular product or service. Such information is provided for the Target Audience to

¹² While Shell does not consider the six Statements to be typical "advertising", we understand that, within the context of the ECC, Ad Standards Australia applies a broad interpretation to "advertising". Shell makes the statement in paragraph 3.1.1(g) above on the basis that Shell's webpage, which includes the Statements and YouTube video, is the primary online channel to communicate Shell's purpose and strategy.

understand Shell's strategy and progress against its climate targets. Documents such as Shell's Energy Transition Strategy, and its Energy Transition Progress Report, are corporate reports for the purposes of the ECC, as they are statements of Shell's global corporate strategy (subject to its Disclosure Standard). "Corporate reports" are excluded from the definition of "Advertising or Marketing Communication" in the ECC¹³. Shell Australia also refers to case number 0188-22, where the Panel confirmed that statements about corporate responsibility (even if they are made in relation to environmental matters) are not 'Environmental Claims';¹⁴

- (b) Statement (ii) refers to Shell's regulatory compliance and does not promote or claim any environmental benefits in respect of specific products or services; and
- (c) None of the Statements referred to in the Complaint contain any express or implied representation about a particular product or service.

3.2.5 Furthermore, the Complainant provides no explanation as to why "*the average consumer in the target market would be likely to be misled or deceived by the material*", as per the guidance contained in the [AANA Environmental Claims Code: Practice Note](#) ("**AANA Practice Note**").

- (a) Instead, the Claimant makes reference to a broad range of highly selective allegations (many of which are factually incorrect and/or taken out of context) that are mischaracterised as "Claims" (referred to in paragraph 5 onwards of the Complaint), and improperly call on the Panel to adjudicate Shell's corporate strategies and the extent of its progress.
- (b) In Shell Australia's view, consistent with the Panel's determination in case number 0209-22, which assessed a different complaint brought by the Complainant,¹⁵ the Panel's role in considering the Complaint is to decide whether an average person in the target market would be likely to be misled by the content. To assist the Panel in its assessment, Shell Australia has, therefore, focused its response on whether the six Statements comply with the Codes –

¹³ The ECC relevantly provides that "*Advertising or Marketing Communication....does not include corporate reports including corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy and the like...*"

¹⁴ [0188-22.pdf](#) (adstandards.com.au), page 3.

¹⁵ [0209-22.pdf](#) (adstandards.com.au), page 7

including an explanation of why each of them is not misleading or deceptive or otherwise in contravention of the ECC – rather than respond to each of the “Claims”.

4. SHELL AUSTRALIA'S DETAILED RESPONSE TO THE COMPLAINT

4.1 Introduction

4.1.1 Each Statement should be viewed in the context in which it appears, and in the manner in which it would likely be interpreted by the Target Audience. Shell Australia therefore sets out below:

(a) how it considers each of the Statements would be understood by the Target Audience in context, as clear, plain and unambiguous;

(b) the basis for substantiating each Statement; and

(c) how the Statements comply with the requirements of the ECC.

4.1.2 Shell Australia addresses Statements (i), (iii)-(vi) (taken from Webpage 1 and the YouTube Video) separately from Statement (ii) (taken from Webpage 2). This is done to reflect the different context in which the Statements appear and would likely be viewed by the Target Audience.

4.2 Response to Statements (i), (iii), (vi) and (v) – Net-zero emissions energy business by 2050

4.2.1 It is important that each of the Statements is viewed in the context in which they appear on Webpage 1. The immediate context for Statements (i), (iii), (iv) and (v) is set out below (with the Statements underlined):

"Shell is aiming to become a net-zero emissions energy business by 2050 or sooner."

We intend to meet our customers' demand for cleaner energy, keeping in pace with society.

A journey

With this approach, we want to contribute to achieving a net-zero world, where society stops adding to the amount of greenhouse gases (GHGs) in the atmosphere.

This supports the most ambitious goal to tackle climate change laid out in the Paris Agreement: to limit the rise in average global warming to 1.5°Celsius.

Becoming a net-zero emissions energy business means that we are reducing emissions from our operations, and other energy products we sell to our customers. It also means capturing and storing any remaining emissions using technology or balancing them with offsets.

We are transforming our business to meet our target, providing more low-carbon energy such as hydrogen, electricity generated by solar power and investing in carbon farming.

We are also working with our customers as they make changes too, including in sectors that are difficult to decarbonise such as aviation, shipping, road freight and industry.

It is going to take a lot of work. We are on a journey and recognise the need to change."

4.3 Statement (i): "Shell is aiming to become a net-zero emissions energy business by 2050 or sooner"

- 4.3.1 Statement (i) is expressed as a forward-looking statement of Shell's target, as indicated through the use of the term "*aiming*". It is also expressed as a long-term objective, through the reference to the year "2050". Based on its plain meaning and the explanation contained below the heading, the Target Audience would likely interpret Statement (i) as meaning that Shell has set a long-term target to reduce the emissions from its own operations, and the emissions from the products it sells, to net zero by 2050.
- 4.3.2 Statement (i) is substantiated by Shell's Energy Transition Strategy, a corporate document in which Shell formally outlines its strategy to be a net-zero emissions energy business by 2050 (a goal Shell first published in 2020) and explains in more detail its strategy for achieving this objective.
- 4.3.3 Statement (i) does not, in itself, refer to any specific actions that Shell is taking as part of its progression to net zero (though examples of specific initiatives and targets are set out later on Webpage 1). The Target Audience would therefore not likely interpret Statement (i) itself as describing specific activities (such as oil or gas investment) Shell would take or not take in pursuit of its 2050 target. In fact, Webpage 1 refers directly to oil and gas, including referring expressly to the "production of oil and gas" and a link to a webpage on shell.com.au titled "Natural Gas" so Shell is transparent on its current portfolio.

- 4.3.4 Further, as set out in paragraph 1.3.4 above, Shell has targets in place and has made progress towards those targets as explained in its Energy Transition Progress Report. The Target Audience would likely not interpret the Statement (i) as indicating that Shell has "*no intention of implementing*" its Energy Transition Strategy (including its net-zero target).
- 4.3.5 Webpage 1 includes a prominent Legal Disclaimer which provides additional context to Statement (i). The Disclaimer explains in clear, plain and specific language that Shell's operating plans, outlook and budgets are forecasted for a ten-year period and are updated each year. This is standard in the industry. The Legal Disclaimer states that Shell expects its operating plans to change as society moves closer to net-zero emissions.¹⁶ It also provides additional material information about Shell's net-zero target, including risks and uncertainties that could impact Shell's attaining that target.
- 4.3.6 Further, the Legal Disclaimer explains that forward-looking statements (including those expressed as an "aim") are "*statements of future expectations that are based on management's current expectations and assumptions and involve known and unknown risks and uncertainties that could cause actual results, performance or events to differ materially from those expressed or implied in these statements*".¹⁷ Shell provides these disclaimers so that readers are informed of the risks and uncertainties related to forward-looking statements.
- 4.3.7 Webpage 1 also links to FAQs about Shell's climate targets.¹⁸ This webpage refers to the scenarios produced by Shell, which are part of a series of worldwide society-wide scenarios that Shell has produced for several decades. Scenarios are not intended to be projections or forecasts of likely future events or outcomes.¹⁹ In fact, Shell's scenarios are expressly described on its website as "*not Shell's strategy or business plan*".²⁰ These scenarios are prepared to challenge Shell executives' perspectives on the future business environment and to stretch management to consider events that may only be remotely possible. They also help governments, academia and business in understanding possibilities and uncertainties that may lie ahead.

¹⁶ The relevant extract of the disclaimer as it appeared at the time of the Complaint stated:
Shell's operating plan, outlook and budgets are forecasted for a ten-year period and are updated every year. They reflect the current economic environment and what we can reasonably expect to see over the next ten years. Accordingly, Shell's operating plans, outlooks, budgets and pricing assumptions do not reflect our net-zero emissions target. In the future, as society moves towards net-zero emissions, we expect Shell's operating plans, outlooks, budgets and pricing assumptions to reflect this movement.

¹⁷ shell.com.au website, *Energy and innovation > The energy future*, Legal Disclaimer (see Annexure 1).

¹⁸ See "Our Climate Target: Frequently Asked Questions" ([link](#))

¹⁹ See "What are Shell Scenarios" ([link](#))

²⁰ Shell's publication "The Energy Transformation Scenarios" explains that "*Shell's scenarios* (of which Sky 1.5 is one) *are not intended to be projections or forecasts of the future. Shell's scenarios, including the scenarios contained in this report, are not Shell's strategy or business plan.*" ([link](#))

- 4.3.8 Viewed in context, the Target Audience would likely understand that achieving a 2050 target will necessarily require an evolving and adaptable strategy that is able to respond to changes in society and the business environment in which Shell operates. Addressing climate change globally involves complex policy judgements, prioritisations and trade-offs about the roles and responsibilities of different countries, sectors and actors. Those trade-offs and policy judgements have to be made in the face of constantly evolving technology and science, a dynamic geopolitical and economic landscape, and consideration of the impact of such changes on society and local populations. The Legal Disclaimer and FAQs are therefore consistent with Section 1(b) of the ECC.
- 4.3.9 Statement (i) is therefore a truthful and factual presentation of Shell's objectives and is not likely to mislead or deceive the Target Audience (Section 1 of the ECC). It is also substantiated by reference to Shell's corporate documents and further information on Webpage 1 and the shell.com website.
- 4.4 **Statement (iii): "Shell's climate targets support the ambitious goal of the United Nations Paris Agreement, which is to limit the global rise of temperature to 1.5 degrees"**
- 4.4.1 Statement (iii) is a statement made in a YouTube video by the then Shell Chief Executive Officer, Ben van Beurden, in which he explains Shell's Energy Transition Strategy. This Statement, as well as other statements in the video, are substantiated by Shell's Energy Transition Strategy.²¹
- 4.4.2 In its immediate context, Statement (iii) (using the words used in the video) provides as follows:
- [text display in video] Limit the global rise in temperature to 1.5 degrees Celsius above pre-industrial levels.*
- [Ben van Beurden] This is the target at the heart of our Powering Progress strategy, and it supports the more ambitious goal of the United Nations Paris Agreement, which is to limit the global rise in temperature to 1.5 degrees Celsius above pre-industrial levels.*
- Let's be clear, this is not something that Shell can realise alone. To get there, society as a whole needs to act now.*
- 4.4.3 In this context, the Target Audience would likely interpret Statement (iii) as meaning that (a) the climate targets set out in Shell's Powering

²¹ Energy Transition Strategy ([link](#)).

Progress Strategy are intended to align with the Paris Agreement goal of limiting the increase in the global average temperature to 1.5°C and (b) achieving that target will require coordinated action by society as a whole and cannot be achieved by Shell alone (as an individual business), which is explained in the video.

- 4.4.4 The Paris Agreement establishes a collective goal by which the signatories to the Agreement aim to limit "*the increase in global average temperature to well below 2°C above pre-industrial levels and [to pursue] efforts to limit the temperature rise to 1.5°C.*"²² The Paris Agreement does not prescribe a particular route or single pathway for achieving this objective and does not, for example, prescribe specific reductions for any particular sector or prohibit oil and gas exploration or development.
- 4.4.5 The IPCC's most recent report (referred to in the Complaint),²³ also does not prescribe a single pathway for any individual country or business to take in order to be aligned with the Paris Agreement. Rather, it reports on what is known about the drivers of climate change, its impacts and future risks, and how adaptation and mitigation can reduce those risks.
- 4.4.6 While there is no single pathway to alignment with the Paris Agreement goals, Shell, like all of society, believes it has a role to play to help reduce emissions and help limit global temperature rise. Because there is no standard methodology for aligning an energy supplier's plans and targets with the goals of the Paris Agreement, Shell studied a subset of the IPCC scenarios that achieved that goal, which were focused on earlier action and placed less reliance on the use of carbon sinks. From this subset, Shell calculated the range of carbon intensity pathways over time and set targets to fall within these pathways.
- 4.4.7 Based on this analysis, the net carbon intensity of the energy mix would need to fall by around 15-35% from 2016 levels by 2030.²⁴ Shell has therefore set targets within this range, with a goal to reduce the net carbon intensity of the energy products it sells by 20% by 2030 (as compared to 2016 levels).²⁵
- 4.4.8 The IPCC has also stated that limiting global warming to 1.5°C will mean "*achieving net zero carbon dioxide emissions globally in the early 2050s.*"²⁶ Shell believes that its own target to become a net-zero emissions energy business by 2050 supports the Paris Agreement goal of pursuing efforts to limit the global temperature increase to 1.5°C.

²² The Paris Agreement, Article 2.1(a).

²³ IPCC AR6 WGIII ([link](#)).

²⁴ Energy Transition Progress Report, p. 11 ([link](#)).

²⁵ Energy Transition Progress Report, p. 11 ([link](#)).

²⁶ IPCC Press Release, 4 April 2022, IPCC website ([link](#)).

Notably, the latest Climate Action 100+ Net Zero Company Benchmark concludes that Shell's long-term 2050 net-zero target *is* aligned with the goal of limiting global warming below 1.5 degrees.²⁷

4.4.9 Shell considers the purpose of the YouTube video is to explain the complexities of this goal and the steps involved in reaching it and viewers are able to readily access further information about Shell's strategy by viewing Shell's Energy Transition Strategy, which is also on the shell.com website.

4.4.10 Statement (iii) is therefore a truthful, accurate and factual statement of how Shell believes its strategy aligns with the more ambitious 1.5°C goal of the Paris Agreement and is not likely to mislead or deceive the Target Audience (Section 1 of the ECC). It is substantiated by reference to Shell's corporate documents and further information on the shell.com website.

4.5 **Statement (iv): "We (Shell) are reducing emissions from our operations and other energy products we sell to our customers"**

4.5.1 In its immediate context (under the heading "*Journey*"), Statement (iv) reads:

"Becoming a net-zero emissions energy business means that we are reducing emissions from our operations, and other energy products we sell to our customers. It also means capturing and storing any remaining emissions using technology or balancing them with offsets."

4.5.2 The term "*net zero*" is widely understood to refer to a situation in which CO2 emissions are balanced with CO2 removals.²⁸ Shell adopts a hierarchical "*avoid, reduce and then compensate*" approach.²⁹ This means that where emissions remain unavoidable, after working to avoid or reduce emissions, the emitter may choose to compensate for their emissions by retiring voluntary carbon credits.³⁰

4.5.3 The Target Audience would likely interpret Statement (iv) as a forward-looking Statement that (as part of its "*journey*" to becoming a net-zero energy business) Shell has targets in place to (a) reduce the net emissions from its operations (i.e. Scope 1 and 2 emissions) to net zero by 2050 and; (b) reduce the net carbon intensity of the energy products it sells to customers (Scope 3 emissions) to net-zero by 2050. Both of these reductions involve the use CO2 removals such as Carbon

²⁷ CA100+ benchmark – Long term (2036-2050 GHG reduction target(s) 2.3 (Shell scored green for ‘Yes, Meets All Criteria’) See [Shell plc | Climate Action 100+](#)

²⁸ The *IPCC Special Report on 1.5* provides defines net zero CO2 emissions as follows: "**Net zero CO2 emissions:** Net zero carbon dioxide (CO2) emissions are achieved when anthropogenic CO2 emissions are balanced globally by anthropogenic CO2 removals over a specified period." (<https://www.ipcc.ch/sr15/chapter/spm/> Box SPM.1)

²⁹ See "Our climate target" ([link](#)).

³⁰ See "Working with customers to compensate for their emissions" ([link](#)).

Capture and Storage ("CCUS") and Nature Based Solutions ("NBS") (as explained further below).

4.5.4 Shell has made clear what parts of its business are included or not included in its climate targets.³¹ As set out in Shell's Energy Transition Strategy, non-energy products are not included in Shell's carbon intensity targets because their end-use is not combustion. These products are therefore not consumed as energy in the way that fuels like liquefied natural gas (LNG), petrol or diesel are consumed.³²

4.5.5 Against this backdrop, Statement (iv) is substantiated by the actions that Shell has taken to reduce emissions to date, and the short- and medium- term targets Shell has set to reduce emissions to support its target of becoming a *net-zero emissions energy business*, specifically (as reported in its Energy Transition Progress Report):

(a) **Own operations:** Shell has a target of reducing Scope 1 and 2 absolute emissions by 50% by 2030 against 2016 levels. As at the end of 2021, Shell had achieved an 18% reduction in these emissions relative to 2016.³³ Shell's current plans to achieve its 2030 target involve: (i) making portfolio changes such as acquisitions and investments in new, low-carbon projects; (ii) divesting assets and reducing its production through the natural decline of existing oil and gas fields; (iii) improving the energy efficiency of its operations; (iv) transforming its remaining five refineries globally into low-carbon energy and chemicals parks; (v) using more renewable electricity to power its operations; (vi) developing carbon capture and storage (CCS) for its facilities; and, (vii) if required, using nature-based solutions to offset any remaining emissions from its operations;³⁴

(b) **Energy products sold to customers:** Shell reduced the net carbon intensity of the energy products it sold by 2.5% between 2016 and 2020 (meeting its objective of a 2-3% reduction).³⁵ Shell achieved this reduction by shifting its portfolio to lower-carbon energy products such as natural gas, power and biofuels, which in 2021 made up 55% of its total energy sales, compared with 46% in 2016.³⁶ Shell also has targets to reduce the net carbon intensity of the energy it sells globally by 20% by 2030, 45% by 2035, and 100% by 2050.³⁷

³¹ See "What emissions are included in Shell's carbon intensity target?" ([link](#)) / "What is not included in Shell's carbon intensity target?" ([link](#))

³² Energy Transition Strategy, p. 8 ([link](#)).

³³ Energy Transition Progress Report 2022, Strategy Key Note Speech ([link](#)).

³⁴ Energy Transition Progress Report 2021, p. 9 ([link](#)).

³⁵ Energy Transition Progress Report 2021, p. 12 ([link](#)).

³⁶ Energy Transition Progress Report 2021, p. 13 ([link](#)).

³⁷ Energy Transition Strategy, p. 5 ([link](#)).

- (c) **CCS and NBS or carbon offsets:** In 2021, Shell reported 0.41 million tonnes of CCS and retired 5.1 million tonnes of NBS credits (an increase from 3.9 million tonnes of NBS credits in 2020).³⁸
- 4.5.6 CO2 removals can be achieved through CCUS, in which CO2 is captured and stored or used for other purposes, and NBS, which are nature-based projects that absorb CO2 or prevent the release of greenhouse gases into the atmosphere. Webpage 1 indicates that Shell's target to reduce absolute emissions by 50% by 2030 compared to 2016 levels is "[c]alculated on a net basis, which allows for the use of carbon capture and storage as well as nature-based solutions". Webpage 1 also states expressly that one of the ways Shell intends to become a net-zero emissions energy business is by "capturing or offsetting unavoidable greenhouse gas emissions (GHG)." Further, Webpage 1 includes the heading "Investing in nature" which describes NBS or carbon farming projects in Australia.
- 4.5.7 Shell is clear about using CCUS and NBS as part of achieving its net-zero target. For example, the immediate context to Statement (iv) expressly states that becoming a net-zero emissions business "*also means capturing and storing any remaining emissions using technology or balancing them with offsets*". The IPCC confirmed with 'high confidence' in its most recent 2022 report that carbon dioxide removals "*will be needed to counterbalance residual emissions in the energy sector.*"³⁹ Shell agrees with this assessment, and that is one reason why Shell considers that CCUS and NBS are an appropriate component of its Energy Transition Strategy and net-zero emissions target.
- 4.5.8 To the extent the Complaint is a criticism of Shell using CCUS or NBS offsets, which Shell Australia respectfully submits is not a topic for adjudication by the Panel, there is clear scientific consensus that carbon removals (including CCUS and NBS) will be crucial to achieving the goals of the Paris Agreement.⁴⁰ Specifically, the IPCC has also confirmed with 'high confidence' in its most recent 2022 report that carbon dioxide removals "*will be needed to counterbalance residual emissions in the energy sector.*"⁴¹ Shell agrees with this assessment, and that is one reason why Shell considers that CCUS and NBS are an appropriate component of its Energy Transition Strategy and net-zero emissions target.

³⁸ Energy Transition Progress Report 2021, p. 33 ([link](#)).

³⁹ IPCC AR6 WGIII, SPM, C.4.1 ([link](#)).

⁴⁰ IPCC AR6 WGIII, SPM, C.4.1 ([link](#)).

⁴¹ IPCC AR6 WGIII, SPM, C.4.1 ([link](#)).

4.5.9 Statement (iv) is therefore a truthful and factual presentation of the fact that Shell has set global targets to reduce emissions from its operations and has already achieved the above reductions. Statement (iv) is thus not likely to mislead or deceive the Target Audience (Section 1 of the ECC). It is also substantiated by reference to Shell's corporate documents and complies with the requirements of Section 2 of the ECC, including because it does not overstate a claim expressly or by implication or imply that a product is more socially acceptable on the whole.

4.6 **Statement (v): "We are transforming our business to meet our target, providing more low-carbon energy such as hydrogen, electricity generated by solar power and investing in carbon farming"**

4.6.1 In its immediate context (under the heading "*Journey*"), Statement (v) reads as follows (Statement (v) underlined):

We are transforming our business to meet our target, providing more low-carbon energy such as hydrogen, electricity generated by solar power and investing in carbon farming.

We are also working with our customers as they make changes too, including in sectors that are difficult to decarbonise such as aviation, shipping, road freight and industry.

It is going to take a lot of work. We are on a journey and recognise the need to change.

4.6.2 This immediate context makes clear to the Target Audience that Shell is in the process of "*transforming*" its business as part of its long-term (i.e. 2050) "*journey*" to becoming a net-zero emissions energy business.

4.6.3 The context of Statement (v) also makes clear that this transformation is an ongoing process, emphasised by the acknowledgment that achieving the goal will "*take a lot of work.*" In this context, Statement (v) would be read as meaning that Shell has taken, and continues to take, steps to increasingly provide customers with low-carbon energy products (such as hydrogen and electricity generated by solar power) and other solutions (such as investing in carbon farming) for reducing their emissions.

4.6.4 Statement (v) is supported by the fact that Shell has made (and continues to make) substantial cash capital expenditure in low-carbon energy products. Shell is actively increasing the amount of low-carbon energy products it supplies to customers, including investing US\$2.4 billion globally in Renewables and Energy Solutions (which includes

solar, hydrogen and wind) in 2021 (an increase from US\$0.9 billion in 2020).⁴² Shell also spent around US\$2.4 billion again within the first nine months of 2022.⁴³

4.6.5 A number of Shell projects involving hydrogen and solar energy are set out in Shell's Energy Transition Progress Report. Shell is also transforming its portfolio in Australia to provide more low-carbon energy to customers. Below are examples, which were described on the shell.com.au webpages at the time of the Complaint:

- (a) the 120MW Gangarri Solar Project, which is located in Queensland's Western Downs region and is Shell's first owned and operated industrial-scale solar development globally. Gangarri is currently being commissioned and tested. Once fully operational, it will have capacity to generate enough solar electricity to power the equivalent of over 50,000 homes (on Webpage 1);
- (b) solar battery company, sonnen. Shell has 100% ownership of sonnen, which offers smart energy solutions to Australian customers by helping them store and consume energy generated from rooftop solar panels (on Webpage 1);
- (c) carbon farming company, Select Carbon. Shell has 100% ownership of Select Carbon, which partners with farmers and other landowners in carbon farming projects spanning millions of hectares across Australia. Carbon farming can transition agricultural land from being net carbon emitters to carbon sinks, which are areas that absorb and store more carbon dioxide from the atmosphere than they release (on shell.com.au); and
- (d) the acquisition of Powershop Australia, an energy retailer serving more than 185,000 customers at the time, and which forms the basis for Shell to offer innovative products and services to meet evolving customer needs for low-carbon and smarter energy solutions, such as e-mobility and battery storage.

4.6.6 Contrary to what is alleged, it is unlikely that the Target Audience would interpret Statement (v) as meaning that Shell is ceasing oil and gas production or investment in the short to medium term, or that Shell is not "primarily an oil and gas company" based on its current operations. This is because Statement (v) is expressed in the context of

⁴² Energy Transition Progress Report 2021, p. 33 ([link](#)).

⁴³ [Shell Quarterly Results Announcement, Q3 2022](#), p. 9 "cash capital expenditure" ([link](#)). Final cash capital expenditure figures for 2022 will be available on release of Shell's Q4 results update in Q1 2023 (to be released on 2 February 2023).

Shell's long-term (i.e. 2050) "*journey*" to becoming a net-zero emissions energy business, and specifically refers to Shell "*providing more*" low-carbon products (rather than providing less conventional oil and gas products). In this respect, Shell is also transparent about its investment in low- and zero- carbon products and services, and publishes information on its website about its climate targets and progress against these targets annually through its Annual Report, Sustainability Report and Energy Transition Progress Report (as well as other pages of the website).⁴⁴ The Target Audience can readily access these documents and information by clicking through from Webpage 1 on which Statement (v) appears and can readily access other webpages on the shell.com.au website with information about electricity and gas, fuels, oils and lubricants and Shell's projects and assets.

4.6.7 Statement (v) is therefore a factually accurate description of Shell's journey to providing more low-carbon energy products, which reflects the activities being undertaken to operationalise its Energy Transition Strategy. Statement (v) is thus a truthful and factual presentation of Shell's objectives and is not likely to mislead or deceive the Target Audience (Section 1 of the ECC). It is substantiated by reference to Shell's corporate documents and other information on the shell.com.au website.

4.7 **Statement (vi): "*Shell will reduce emissions from our own operations, including the production of oil and gas, addressing energy efficiency over time, and capturing or offsetting unavoidable greenhouse gas emissions (GHG)*"**

4.7.1 Statement (vi) is made under the heading "*Our Approach*" on Webpage 1 (after the text extracted above at paragraph 4.2.1). Under the heading is text stating:

"Shell will reduce emissions from our own operations, including the production of oil and gas, addressing energy efficiency over time, and capturing or offsetting unavoidable greenhouse gas emissions (GHG). Most GHG emissions come from our customers' use of our products. So we are also looking for ways to help customers cut these emissions."

4.7.2 The Target Audience would likely read Statement (vi) as a future-looking statement that means that Shell aims to reduce the net emissions from "*its own operations*" (i.e. its "Scope 1" and "Scope 2" emissions) as part of its long term "*journey*" to be a net-zero emissions energy business. The Scope 3 emissions that Shell reports (which primarily result from products that Shell sells to customers) are indirect emissions that do not arise from Shell's "*own operations*".⁴⁵

⁴⁴ Energy Transition Progress Report 2021, p. 33 ([link](#)).

⁴⁵ The FAQ on the GHG Protocol ([link](#)) describe the difference between scopes of emissions as follows: *The GHG Protocol Corporate Standard classifies a company's GHG emissions into three 'scopes'. Scope 1 emissions are direct emissions from owned or controlled sources. Scope 2 emissions are indirect emissions from the generation of*

- 4.7.3 Statement (vi) is substantiated by reference to both Shell's Scope 1 and Scope 2 emissions reductions to date, and its target to further reduce these emissions over the coming years to 2030 as set out in paragraph [4.5.5] above. Regarding the reference to "capturing or offsetting unavoidable" GHG emissions, this is substantiated in the response in paragraphs 4.5.5 to 4.5.9 above.
- 4.7.4 Statement (vi) is therefore a truthful and factual presentation of Shell's objectives and is not likely to mislead or deceive the Target Audience (Section 1 of the ECC). It is substantiated by reference to Shell's corporate documents, other information on Webpage 1 and on the shell.com website.
- 4.8 **Response to Statement (ii) (contained on Webpage 2): "*Shell provides energy in a responsible way, helping the world move towards a future in which the energy used causes minimal impact on the planet*"**
- 4.8.1 Statement (ii) is a statement made on the '*Sustainability > Environment*' webpage of the shell.com.au website and relates to Shell Australia's approach to sustainability and public engagement on energy sector development, rather than Shell's climate targets specifically. The content of this webpage is set out in **Annexure 2** and deals with public reporting on Health, Safety, Security and Environment and Social Performance outcomes, with a particular focus on the Prelude FLNG project.
- 4.8.2 Statement (ii) is an introductory sentence on Webpage 2. It is followed by an explanation of the regulatory approvals which Shell Australia applies for from the National Offshore Petroleum Safety and Environment Management Authority and the environmental, social and health impact assessments it conducts to understand and manage risks in relation to specific projects. Webpage 2 further contextualises Statement (ii) by noting Shell Australia's recognition that sustainability and public engagement must underpin energy sector development. Shell is committed to publicly reporting its Health, Safety, Security and Environment and Social Performance outcomes and has been reporting voluntarily on its environmental and social performance since at least 1997.⁴⁶
- 4.8.3 Viewed in this context, the Target Audience would understand Statement (ii) as referring to Shell Australia's compliance with relevant laws and regulations and good industry practice (including those relating to the environment), for all of its activities (and specifically including its gas operations in Australia).

purchased energy. Scope 3 emissions are all indirect emissions (not included in scope 2) that occur in the value chain of the reporting company, including both upstream and downstream emissions.

⁴⁶ Shell Sustainability Report, p. 65 ([link](#)).

- 4.8.4 Webpage 2, on which Statement (ii) appears, refers prominently to Shell Australia's Prelude FLNG environmental approvals, indicating that Shell Australia is continuing to undertake natural gas development and production. Shell Australia does not agree that providing energy in a "*responsible way*" means ending the production and sale of hydrocarbons in the short-medium term (as appears to be implied by the Complainant).
- 4.8.5 Statement (ii) is therefore an accurate and factual statement of the fact that Shell Australia undertakes projects in accordance with applicable laws, regulations and good industry practice, and is therefore not likely to mislead or deceive the Target Audience (Section 1 of the ECC). It is also substantiated by reference to further information on Webpage 2.

5. CONCLUSION

- 5.1 For the reasons set out above, Shell Australia submits that none of the Statements referred to in the Complaint are 'Environmental Claims'. To the extent the Statements are regarded as 'Environmental Claims', Shell Australia further submits as follows:
- 5.1.1 Each of the Statements are truthfully and factually presented, not misleading or deceptive, and would be understood accurately by the Target Audience. Shell Australia has displayed appropriate disclaimers in clear, plain and specific language (Section 1, ECC).
- 5.1.2 Statements (i) and (iii)-(vi) and the YouTube video refer to Shell's corporate targets, activities or strategy. Each of these Statements is clear and specific and relevant to the Target Audience's interest in learning more about Shell's business and Energy Transition Strategy. None of the Statements refers to a particular aspect of a product or service or to the environmental benefits of a specific product. The Statements do not overstate the nature of any environmental claim or imply that a product or service is more socially acceptable on the whole (Section 2, ECC).
- 5.1.3 Each of the Statements are appropriately substantiated by Shell's corporate documents and the full content of the relevant webpages and video. Shell's Disclosure Standard provides a robust process for ensuring the accuracy and substantiation of all public statements (including the Statements). The Statements do not specifically refer to any legally mandated or voluntary standard (and therefore Section 3(b) of the ECC is not relevant). The Statements do not contain any testimonials (and therefore Section 3(c) of the ECC is not relevant) (Section 3, ECC).
- 5.2 Shell Australia respectfully submits that the Statements and YouTube video do not breach the AANA Code of Ethics or ECC (to the extent it applies) and that the

Complaint in respect of each of the Statements and YouTube video should be dismissed by the Panel.

6. FURTHER INFORMATION

Thank you for the opportunity to comment and provide input on the Complaint. Shell Australia remains ready to assist the Ad Standards Community Panel in relation to any further questions it may have in relation to the Complaint.

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:

- Despite Shell's representations that it is working towards net zero by 2050 it continues to actively expand gas projects through Australia and has no plan to reduce the overall amount of oil and gas it produces by 2030;
- Shell is still primarily an oil and gas company and is not transitioning significant portions of its business into renewable or low-carbon energy;
- Shell has no intention of implementing its net zero business plan according to evidence presented to the US House of Representatives;
- Shell's climate targets deliberately exclude the petrochemical and trading parts of their business;
- Shell's net zero plan relies heavily on Carbon Capture, Utilisation and Storage (CCUS) and offsets

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

Is it an advertisement?

The Panel noted the definition of advertising in the Environmental Code is:

Advertising or Marketing Communication means:

- a. any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer,*
- *over which the advertiser or marketer has a reasonable degree of control,*
- and*

- *that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct,*
- b. but does not include*
 - *labels or packaging for products*
 - *corporate reports including corporate public affairs messages in press releases and other media statements, annual reports, statements on matters of public policy and the like*
 - *in the case of broadcast media, any material which promotes a program or programs to be broadcast on that same channel or station.*

The Panel noted the advertiser's response that the statements relate to Shell's global corporate strategy rather than any particular product or service and as such relate to corporate reports which are excluded from the definition of advertising in the Environmental Code.

The Panel noted that the documents such as the Global Corporate Strategy itself are a corporate document and do not constitute advertising. However, The Panel noted that the advertiser's website was material calculated to draw the attention of the public in a manner calculated to promote the organisation, and although it contains references to corporate reports, the website content does not constitute a corporate report and is advertising.

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 its consideration of what Claims are made in the advertisement was confined to those identified by the complaint, and the entire content of the website was not considered.

The Panel noted the advertiser's response that the statements made referring to Shell's regulatory compliance and corporate strategy do not relate to particular products or services.

The Panel noted that the definition of environment claims is limited to representations about aspects of products or services, and not claims relating to an entire organisation.

The Panel considered that statements such as, “Shell is aiming to become a net-zero emissions energy business by 2050 or sooner” are making general claims about the business as a whole, and not the products or services offered by the business.

The Panel noted that the advertisement included a number of statements which could be considered environmental claims as they related to the energy products provided by the advertiser.

In summary, the Panel considered that the advertisement made these main claims:

- Claim one: Shell has a target of net-zero emissions by 2050 which means net-zero emissions from the production and processing of energy, and net-zero emissions when people use the energy they sell.
- Claim two: Shell aims to provide more low-carbon energy such as hydrogen, electricity generated by solar power and investing in carbon farming.
- Claim three: Shell aims to reduce emissions from our own operations, including the production of oil and gas, addressing energy efficiency over time and capturing or offsetting unavoidable greenhouse gas emissions
- Claim four: Shell provides energy in a responsible way, helping the world move towards a future in which the energy used causes minimal impact on the planet.

Clause 1: Environmental Claims in Advertising or Marketing Communication:
(a) shall not be misleading or deceptive or be likely to mislead or deceive;
(b) shall display any disclaimers or important limitations and qualifications prominently, in clear, plain and specific language;
(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.

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 visiting the Shell website to find out more about its operations and future plans.

Claims one to three

The Panel noted the advertiser’s response that the statements referring to Shell’s corporate targets, activities or strategy are truthful and factual and are substantiated by Shell’s corporate strategy documents (also found on Shell’s webpages).

The Panel note the complainant’s concern that:

- Despite Shell’s representations that it is working towards net zero by 2050 it continues to actively expand gas projects through Australia and has no plan to reduce the overall amount of oil and gas it produces by 2030.
- Shell is still primarily an oil and gas company and is not transitioning significant portions of its business into renewable or low-carbon energy;
- Shell has no intention of implementing its net zero business plan according to evidence presented to the US House of Representatives;
- Shell’s climate targets deliberately exclude the petrochemical and trading parts of their business;
- Shell’s net zero plan relies heavily on Carbon Capture, Utilisation and Storage (CCUS) and offsets .

The Panel noted that it is not the Panel’s role to adjudicate on highly technical issues, and would not make a judgment about whether carbon capture and storage or carbon offsetting are appropriate ways to meet net-zero targets.

The Panel considered that an average consumer in the target market would be aware of high-profile agreements and targets such as net-zero by 2050 and the Paris agreement, and would be familiar with the language used to refer to these agreements in the advertisement.

The Panel considered that wording such as 'working towards' and 'aims' makes it clear that these are targets being set by the advertiser, and not that the business is currently close to meeting such targets.

Overall, the Panel considered that Claims one to three made by the advertiser are references to the goals set in its Corporate Strategy, and that an average consumer in the target market would not consider these claims to be misleading.

Claim four

The Panel noted that the claim, "Shell provides energy in a responsible way, helping the world move towards a future in which the energy used causes minimal impact on the planet." is making a statement that Shell currently provides energy in a responsible way, and that such responsible actions are helping it move towards a future where the energy used causes minimal impact to the planet.

The Panel considered that this claim was vague enough that an average consumer in the target market would not be misled into thinking that the advertiser's current energy products cause minimal impact to the planet, and that "in a responsible way" was a reference to compliance with appropriate laws and regulations. The Panel noted that the website and corporate documents provide further information to support this claim.

Clause 1 conclusion

The Panel determined that the Environmental Claims were not misleading or deceptive and 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.

The Panel considered that the advertisement did not breach Clause 1 of the Environmental Code.

Clause 2: Environmental Claims must:

- (a) be relevant, specific and clearly explain the significance of the claim;**
- (b) not overstate the claim expressly or by implication;**
- (c) not imply that a product or service is more socially acceptable on the whole.**

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.

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.

“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.”

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.

The Panel note the complainant’s concern that Shell’s climate targets deliberately exclude the petrochemical and trading parts of their business.

The Panel noted that the claims made in the advertisement are limited to the future energy products, and do not relate to other aspects of the business or the current energy products. The Panel considered that the Claims made in the advertisement do not imply that the current energy products are more socially acceptable on the whole.

Clause 2 conclusion

The Panel determined that the advertisement did not breach Clause 2 of the Environmental Code.

Conclusion

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