

Case Report

1. Case Number :	0095-24
2. Advertiser :	Santos
3. Product :	Energy/Resources
4. Type of Advertisement/Media :	Print
5. Date of Decision:	17-Apr-2024
6. Decision:	Dismissed

ISSUES RAISED

AANA Environmental Code\1 Truthful and Factual

DESCRIPTION OF ADVERTISEMENT

This print ad features the text, "Did you know...The Hunter Gas Pipeline will be located underground, allowing normal agricultural activity to continue within the easement once constructed."

**DID YOU
KNOW...**



The Hunter Gas Pipeline will be **located underground**, allowing normal agricultural activity to continue within the easement once constructed.



To learn more about the project, scan the QR code or visit our website.
santos.com | huntergaspipeline.com.au

The Hunter Gas Pipeline
Good for keeping the lights on in NSW

The Hunter Gas Pipeline Pty Ltd (HGPP) is a critical piece of infrastructure that, once constructed, will deliver 100 per cent of Narrabri natural gas to the east coast domestic market. This will put downward pressure on gas and electricity prices for NSW households, manufacturers and businesses.

Santos | **HUNTER GAS
PIPELINE**

THE COMPLAINT

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

Santos made claims in this advertisement that are factually untrue and misinformation. there are clauses and small print on their website that contradict the detail of the advertisement. https://www.huntergaspipeline.com.au/wp-content/uploads/230710_02_factsheetHGPeasement_v4_november.pdf

THE ADVERTISER'S RESPONSE

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

Thank you for the opportunity to respond to the complaint raised with you on 5 March 2024, case number 0095-24, regarding an advertisement that Santos placed in the Newcastle Herald on 1 March 2024 (Advertisement).

The Advertisement forms part of a series of engagement initiatives to properly inform the community about Santos' proposed Hunter Gas Pipeline (HGP) project and provide opportunities for people to obtain more information if they are interested and to give input to Santos' planning processes and development of construction and environmental plans if they wish.

The Advertisement (Attachment 1) states: "The Hunter Gas Pipeline will be located underground allowing normal agricultural activity to continue within the easement once constructed".

We understand the complainant has made the following two assertions regarding the Advertisement:

1) *This is broadly untrue for many landholders affected by this gas pipeline. Small print noted here will actually place limitation on normal farming activity https://www.huntergaspipeline.com.au/wp-content/uploads/230710_02_factsheetHGPeasement_v4_november.pdf*

2) *Santos made claims in this advertisement that are factually untrue and misinformation. There (sic) are clauses and small print on their website that contradict the detail of the advertisement. https://www.huntergaspipeline.com.au/wp-content/uploads/230710_02_factsheetHGPeasement_v4_november.pdf*

Both assertions are false and Santos notes that they are unsupported with any examples or evidence.

In response to the first assertion, Santos notes:

- *The proposed pipeline must be designed to comply with Australian Standards (AS 2885 – Pipelines – Gas and liquid petroleum) which include the requirement for Santos to take account of the current and reasonably foreseeable land uses along the proposed pipeline corridor.*

- *Across Australia there are over 42,000km of natural gas pipelines in operation including through agricultural lands which continue to host normal agricultural activities including tilling, planting, cultivating and harvesting as well as livestock grazing.*
- *The HGP will be buried for its entire length, typically to a depth of 900mm or greater (to the top of the pipe), allowing the types of agricultural activity that are known to be “usual, typical, ordinary or expected” along the pipeline route to continue to occur. Santos’ analysis of land use shows the HGP route is predominantly used for livestock grazing and broadacre farming. These agricultural activities can continue to occur following pipeline construction.*
- *The Oxford English dictionary describes “normal” as meaning “typical, usual or ordinary” in ordinary usage. The Cambridge dictionary describes “normal” as “usual, ordinary and expected.” This reflects Santos’ usage of the word “normal” in the Advertisement.*
- *To the extent landholders wish to undertake new or “unusual, atypical or unexpected” activities, Santos cannot unreasonably withhold its consent under relevant laws and has always indicated its willingness to work with landholders to agree such matters in pipeline easement deeds or agreements.*
- *Santos has engaged extensively with landholders along the HGP route and has already incorporated a number of reasonable requests from landholders relating to their ongoing agricultural activities into the engineering design and other elements of the project.*
- *The construction of special crossings over the pipeline (referred to in a footnote to the factsheet referred to by the complainant) would not preclude normal agricultural activities and in fact provide a means, in certain circumstances, to aid the continuation of normal agricultural activities.*

In response to the second assertion, Santos notes:

- *The Advertisement is both true and consistent with Santos’ communications via the project website, documentation and factsheets prepared to support engagement with landholders and interested community members.*
- *The paragraph referenced in the factsheet on the HGP website by the complainant, clearly confirms the accuracy of the Advertisement as it states that “No restrictions will be placed on reasonable agricultural activities within the easement” (see Attachment 2).*
- *Clear and unambiguous statements are used consistently throughout Santos’ communications to provide information regarding matters such as pipeline design, pipeline depth and construction considerations. Specific examples include:*
 - *Santos will work with landholders to understand their current and reasonably foreseeable future land uses to ensure the pipeline is designed to accommodate land use requirements. No restrictions will*

*be placed on reasonable agricultural activities within the easement.
(see Attachment 2)*

- *Additionally normal agricultural production (including cropping) can recommence within the easement following construction. (see Attachment 3)*

The assertions made by the complainant that Santos' HGP website in any way "contradicts" the Advertisement are false.

If the complainant has any evidence or examples of normal farming activities not being able to continue following the construction of the pipeline, Santos will investigate those claims and make any modifications to its factsheets and advertisements that may be identified as necessary as a result. We take our obligations for truth in advertising very seriously.

THE DECISION

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 contains misinformation.

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

Is an Environmental Claim being made?

The Panel noted that the Environment Code applies to 'Environmental Claims' in advertising and marketing communications.

The Panel noted that 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 this advertisement contains the statement, "The Hunter Gas Pipeline will be located underground, allowing normal agricultural activity to continue within the easement once constructed".

The Panel considered that this statement is an environmental claim.

1 a) Environmental Claims in Advertising or Marketing Communication...shall not be misleading or deceptive or be likely to mislead or deceive

The Panel noted that the Practice Note for this Section 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.*
- *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.”*
- *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 Panel noted the advertiser’s website lists some activities which aren’t permitted on the easement:

- “Deep rooted species are not able to be grown over the pipeline. Trees and dams on or near the pipeline easement are not permitted.
- New tracks or roads for heavy equipment are not permitted within the easement without prior written permission.
- Restrictions will be placed on undertaking earthworks, excavation, drilling or related works on the Easement.
- Restrictions will be placed on the construction of buildings on the easement including dwellings, sheds, stables and outbuildings.”

The Panel noted the advertiser’s response that the reference to “normal” activities are those that would be typical or usual activities, and not unusual or atypical.

The Panel considered that the likely target audience for the advertisement would be those that live in the affected areas, and any affected landowner would likely be aware of the restrictions on land use.

The Panel considered that the average consumer in the target market would understand the reference to “normal agricultural activity” to be referring to everyday activities, and not occasional larger projects like those listed as not permitted.

Overall, the Panel considered that the average consumer in the target market would not be misled or deceived by the advertisement.

Section 1 a) conclusion

The Panel determined that the advertisement did not breach Section 1 a) of the Environmental Code.

Conclusion

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