

Case Report

1. Case Number :	0124-24
2. Advertiser :	Red Energy Pty Limited
3. Product :	Energy/Resources
4. Type of Advertisement/Media :	TV - On Demand
5. Date of Decision:	15-May-2024
6. Decision:	Dismissed

ISSUES RAISED

AANA Environmental Code\1 Truthful and Factual

DESCRIPTION OF ADVERTISEMENT

This on demand TV advertisement features scenes of the Australian landscape and numerous different people appearing to hold a glowing ball of light in their hands.

The voice-over states, "What does it take to be a real energy provider? For starters it helps to be Australian owned. At Red Energy we're 100% owned by the mighty Snowy Hydro. It also means keeping jobs right here in Australia. And being powered by a leader in clean, renewable energy. Now that's real Aussie energy. Red Energy. 100% Australian electricity and gas."



THE COMPLAINT

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

The ad 'that's real aussie energy' is potentially misleading. There is the potential that prospective customers might believe that Red Energy is a clean/green/sustainable energy provider. It is not.

THE ADVERTISER'S RESPONSE

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

We refer to your letter attaching a complaint received by the Ad Standards in relation to the Red Energy Brand TVC. We have provided the information requested in your letter below.

Red Energy celebrates its 20th year in business this year and provides electricity and gas to nearly 1 million customers. It is proudly owned by Snowy Hydro, which owns and manages the iconic Snowy Scheme.

Red Energy is committed to supporting its customers. It has an Australian based customer service team and is Canstar Blue's most awarded energy provider.

Red Energy takes its obligations surrounding environmental claims very seriously and has a rigorous process for preparing and publishing advertisements and other marketing materials. The content contained in the advertisement (and others like it) received CAD approval on multiple occasions (most recent reference number GAZ8DESA).

The TVC the subject of the complaint has been on air since 2018. Red Energy is not aware of any other viewer complaints in relation to the advertisement.

We welcome feedback from viewers and in response to the complaint we have completed a special review of the advertisement and its messaging.

We don't believe the content is misleading or deceptive, or that the content is likely to mislead or deceive consumers in a manner that contravenes the AANA Environmental Claims Code. Nor do we believe it breaches section 2 of the AANA Code of Ethics.

Description of the advertisement

Our advertisement aims to tell the story of Red Energy, its ownership by Snowy Hydro and its award-winning Australian-based customer service team. The advertisement shows a montage depicting iconic Australian scenery along with the workers and assets of the mighty Snowy Hydro scheme. As the montage continues, the voiceover outlines aspects underpinning Red Energy's status as an Australian energy provider. This is an educative piece rather than an advertisement of a product containing claims

as to what a consumer may receive as a customer of Red Energy. All of the people we feature in our advertising are either employees of Snowy Hydro/Red Energy or customers of Red Energy.

Response to environmental concerns

The core purpose of the advertisement is to feature Red Energy and its connection to Australia and Snowy Hydro. Red Energy is wholly owned by Snowy Hydro Ltd. Snowy Hydro is one of the largest providers of renewable energy in Australia and is incorporated under the Corporations Act 2001 (Cth) with the Federal Government as its sole shareholder.

Snowy Hydro is building Snowy 2.0, the largest renewable energy project under construction in Australia. For more detail about Snowy Hydro and the Snowy 2.0 project www.snowyhydro.com.au

Red Energy purchases energy from Snowy Hydro. All of the electricity supplied to our customers is generated in Australia, and all of the gas supplied to our customers is sourced from and produced in Australia.

The phrase “Powered by a leader in clean, renewable energy” reiterates Red Energy’s intrinsic relationship with its owner, Snowy Hydro, which owns and operates the Snowy Mountains Hydro-electric Scheme. This is confirmed both in the statement “At Red Energy, we’re 100% owned by the mighty Snowy Hydro” and visually during the end frame. Snowy Hydro plays a significant role as the parent company of Red Energy in providing a controlling interest in Red Energy’s direction, ethos and strategy as a company, and selling energy directly to Red Energy via the National Energy Market. In light of this, we don’t believe that the advertisement is misleading or deceptive as the complainant has alleged.

The phrase “that’s real Aussie energy” does not assert that Red Energy is a clean, green or sustainable energy provider. Rather, it refers to Red Energy’s strong connection to Australia, as reflected in its Australian ownership, its Australian-based call centre, that all of the electricity supplied to our customers is generated in Australia and that all of the gas supplied to our customers is sourced from and produced in Australia.

Response to address AANA Code of Ethics

Response to the complaint in respect of clause 2 of AANA Code of Ethics:

2.1 - Discrimination or vilification: The advertisement does not present or portray any discrimination or vilification.

2.2 – Exploitative or degrading: The advertisement does not employ sexual appeal with images of minors or exploit or degrade any individual or group of people.

2.3 – Violence: The advertisement does present or portray any violence.

2.4 – Sex, Sexuality, and nudity: The advertisement does not present or portray any sex, sexuality or nudity.

2.5 – Language: The advertisement does not contain strong or obscene language and only contains the use of language that is appropriate to the relevant audience.

2.6 – Health and Safety: The advertisement does not depict content that would encourage or condone unhealthy or unsafe behaviour having regard to Prevailing Community Standards.

2.7 – Distinguishable as advertising: The advertisement is clearly distinguishable as advertising and does not conceal the fact that it is advertising.

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 is misleading.

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 the advertisement includes the statement “powered by a leader in clean, renewable energy” was a claim that the company is owned by an organisation well-known for producing clean, renewable energy and that this was 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 response that the claim is clearly in relation to the company being owned by Snowy Hydro, and was not a suggestion that all energy provided by the advertiser is clean, green or sustainable.

The Panel considered that the advertisement includes the statement that the company is 100% owned by Snowy Hydro. The Panel considered that most people in the target market would be familiar with the Snowy Hydro and would recognise it to be a provider of renewable energy in Australia.

The Panel considered that the claim in the advertisement was an extension of the statement about the company’s ownership and would be unlikely to be interpreted as a claim that all energy provided by the company is renewable.

Overall, the Panel considered that the claim that Red Energy is powered by a leader in clean, renewable energy is not misleading or deceptive, or likely to mislead or deceive.

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.