

## Case Report

1. Case Number :	0236-24
2. Advertiser :	ALDI
3. Product :	Retail
4. Type of Advertisement/Media :	Promotional Material
5. Date of Decision:	25-Sep-2024
6. Decision:	Upheld – Modified or Discontinued

### ISSUES RAISED

AANA Environmental Code\1 Truthful and Factual

### DESCRIPTION OF ADVERTISEMENT

This in-store advertisement features a sticker on the door of a freezer in store with the words "Powered by 100% renewable electricity".



### THE COMPLAINT

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

*The ad which appears as a sticker on Aldi freezer food display cabinets says they are powered by 100% renewable electricity. That can not possibly be true. It misrepresents the capability of renewable energy supplies currently installed in Australia. It does not*

*take into consideration that only a minor portion of Australia's energy currently comes from renewables.*

*The intermittency of renewable energy makes it totally unsuitable on its own for use with frozen food storage, which must be kept cold 24/7. Renewables require reliable baseload back up for such applications. Gas is the only reasonable option to back up renewables. So even if Aldi had their own renewable plus gas power system, it would not be 100% renewable (due to the gas component). But Aldi does not have a dedicated renewable/gas system for its store in Westfield Hornsby, which is where the ad was seen. Aldi must use normal grid power, which feeds into the Westfield complex. That power is still mostly fossil fueled. So the freezers are not powered by 100% renewables. And if Aldi pays carbon offsets, those are spurious 'bribes/taxes/tariffs' paid to hide that the power is not 'clean'. This is gross deception of the community. It prevents honest, meaningful progress toward true zero carbon energy use. It misleads consumers.*

#### **THE ADVERTISER'S RESPONSE**

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

*ALDI notes that Ad Standards has assessed the allegations against ALDI may raise issues under section 1 of the AANA Environmental Code (Code). ALDI has addressed its response in accordance with section 1 of the Code and the accompanying Practice Note.*

*At the outset, ALDI denies that the point of sale material in question (advertisement) which claims that ALDI is 'powered by 100% renewable electricity' breaches the Code, and, specifically, section 1 of the Code. Further, ALDI denies the material is misleading or deceptive or is likely to mislead or deceive. This is because the claim is accurate, true and factually correct. It also represents a genuine environmental impact and has been verified by the Australian Government Clean Energy Regulator (CER).*

*Back in August 2020, ALDI made a voluntary commitment to achieve 100% renewable electricity in its operations by the end of 2021. ALDI achieved this goal in Mid June 2021, six months ahead of schedule by employing a three-pronged approach:*

*On-site electrical energy generation – ALDI has an extensive network of solar panels on more than 295 ALDI Stores and six Distribution Centres that convert sunlight into electrical energy.*

*Off-site electrical energy generation – ALDI has entered into Power Purchase Agreements with 2 wind farm operators located in Western Victoria and the Southern Tablelands of New South Wales to purchase electricity directly from renewable energy generators.*

*Acquisition of large-scale generation certificates (LGCs) through a LGC supply only PPA Pyrenees Wind Energy Developments Pty LTD Waubra Wind Farm, a wind farm located approx. 35 km north-west of Ballarat in Victoria, Australia. These LGC are then voluntarily surrendered to the CER.*

*All three practices are widely known and accepted means by which businesses in Australia can reach their renewable energy targets. In fact, the practice of purchasing and voluntarily surrendering LGCs to help companies meet renewable electricity commitments without changing their electricity supplier is a government approved process.*

*ALDI has continued to employ this three-pronged approach year on year to ensure that it continues to meet its 100% renewable electricity commitment, including the current year. In the interest of transparency, ALDI has made this information publicly available via its website. For your ease of reference, I have included a link to the dedicated webpage: <https://www.aldi.com.au/sustainability/good-planet/renewable-energy/>.*

*This information has also been published by ALDI in its Making Sustainability Affordable: 2023 Sustainability Progress Report which is publicly available via its website. I have also included a link to this PDF document: [https://www.aldi.com.au/fileadmin/fm-dam/pdf/MAGD/Good\\_Business/ALDI\\_Making\\_Sustainability\\_Affordable\\_Report\\_2023\\_.pdf](https://www.aldi.com.au/fileadmin/fm-dam/pdf/MAGD/Good_Business/ALDI_Making_Sustainability_Affordable_Report_2023_.pdf). Please refer to pages five and six for details.*

*In the interest of further transparency and verification of data, ALDI has opted to participate in the CER Corporate Emissions Reduction Transparency (CERT) framework. Under the framework, ALDI submits a CERT report which allows it to show progress towards climate related commitments, including use of renewable electricity, in a standardised format using government approved methodology. Progress data is then verified by the CER and the CERT report published on its website. As a result, any claims made in terms of progress on climate related commitments can be substantiated.*

*For your ease of reference, I have included a link to ALDI's last CERT report published on the CER website which shows 100% renewable electricity consumption data verified by the CER: <https://cer.gov.au/markets/reports-and-data/corporate-emissions-reduction-transparency-report/corporate-emissions-8/CRPT-23-B7H264990449>. ALDI wishes to advise that it recently submitted a CERT report for verification in relation to the last reporting year. This CERT report is expected to be published on the CER website by the end of this month. As a consequence, ALDI's claim relating to its 100% renewable electricity commitment is based on reasonable grounds at the time the claim was made.*

*ALDI wishes to point out that the CER state on their website that they work closely with other Australian Government regulators to report concerns about companies*

*misreporting their green credentials, including the Australian Competition and Consumer Commission (ACCC). To date, ALDI has not received any correspondence from the ACCC about problems regarding claims that ALDI is 'powered by 100% renewable electricity'.*

*ALDI understands that when it comes to assessing whether advertising is misleading or deceptive, it is the overall impression that is created in the minds of consumers that is key. Specifically, whether the impression created is false or inaccurate considering all circumstances. In this instance, the overall impression created by the advertisement in question which claims that ALDI is 'powered by 100% renewable electricity' is that ALDI's electricity consumption is 100% renewable, it is a voluntarily adopted environmental practice, and wind energy is a majority source of the electricity (LGCs). All three elements are accurate, true and factually correct. Additionally, the data has been verified by the CER and published on their website. As such, ALDI is of the view that the advertisement would not, on any reasonable or objective assessment, lead any consumers to believe something that is not true.*

*In terms of the actual artwork, ALDI wishes to point out that headline is written in clear, plain and specific language that can be clearly understood by consumers. It does not contain a fine print disclaimer to qualify the representation as ALDI is of the view that the dominant message can stand alone without being misleading. Furthermore, any qualifying information would distract from the dominant message and potentially confuse consumers. In any case, the finer details of ALDI's 100% renewable electricity commitment are publicly available and easily accessible for curious minds via the ALDI and CER websites, as mentioned earlier.*

*For the reasons set out above, ALDI denies the advertisement in question breaches section 1 or any other part of this Code or other Codes and is not misleading or deceptive or likely to mislead or deceive. ALDI respectfully requests that the complaint be dismissed.*

## **THE DECISION**

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

The Panel noted the complainant's concern that the advertisement is misleading.

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

## **Does the advertisement make an Environmental Claim?**

The Panel considered whether the advertisement made an Environmental Claim.

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

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

The Panel noted that the stickers were placed on freezers that use electricity and considered that most customers would interpret the advertisement as claiming that the freezers are powered by 100% renewable energy.

The Panel considered that the advertisement made the Environmental Claim that the freezers are powered by 100% renewable energy.

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

The Panel noted that the Practice Note for this section of the Environmental Code includes:

*“It is not intended that legal tests be applied to determine whether advertisements are misleading or deceptive, or likely to mislead or deceive, in the areas of concern to this Code. Instead, consideration will be given as to whether the average consumer in the target market would be likely to be misled or deceived by the material.”*

The Panel considered that the average consumer in the target market for this advertisement would be customers in the Aldi stores.

The Panel noted the advertiser’s response which states that Aldi stores have been powered by 100% renewable energy since June 2021. The Panel noted the advertiser’s response that this is achieved through on-site solar panels, power purchase agreements with wind farms and large-scale generation certificates.

The Panel noted that Aldi generates and purchases renewable energy in an equivalent amount to what is used by their stores. However, the Panel noted that Aldi stores are still connected to the electricity grid, and the actual electricity used by the freezers in the Aldi stores would not be 100% renewable.

The Panel considered that the average consumer in the target market would not understand the statement, “powered by 100% renewable energy” to mean that the company overall is committed to using 100% renewable energy.

The Panel noted that while the advertisement includes a QR code linking to further information, the average consumer may not scan the code and is likely to be misled.

The Panel considered that to avoid misleading or deceiving consumers a disclaimer should be clearly displayed on the advertisement informing consumers that Aldi uses power purchase agreements and large-scale generation certificates to achieve 100% renewable energy status under the Corporate Emissions Reduction Transparency Framework.

The Panel considered that an average consumer in the target market would be misled or deceived by the Environmental Claim.

### **1 a) Conclusion**

The Panel concluded that the advertisement did breach Section 1 a) of the Environmental Code.

### **Conclusion**

Finding that the advertisement breached Section 1a of the Environmental Code the Panel upheld the complaint.

### **THE ADVERTISER’S RESPONSE TO DECISION**

Ad Standards notes that the advertiser has advised stores to remove the content. The advertiser has provided the following statement:

*ALDI acknowledges the Ad Standards board has upheld a recent complaint about our use of a '100% renewable electricity' decal on our freezers in stores and we have responded accordingly.*

*Our claim that ALDI powers its operations with 100% renewable electricity was verified in 2023 by the Federal Government's Clean Energy Regulator in its Corporate Emissions Reduction Transparency (CERT) [Report](#). It is also consistent with community understanding that renewable electricity products or claims may refer to a renewable certificate scheme, where renewable electricity is fed into the grid, and non-renewable electricity is drawn from the grid at other times, as accepted by the Ad Standards Community Panel; [Case Report 111-21](#).*

*ALDI Australia understands our responsibility to the environment. We continue to deliver on the sustainability commitments we have made and strive to communicate these transparently to our customers.*