



Environmental Claims Code

PRACTICE NOTE | FEBRUARY 2021

This **Practice Note** is provided as a guide to interpretation to assist advertisers, their agencies and the community. The interpretations in this **Practice Note** are based on the **AANA's** intent in relation to the **Code** and relevant determinations of the **Ad Standards Community Panel**.

This Practice Note must be applied by the Ad Standards Community Panel in making its determinations. In the event of any ambiguity the provisions of the Code prevail. The Practice Note may be amended by the AANA from time to time.

DEFINITIONS & INTERPRETATIONS

ADVERTISING OR MARKETING COMMUNICATION



The definition of 'advertising or marketing communication' in the Code does not include 'labels and packaging'. Notwithstanding, images of labels or packaging contained within an 'advertising or marketing communication' will be considered to be an element of that 'advertising or marketing communication'.

ENVIRONMENTAL CLAIM



An environmental claim in relation to goods or services, their consumption/ use/ interaction or their disposal may include representations that state or imply:

- ▶ benefit to the environment; or
- ▶ no effect on the environment; or
- ▶ no or only limited effect on the environment if used or delivered in a particular way.

Environmental claims may be made in relation to single or multiple attributes or all product or service attributes such as those based on full life-cycle assessment.

TRUTHFUL AND FACTUAL PRESENTATION

SECTION 1 (A) – shall not be misleading or deceptive or be likely to mislead or deceive.



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 defined attributes are:

- ▶ 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.
- ▶ Any comparative claim should be specific and make clear the basis for the comparison. Points of comparison, where appropriate, should reflect a body of evidence including recognised benchmarks or standards where appropriate.
- ▶ 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.
- ▶ Environmental claims should not lead the consumer to conclude a business has voluntarily adopted an environmental practice if that practice has been legally mandated.
- ▶ Environmental claims should not be made in a manner that implies, directly or indirectly, a correlation between the environmental aspects of the product/service and any social initiative of the advertiser when none exists. For example, the advertising of a “partnership” with or “sponsorship” of an environmental group should not imply that the partnership has improved environmental aspects of the company’s product/ services where this is not the case.
- ▶ The use of any symbol or logo should be explained unless the symbol is required by law, or is underpinned by regulations or standards, or is part of an authoritative certification scheme. Symbols or logos should only be used in an advertisement when the source of the symbol or logo is clearly indicated, and there is no confusion over the meaning.

TRUTHFUL AND FACTUAL PRESENTATION

SECTION 1 (B) - shall display any disclaimers or important limitations and qualifications prominently, in clear, plain and specific language.



A disclaimer can clarify, expand or reasonably qualify a representation but should not contradict, diminish or retract it.

As a general guideline, the main body of the advertisement, apart from the disclaimer, should be capable of standing alone without being misleading.

SECTION 1 (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 environmental claim should not be extended, or implied to be extended, to a whole product or service when it relates only to one aspect of the product eg packaging or energy use, or service.

For example, if the claim relates to the:

- ▶ packaging only, but not the use of that product, the claim should not imply that it relates to the product as well as the packaging;
- ▶ energy use in the manufacture of a product, the claim should not imply that it relates to the energy use in the manufacture of the packaging as well.

Relevant information should be presented together.

A GENUINE BENEFIT TO THE ENVIRONMENT

SECTION 2 (A) - be relevant, specific and clearly explain the significance of the claim.



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.

SECTION 2 (B) - not overstate the claim expressly or by implication.



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.

SECTION 2 (C) - not imply that a product or service is more socially acceptable on the whole.



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.

Also refer to **AANA Code of Ethics** clause 2.6 Advertisements shall not depict material contrary to prevailing community standards on health and safety.

SUBSTANTIATION

SECTION 3 (A) - shall be able to be substantiated and verifiable. Supporting information should include sufficient detail to allow evaluation of a claim.



Advertisers and marketers should have a reasonable basis for making a claim and therefore should hold appropriate, balanced, comprehensive and credible evidence to substantiate all express and implied claims. Information to support a claim may include, but is not limited to, documentary evidence or data evidencing conformity with an identified standard, research, studies, or an expert independent audit. There is no requirement to use third party verification or certification before an environmental claim is made. An advertiser's own internal procedures may be able to provide the necessary substantiation.

In testing the validity of any claim the **Community Panel** will only rely on information/material provided by the advertiser and the complainant. The **Community Panel** may seek expert advice to assist in the consideration of material provided in relation to the complaint. It is not the intent for the **Community Panel** to act as an arbiter of scientific fact, or of philosophical approaches to understanding or addressing environmental concerns.

Factors to consider include:

- ▶ The use of broad or unqualified general claims of environmental benefit should be avoided unless supported by a high level of substantiation or associated with a legitimate connection to an authoritative source. Examples of claims that may be problematic unless properly qualified include: "green", "environmentally friendly", "environmentally safe", "energy efficient", "recyclable", "carbon neutral", "renewable or "green energy".
- ▶ The use of unqualified general claims of environmental benefit should be avoided unless supported by a high level of substantiation or associated with a legitimate connection to an authoritative source.
- ▶ An unqualified general environmental claim may convey that the product or service has far-reaching environmental benefits or conveys to consumers a broad range of environmental attributes it does not have. Unqualified claims (stated or implied), such as 'green' or 'eco friendly' should therefore be evidenced with a high level of substantiation, for example, such as that based on a full life-cycle assessment.
- ▶ Publication of research results should identify the researcher and source reference unless there is an obligation of confidence or compelling commercial reason not to do so.
- ▶ Substantiation information should be readily accessible, or made available in a timely manner in response to a reasonable written request.

Advertisers have a variety of avenues available for making such information available to consumers, for example, websites, brochures, labels, shelf-talkers; such information does not need to be included in the advertising or marketing communications itself.

SUBSTANTIATION

SECTION 3 (B) - shall meet any applicable standards that apply to the benefit or advantage claimed.



This section applies to legally mandated standards. It will also apply in circumstances where the advertiser makes a representation in the advertising or marketing communication that it complies with a voluntary standard.

SECTION 3 (C) - Testimonials should reflect genuine, informed and current opinion of the person giving the testimonial.



Testimonials should reflect the genuine, informed and current opinion of the person giving the testimonial. Similarly, claims relating to sponsorships, approvals, endorsement or certification schemes should be current.

About the AANA

AANA is the Voice for Brands. Founded 90 years ago, AANA exists to inspire and promote responsible, innovative and respected marketing through a commitment to sustainable industry collaboration. As the peak industry body, our members represent some of Australia's biggest advertisers and the world's best known brands across all major sectors who contribute to an estimated advertising spend of more than \$15 billion a year including FMCG, automotive, banking, finance and insurance, travel, health and beauty, media and communications. On behalf of our members, the AANA's mandate is to maintain and evolve the advertising codes which underpin the system of self-regulation in Australia, safeguard the rights of its members to commercial free speech and protect consumers by ensuring marketing communication is conducted responsibly, while giving them the networks and pathways to career learning.

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