

COMPLAINT NUMBER	21/194
COMPLAINT ON BEHALF OF	Lawyers for Climate Action and others
ADVERTISER	Firstgas Group
ADVERTISEMENT	Firstgas Group Television and YouTube
DATE OF MEETING	6 July 2021
OUTCOME	Upheld in part Advertisement to be removed

Summary of the Complaints Board Decision

The Complaints Board upheld in part a complaint about a television and YouTube advertisement for Firstgas Group. The Board said the advertisement was misleading because it made environmental claims which had not been substantiated.

Advertisement

The television advertisement for Firstgas, which was also available on YouTube, showed different images of people using gas for cooking and heating hot water. The voiceover said: “New Zealand’s heading towards zero carbon so we’re ensuring our gas is going zero carbon too. You know what that means for you? Absolutely nothing. You can continue doing what you love. And help change the world, without changing too much of yours. Find out more at gasischanging.co.nz”.

Summary of the Complaint

There were six complaints about this advertisement. The Complainants were concerned the advertisement was misleading because:

- There is no scientific proof that the Advertiser can produce zero carbon gas
- The advertisement presumes the development of an industry that would produce hydrogen or carbon neutral fuel, which that does not yet exist
- The timing for the achievement of the zero emissions referred to is uncertain.
- The advertisement is encouraging wasteful use of fossil fuels, which are recognised as being harmful to the environment.

The Lawyers for Climate Action said ‘The advertisement states, without qualification, that Firstgas is “ensuring” its gas is going zero carbon. It says its customers need do nothing about their gas energy use: they can keep doing what they love – that is, activities that consume natural gas – and still “help change the world” – that is, contribute to a zero-carbon environment. The consumer takeaway is that Firstgas is promising that its gas is, or very soon will be, carbon neutral. This means its customers need not worry about their gas usage because it will not be contributing any harmful emissions.’ (Full copies of all of the complaints are in Appendix 1).

Issues Raised:

- Social responsibility
- Protecting the environment
- Truthful presentation
- Environmental claims

Summary of the Advertiser's Response

The Advertiser defended the advertisement. The Advertiser said the advertisement is part of a brand awareness campaign and focuses on how the future of New Zealand gas is changing.

The Advertiser said the advertisement does not advertise a product or a service and it does not either overtly, or covertly, encourage the increased use of fossil fuels. The advertisement directs viewers to an interactive website (www.gasischanging.co.nz) that hosts the research that Firstgas Group has undertaken. This research explores the possibilities of hydrogen gas, biogas and bioLPG, as alternative, low emissions fuels for New Zealanders.

The Advertiser said although they do not consider it was strictly necessary, they have amended the advertisement. Instead of "we're ensuring our gas is going zero carbon too" the voiceover now says: "we're helping make sure New Zealand gas can go zero carbon too".

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following codes:

ADVERTISING STANDARDS CODE

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(i) Protecting the environment: Advertisements must not depict or encourage environmental damage or degradation.

Principle 2: Truthful Presentation: Advertisements must be truthful, balanced and not misleading.

Rule 2(b) Truthful Presentation: Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading.

Rule 2(h) Environmental Claims: Environmental claims must be accurate and able to be substantiated by evidence that reflects scientific and technological developments.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 18/299 Appeal 18/021, which was Upheld by the Appeal Board and Decision 20/396 AWAP 20/003, which was also Upheld.

The full versions of these decisions can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 18/299 Appeal 18/021 concerned a television advertisement for Seafood New Zealand. The voiceover for the advertisement included the phrase: "Our quota management system guarantees our fisheries stay sustainable".

This complaint was initially ruled Not Upheld by the Complaints Board. On appeal the Appeal Board ruled the complaint was Upheld. The Appeal Board said the use of the word "guarantees" created a strong claim, more in the nature of a contractual provision. It implies

much greater certainty than the words “helps keep” or “works to ensure” sustainability, as stated on the QMS (Quota Management System) and Fisheries New Zealand websites. The Appeal Board said the claim “...Our quota management system guarantees our fisheries stay sustainable...” had not been substantiated and the advertisement was therefore misleading.

Decision 20/396 AWAP 20/003 concerned a competitor complaint about two versions of a television advertisement for Meridian Energy Limited (Meridian) titled “For Power that Doesn’t Cost the Earth”. The 30 second version of the advertisement included the voiceover: “Doing your bit for the environment just got easier. Switch to Meridian for power that doesn’t cost the earth.” Both the 15 and 30 second versions of the advertisements end with: “Switch now for a great welcome credit”.

The Panel ruled unanimously that both advertisements were misleading because they made unsubstantiated environmental claims about the nature and attributes of the electricity service delivered to retail customers. The Panel said that the electricity customers buy from Meridian, or any other retailer, is all sourced from a “pool”, generated by both renewable and non-renewable methods. Therefore, Meridian cannot make an environmental claim about its retail electricity product.

Complaints Board Discussion

The Chair noted that the Complaints Board’s role was to consider whether there had been a breach of the Advertising Standards Code. In deciding whether the Code has been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and
- The context, medium, audience and the product or service being advertised:
 - Context: The Climate Change Commission tabled its report at Parliament in June 2021.
 - Medium: Television and YouTube
 - Audience: Television and YouTube audiences
 - Product: Brand advertisement for Firstgas

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was Firstgas products are going zero carbon so consumers can continue to enjoy using gas, without adding any carbon to the atmosphere. Although no particular time frame for the change to zero carbon was indicated, the Board considered that the likely overall impression was this will happen imminently.

The Complaints Board noted the comment from the Advertiser that the advertisement was part of a brand awareness campaign “that arose from the Climate Change Commission draft advice”.

Did the advertisement make environmental claims? If so, are they accurate and able to be substantiated?

The Complaints Board agreed the advertisement did make an environmental claim. The claim was that if you continue to use gas it won’t cause any harm to the environment, because gas energy will be zero carbon in the near future. The Board said this claim had not been substantiated and was in breach of Rule 2(h) of the Advertising Standards Code.

The Complaints Board noted the advertisement directed the viewer to further information on the Firstgas website: gasischanging.co.nz. The Board noted the comment from the Advertiser

that while research into alternative forms of gas such as hydrogen gas and hydrogen/natural gas blended gas is being conducted, “any large-scale changes are still some way off”.

Was the advertisement misleading?

The Complaints Board agreed the advertisement was misleading. The Board said the Advertiser’s message “we’re ensuring our gas is going zero carbon” and therefore the consumer need do “absolutely nothing” was misleading.

The Complaints Board said the impression that consumers will not need to do anything differently to avoid adding any carbon to the atmosphere, combined with the implication that the proposed change to zero carbon gas was imminent, was not supported by the evidence provided. The Board ruled the advertisement was in breach of Rule 2(b) and Principle 2 of the Advertising Standards Code.

The Complaints Board said the inferences contained in the advertisement were not supported by the information on the Firstgas website. The website says that Firstgas has “committed to introducing 20% hydrogen (by volume) into our gas pipelines starting in 2030. Our research shows that we can convert the Firstgas pipeline network to 100% hydrogen by 2050.” In addition to this, if and when alternative forms of gas such as hydrogen gas and hydrogen/natural gas blended gas are introduced, consumers may need to purchase new appliances, designed to be compatible with these new sources of fuel. The suggestion that the new environment will mean absolutely no changes for consumers is therefore not correct.

Did the advertisement encourage environmental damage or degradation?

The Complaints Board agreed the advertisement did not encourage environmental damage or degradation.

The Board said the intent of this rule was to ensure imagery and language in advertising did not depict or support environmental damage. This was illustrated by the guidance in the rule about areas of significant conservation value in advertisements. It did not apply to advertising of products and services that may have an impact on the environment or climate change.

Was the advertisement prepared and placed with a due sense of social responsibility to consumers and to society?

The Complaints Board noted the advertisement had not been found in breach of any rules under Principle 1, which required advertising to be prepared with a due sense of social responsibility.

The Complaints Board discussed whether the breach of Rule 2(b) of the Advertising Standards Code meant the advertisement was not socially responsible.

The majority of the Board agreed the advertisement was not in breach of Principle 1. It said truthful presentation and social responsibility were separate matters. The majority said the advertisement was not in breach of Rule 1(i) or Principle 1 of the Advertising Standards Code.

A minority of the Board disagreed. The minority said the advertisement content related to a socially significant issue and making unsubstantiated claims in this context meant the requirement to exercise a due sense of social responsibility had not been met. The minority said the advertisement was in breach of Principle 1 of the Advertising Standards Code.

Can the complaint be Settled?

The Complaints Board noted the amendment the Advertiser made to the advertisement, in response to the complaints. The Complaints Board said this amendment did not go far enough to enable the complaint to be settled.

The Complaints Board noted the Advertiser had replaced a phrase in the voiceover. Previously it said: "So we're ensuring our gas is going zero carbon too" and it now says: "So we're helping make sure New Zealand gas can go zero carbon too".

The Complaints Board said while the amended phrase makes a less ambitious claim than previously, the advertisement still contained the implication that there is no need for consumers to change in any way, in order to avoid adding carbon to the atmosphere.

In Summary

The Complaints Board said taking into account context, medium, audience and product the advertisement was in breach of Principle 2, Rule 2(b) and Rule 2(h) of the Advertising Standards Code. The Complaints Board said the advertisement was not in breach of Rule 1(i) and by majority not in breach of Principle 1 of the Advertising Standards Code.

Outcome

The Complaints Board ruled the complaint was **Upheld in part**.

Advertisement to be removed.

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.

APPENDICES

1. Complaints
 2. Response from Advertiser
 3. Response from Media
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Appendix 1

COMPLAINT 1

As is available at the following web site: <https://gasischanging.co.nz/> The ad claims they be be supplying zero carbon gas... there is no scientific proof that they can produce zero carbon gas... the is quite simply lying..

COMPLAINT 2

The first Gas advertisement uses the notion of hydrogen gas to sell their gas. Indeed they propose consumers increase their usage based on a concept of hydrogen being in the fuel. This predicates the development of an industry that does not exist. The add constitutes green wash. First Gas does not offer hydrogen or carbon neutral fuel.

COMPLAINT 3

I think this advertisement breaches Rule 1(l) of the code by encouraging wasteful use of fossil fuels which are recognized as being harmful to the environment. Placed during the news period on the government owned TV station gives the incorrect impression that this message is possibly acceptable, and diminishes attempts to protect the environment by minimizing greenhouse gas emissions. This impression is dangerously cloaked within a message that talks about moving to zero emissions, which is greenwash. Many people will not bother to look out the link that the ad refers to and find that the timing of the zero emissions referred to is uncertain.

COMPLAINT 4

Rock Gas currently has an advertisement claiming that, in using their fuel, NZers will not be required to change their lifestyle in order to address climate change, or as a result of climate change. Quote "New Zealand is going zero carbon. Do you know what that means for you? Absolutely nothing." Quote "You can continue doing what you love, and change the world without changing too much of yours". I believe this breaches the advertising standards code, Principle 2, rule 2 (b). It may also breach Principle 1, rule 1 (i) in an inferential way. Firstly I am aware that, legally speaking, the term "carbon zero" does not translate to "0% carbon", and I stress that this terminology is not itself the breach of my complaint. I am also aware that Rock Gas is investigating alternative possibilities to their natural gases, although these are far from being in the pipeline, excuse the pun. For the time being, the majority of their gas is of fossil origin. However, the advertisement explicitly states that NZers should not make any effort to adjust their natural gas use. On top of this, the implicit message is that individuals should not consider their energy-intensive lifestyle and use of natural gas as contributing to climate change, nor should they consider these vulnerable to disturbance in the future. The explicit and implicit messages in this ad are misleading, abusing the public's narrow understanding of climate change and related law, at a time when the world urgently needs to move away from fossil fuels and energyintensive lifestyles. These claims could broadly undermine the average individual's commitment to mitigating climate change by direct action,

by lulling them into a sense of complacency and false-security via the contained message that the carbon-zero target means "absolutely nothing" for the consumer. In reality, it is imperative that all NZers address their fossil energy use immediately, and, if done correctly, this will certainly result in a differing way of life than to which we are currently accustomed.

(NB Rock Gas is a company within the Firstgas Group)

COMPLAINT 5 FROM LAWYERS FOR CLIMATE ACTION

Introduction

1. This complaint is brought by Lawyers for Climate Action NZ Inc. LCANZI is a not-for-profit incorporated society of legal experts who accept that the scientific evidence shows that climate change will cause global catastrophe unless we cut emissions now and achieve zero net carbon emissions by 2050.

2. The complaint is against the video advertisement for Firstgas, an energy company whose products include natural gas used for heating and cooking in homes and businesses. The advertisement has been widely aired on television and is available on Youtube at <https://www.youtube.com/watch?v=RWsl0SveAEU> and the advertiser's campaign website at gasischanging.co.nz.

Essence of complaint

3. The advertisement states, without qualification, that Firstgas is "ensuring" its gas is going zero carbon. It says its customers need do nothing about their gas energy use: they can keep doing what they love – that is, activities that consume natural gas – and still "help change the world" – that is, contribute to a zero-carbon environment.

4. The consumer takeaway is that Firstgas is promising that its gas is, or very soon will be, carbon neutral. This means its customers need not worry about their gas usage because it will not be contributing any harmful emissions.

5. LCANZI argues that this is **misleading** (Principle 2 and Rules 2(b) and 2(h)) and **socially irresponsible** (Principle 1 and Rule 1(i)).

6. It is **misleading** because, according to the information provided on its website, Firstgas is doing little more than investigating the possibility of reducing (then eliminating) its carbon emissions. Burning gas releases carbon dioxide. Firstgas does not propose to do anything at all before 2030. At that point it only proposes to introduce a blend including 1% of hydrogen, ultimately targeting 20% by 2035. It hopes to move to 100% hydrogen by 2050. Any customer who believes this advertisement will be falsely reassured that whatever their gas consumption, they will not be contributing to greenhouse gas emissions.

7. It is **socially irresponsible** because there is scientific consensus that greenhouse gas emissions need to be massively reduced, and that this needs to happen urgently. This advertisement encourages people to start or continue to use natural gas – even increase their usage – because this will create no greenhouse gas emissions. This is not only false, then, it is environmentally dangerous. It is a thoroughly irresponsible claim.

8. LCANZI consulted Ralph Sims, Professor Emeritus on Sustainable Energy and Climate Mitigation at Massey University, on this complaint. He has reviewed and supports this complaint. The complaint is also supported by Dr Jim Salinger, Adjunct Research Fellow at Victoria University's School of Geography, Environmental and Earth Sciences.

The advertisement

9. The text and images of the advertisement are as follows:

New Zealand is going zero carbon, so we're ensuring our gas is going zero carbon too.
[Pictures of meat being cooked over gas]

You know what that means for you: absolutely nothing. [Meat being served, woman diner smiling]

You can continue doing what you love and help change the world – without changing too much of yours. [Woman luxuriating in bubble bath]

“Sounds like a chhhh” [Men around gas barbecue cooking sausages and corn]

“Ssss” “Sss”

Find out more at gasischanging.co.nz

Consumer takeaway

10. Little parsing is necessary to state the consumer takeaway. It is literally what the advertisement says. Firstgas is “ensuring” it will be carbon neutral (it is implicit that this must be happening in the near future). Thus, its customers need do “absolutely nothing” about their gas-energy consumption because their usage will not create greenhouse gas emissions that contribute to climate change. Simply doing nothing more than use Firstgas will “help change the world”.

Target audience

11. Household and business energy customers. (Both business customers – the restaurant at the beginning – and household consumers – the woman in the bath at home – are depicted reaping the benefits of gas).

Background

12. The following facts are not contentious:

12.1. There is a scientific consensus that the world is heading for catastrophic climate change unless it rapidly and drastically cuts its consumption of fossil fuels.

12.2. The goal of the Paris Agreement on Climate Change, to which NZ is a signatory, is to keep the global temperature rise in the 21st century to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C.

12.3. The most authoritative statement, at present, of what is required to limit the temperature increase to 1.5°C is the special report by the Intergovernmental Panel on Climate Change (IPCC), Global Warming of 1.5°C. According to that report, there would be a 50-66% chance of limiting global warming to 1.5°C with no or limited temporary overshoot of that target if, by 2030:

- i. net carbon dioxide emissions decreased by 40-58% from 2010 levels;
- ii. agricultural methane decreased by 11-30%; and
- iii. agricultural nitrous oxide remained stable or decreased by 21%.

12.4. NZ has among the highest per capita carbon emissions in the developed world.

12.5. Natural gas is a fossil fuel. It is 95% methane. When it burns it produces carbon dioxide, the most common greenhouse gas. When it leaks it releases a greenhouse gas (methane) that is more than eighty times more potent than carbon dioxide in the medium term.

12.6. The gas used in NZ homes and businesses constitutes about 9% of NZ’s total greenhouse gas emissions.¹ It provides 20% of NZ’s primary energy supply.²

¹ Gasischanging.co.nz: “The gas used in kiwi homes currently makes up less than 1% of the country’s 2 Firstgas group: Bringing Zero Carbon Gas to Aotearoa. Report Summary, 3.

² Firstgas group: Bringing Zero Carbon Gas to Aotearoa. Report Summary, 3

12.7. 1.75% of gas entering NZ's distribution system is estimated to be lost through leakage.³ (If our measurement system is similar to the US's one, the true amount may be closer to 2.3%.⁴)

12.8. The Climate Change Commission, in its draft advice, has recommended no new natural gas connections from 2025 and earlier if possible.⁵

12.9. Because NZ electricity is about 85% renewable energy, the use of electrical appliances is about 50% less carbon intensive than using gas appliances. Switching to gas therefore generally increases emissions.⁶

13. Professor Dave Frame, Director of the New Zealand Climate Change Research Institute at Victoria University of Wellington, has concluded: "To meet 1.5 degrees Celsius [of warming], global emissions have to fall faster than annual Covid-level reductions. They have to compound. They have to do that for 30 years, with no rebound. That's what it takes to stay under 1.5C. Cuts to methane can help with that – but that carbon dioxide job is pretty big."⁷

The standards

14. The relevant standards are as follows.

- Principle 2: Truthful presentation: Advertisements must be truthful, balanced and not misleading.

- o Rule 2(b): Truthful presentation. Advertisements must not mislead or be likely to mislead, deceive or confuse customers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise.

- o Rule 2(h): Environmental claims. Environmental claims must be accurate and able to be substantiated by evidence that reflects scientific and technological developments.

- Principle 1: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

- o Rule 1(i): Environmental claims. Advertisements must not depict or encourage environmental damage or degradation. [USE THIS??]

Truthful presentation

15. LCANZI believes the advertisement is misleading in four ways.

³ <https://environment.govt.nz/assets/Publications/New-Zealands-Greenhouse-Gas-Inventory-1990-2019-Volume-1- Chapters-1-15.pdf> , 126.

⁴ <https://science.sciencemag.org/content/361/6398/186>

⁵ [CCC-ADVICE-TO-GOVT-31-JAN-2021-pdf.pdf \(amazonaws.com\)](https://ccc-production-media.s3.ap-southeast-2.amazonaws.com/public/evidence/advice-report-DRAFT-1STFEB/ADVICE/CCC-ADVICE-TO-GOVT-31-JAN-2021-pdf.pdf) <https://ccc-production-media.s3.ap-southeast-2.amazonaws.com/public/evidence/advice-report-DRAFT-1STFEB/ADVICE/CCC-ADVICE-TO-GOVT-31-JAN-2021-pdf.pdf> 117.

⁶ [Is Using Gas to Heat Buildings and Hot Water a Low Carbon Option in NZ? – EBOSS](https://www.eboss.co.nz/detailed/marcus-baker/greenhouse-gas-emissions-gas-vs-electric-waterheating#:~:text=In%20NZ%2C%20natural%20gas%20has,than%20using%20a%20gas%20appliance.) <https://www.eboss.co.nz/detailed/marcus-baker/greenhouse-gas-emissions-gas-vs-electric-waterheating#:~:text=In%20NZ%2C%20natural%20gas%20has,than%20using%20a%20gas%20appliance.>

⁷ [What it would take for NZ to nearly halve methane emissions by 2030 | Stuff.co.nz](https://www.stuff.co.nz/environment/climate-news/125060135/what-it-would-take-for-nz-to-nearly-halve-methaneemissions-by-20304) <https://www.stuff.co.nz/environment/climate-news/125060135/what-it-would-take-for-nz-to-nearly-halve-methaneemissions-by-20304>

15.1. It misleads consumers into thinking Firstgas's carbon zero promise is more certain than it really is

15.1.1. Firstgas is making an absolute claim. It says it is "ensuring" its product is going zero carbon. In its Seafood NZ decision (18/021, 14 February 2019), the ASCB said that "to ensure" was a synonym with "guarantee" and both meant "to make certain something will be the case".

15.1.2. LCANZI believes Firstgas is to be commended for taking action to reduce natural gas emissions. But the action that Firstgas in fact outlines falls far short of "ensuring" that its network will become zero carbon. It says on its website that it is "investigating" using zero carbon options "such as hydrogen, biogas and bioLPG." Some of these are "already being tested in New Zealand and are welladvanced overseas." They are "potentially carbon gas alternatives." Firstgas is "leading part of a Hydrogen Pipeline Trial", is "involved in a Biogas industry study", and is "closely following the results of extensive hydrogen research and development in Australia and Europe." These are rather preliminary steps. Firstgas's "study findings" say that its network "could be" 20% hydrogen by 2035. Its research suggests that hydrogen "could" replace natural gas demand "in most sectors" by 2050. Hydrogen "has the potential" to displace a range of fossil fuels.

15.1.3. Converting to 100% carbon neutral is described as a "goal".

15.1.4. The advertisement is therefore promising Firstgas customers and potential customers something it cannot be sure of delivering and is only in the early stages of investigating. Those who see the advertisement and trust it would believe those developments to be certain. Most people do not have the technical knowledge to second-guess the claim.

15.1.5. In the Seafood NZ case, above, the Appeal Board compared the claims in the advertisement to those on the relevant websites. It noted that an "strong claim" had been made: an assertion that the Quota Management System "guarantees our fisheries stay sustainable". The ASA said this was different from a claim that the advertiser was "working to ensure" sustainability or would "help keep" fisheries sustainable. Those were the claims on the relevant websites. They 5 were weaker, and were justifiable. Those might be justifiable. But the claim in the advertisement "implies much greater certainty". It was not substantiated. It is submitted that the same reasoning applies here.

15.2. It misleads customers into thinking Firstgas's carbon zero promise is happening faster than it really is

15.2.1. The second problem is that any such developments are years and perhaps decades away. There is nothing in Firstgas's Zero Carbon report summary or timetable that shows any emissions reductions at all until 2030 at the earliest. Then a 1% hydrogen blend is proposed, projected for 2030. It is hoped that this will rise to 20% by 2035 or thereabouts. A 20% reduction by 2035 in something that makes up nearly 10% of NZ's total greenhouse gas emissions is laudable, but it would still not achieve anything like the reductions that are necessary to keep us on track toward a 1.5 degree future. (On its website Firstgas says it is "committed" to reducing its emissions 30% by 2030. It does not say how this will be achieved but it is investigating advances concerning biogas and bioLPG.)

15.2.2. Customers and potential customers who view this advertisement and trust it will believe that Firstgas's conversion to zero carbon is imminent. After all, they are watching people eating gas-cooked food at a restaurant, lying in a gas-fired bath, and enjoying a gas-powered barbeque, and looking satisfied, even smug. The implication is that the promised benefits are available now. We can "continue doing what we love", right now, safe in the knowledge that Firstgas is ensuring our gas consumption is not hurting the environment. At the very least, the viewer must expect that the benefits are coming very soon and will be ramped up quickly over the next months and years to

reach zero carbon. Again, most people lack the technological expertise to evaluate the claim and cannot be expected to examine all the fine print on the website.

15.2.3. In the recent Meridian Energy decision (AWAP 20/003), the ASCB found that there was an “implied environmental claim” in Meridian’s advertising that its electricity would be better for the environment than electricity from other companies. Here, there is also an implied environmental claim: that Firstgas will achieve carbon neutrality very soon: soon enough for its customers to quickly take advantage of it. But the implication here is even stronger than in the Meridian case. Here, there is no ambiguity about the claim.

15.3. It misleads customers into thinking they do not need to reduce gas emissions

15.3.1. The third problem may be the most serious. The clear implication of this advertisement is that Firstgas customers, present and future, do not need to reduce their Firstgas energy use. They need do “absolutely nothing”. They can “change the world” (by eliminating energy emissions) “without changing much of theirs” (except by using Firstgas).

15.3.2. Those who view this advertisement and trust it will conclude that there is no need for them to reduce their Firstgas energy consumption because it is, or will soon be, zero carbon. They can “continue doing what they love”, even if it involves exorbitant use of gas. Indeed, customers might be encouraged to increase energy-intensive activities. Others may be persuaded to switch the heating of their home, for example, to gas, because electricity is not entirely 6 zero-carbon. The advertisement is telling them that this will cut their greenhouse gas emissions. In fact, it would likely increase those emissions. Customers who do absolutely nothing about their gas usage and continuing using it to do the things they love will actually be contributing to the climate crisis.

15.4. It misleads customers into thinking that the change will not inconvenience them

15.4.1. A fourth problem is that if 100% hydrogen becomes available in future, existing appliances will not operate and will need to be replaced. This is explained in Firstgas’s Zero Carbon report, but not in the advertisement. So by the time the zero carbon future actually arrives, it will not be true to say that customers need do “absolutely nothing”.

Contextual factors

16. The claims in the advertisement are plainly environmental. They concern an issue of enormous significance to the country and the world. Such claims must be rigorously scrutinised because of the great harm that can be caused by misleading information on a matter of such importance. That rigorous scrutiny is also important because climate issues are complex and difficult for consumers to understand. They are ripe for having their fears and concerns exploited. 17. There is no obvious hyperbole in the advertisement. Humour does not ameliorate the claims. The excessiveness of the claims can be discerned from a close reading of the information on the website but is not drawn to viewers’ attention.

Social Responsibility

18. The ASCB has often found that an advertisement making claims that cannot be substantiated may also be socially irresponsible, if the claims relate to significant matters. LCANZI therefore repeats its submissions above in relation to the Social Responsibility principle. The advertisement explicitly relates to the climate crisis. The unsubstantiated claims are so significant and misleading that they cannot be said to have been prepared with a due sense of social responsibility.

19. The third point above (about customers being misled into thinking they do not need to reduce gas emissions) is particularly salient in this context. This campaign will have the effect of giving people false comfort and discouraging them from doing what is necessary to avert climate catastrophe: massively reduce consumption of fossil fuel energy sources virtually immediately. In fact, if the advertising campaign is successful and more people use gas, then

emissions from natural gas will increase proportionately. This cannot be said to be socially responsible.

20. The advertisement not only misstates the ongoing effects of Firstgas's emissions, it may also encourage people to increase those emissions by either switching to gas, which in the next 15 years at least is likely to remain be more carbon intensive than electricity, or by increasing their use of gas for the activities they love, or both.

Lawyers for Climate Action NZ Inc

COMPLAINT 6

First Gas claims Kiwis worried about climate change don't need to worry about continuing to use its fossil gas. "What do you need to do? Absolutely nothing." The Climate Change Commission's advice, just released, makes it clear that the use of gas needs to end in New Zealand. These ads misrepresent facts to the New Zealand public.

Appendix 2

FIRST RESPONSE FROM ADVERTISER, FIRSTGAS GROUP

Complaint 21/194

I refer to your letter of 4 May 2021, referring to the above complaint regarding Firstgas Group's television advertisements. Firstgas Group wishes to defend the complaints.

About Firstgas Group

1. The four companies that make up the Firstgas Group are First Gas Limited, Rockgas Limited, Flexgas Limited and Gas Services New Zealand Limited. Firstgas Group own and operate transmission and distribution pipes for the delivery of natural gas across the North Island, and own the storage, tanks, cylinders and trucks that deliver Rockgas LPG to approximately 165,000 LPG customers across the country.
2. Firstgas Group is also exploring alternative energy sources that are sustainable, environmentally friendly and deliver New Zealand's energy needs in a changing world.

Media Files and Response

3. Firstgas Group has produced a series of 6, 15 and 30 second television advertisements focusing on how New Zealand's gas is changing – the campaign centres on the concept of the "Future of Gas".
4. The full advertisements are available here (the files are too large to send by email):
<https://www.youtube.com/channel/UCvTLKxSJcllaFLN2KYeh-hww>
<https://augusto.digitalpigeon.com/msg/cNGXcKMqEeu0qAbfE8cnCQ/jUxBHv7z2v5T9FJDsS9h9w>.
5. The advertisements are being run:
 - Between 13 April and 12 June 2021 on:
 - TVNZ
 - Duke
 - Top TV
 - Sky
 - Bravo
 - TV3

Between 2 May and 19 June 2021 on:

- SkySport
 - Prime
6. Please see **attached**:
 - the full media schedule for the campaign, including all information in relation to TV, Radio, Outdoor, Newspaper, Magazine, Social Media and Digital;
 - the scripts for the television advertisements.
 7. The advertisements drive viewers to an interactive website (www.gasischanging.co.nz) that hosts the research that Firstgas Group has undertaken with partners in relation to the possibilities of hydrogen gas, as well as biogas and bioLPG, as alternative, low emissions fuels for New Zealanders.

Target Audience, Claims and Response to the Complaints.

8. The campaign is a brand awareness campaign, and the first above the line campaign run by Firstgas Group. The campaign does not advertise either a product, or a service, but highlights that the future of gas is changing.
9. There is no sales aspect to the advertising, and no suggestion that consumers use more gas in the future than they do currently. The advertisement does not either overtly, or covertly, encourage increased use of fossil fuels.
10. In addition to raising brand awareness of Firstgas Group, the campaign also aims to raise awareness across all of New Zealand of the research being undertaken to enable the delivery of low emissions or zero carbon gasses through our pipelines and the possibilities of zero carbon gas in New Zealand, particularly hydrogen. At a simple level, when hydrogen is created through electrolysis, the hydrogen and oxygen in water are separated. Provided the inputs (water and electricity) are renewable, the process creates “green hydrogen” – which is generally accepted to be zero carbon.
11. The advertisements and campaign respond to the reactions and fears of many New Zealanders that arose from the Climate Change Commission draft advice⁸, that they may no longer be able to enjoy a BBQ, or have access to gas-heated water or cooking. The campaign uses humour to reassure the viewer that because gas is changing (e.g. through investigations into hydrogen, biogas and bioLPG), for the time being they do not need to.
12. Notwithstanding the above, at www.gasischanging.co.nz Firstgas Group makes it clear, that for now, we are only at a trial stage for the delivery of a hydrogen/natural gas blended gas – and that any large-scale changes are still some way off.
13. The advertising campaign is deliberately high-level to avoid any suggestion of any near-term change, and does not attempt to promote either:
 - the sale of zero carbon gas; or
 - the increased use of fossil fuels.

Material to substantiate claims

14. Available at the website www.gasischanging.co.nz, you can find all supporting material for the claims around the potential for hydrogen gas, the results of our hydrogen trial to date, and additional supporting information on biogas and bioLPG.
15. The website is an informative website, rather than a promotional one, and offers no suggestion of the availability in the near term of hydrogen gas at scale, nor of biogas or bioLPG.

Summary

⁸ The Climate Change Commission draft advice recommended no bottled LPG or new natural gas connections from 2025, with a phasing out of existing gas connections and a conversion to electric appliances by 2050 once old gas appliances came to the end of their life.

On the basis of the above, being that we are not:

- claiming to sell hydrogen (nor other biogas, or bioLPG),
- promoting the increased use of fossil fuels; and
- making unsubstantiated claims (as supported by the information on our site www.gasischanging.co.nz)

we do not consider that the complaints are justified.

Attachments:

- Media schedule (financial information removed)
- Spotlist
- TVC – 6", 15" and 30" scripts
- The full Hydrogen Feasibility Study which is available on the gasischanging.co.nz website.

Additionally – the CAB approval numbers are:

FGG 030 RES 10325040

FGG 030 CRB 10422035

ADDITIONAL RESPONSE FROM ADVERTISER

The Secretariat noted that the Advertiser had not referred specifically to Rule 1(i) in their response, as alluded to by Complainant 3. The Secretariat wrote to the Advertiser asking if they wished to add anything to your response in relation to this Code.

The Advertiser said:

I think we have already covered most of the environmental aspects in our response, in that we do not consider that we've encouraged or depicted any environmental damage or degradation. The advertisements depict everyday activities, and do not encourage any increased use in fossil fuels.

SECOND RESPONSE FROM ADVERTISER

Follow up to Complaint 21/194

I refer to your letter of 10 June 2021, and email of 15 June, referring to the above complaint regarding Firstgas Group's television advertisements, and bringing to our attention a further three complaints received in relation to the same television advertisements. Firstgas Group wishes to defend all of the complaints received.

About Firstgas and the advertisements complained of:

16. As noted in our previous response, the campaign is a brand awareness campaign.
17. The advertisements drive viewers to an informative website (www.gasischanging.co.nz) that hosts the research that Firstgas Group has undertaken with partners (commenced well before the Climate Change Commission draft advice was released) in relation to the possibilities of hydrogen gas, as well as biogas and bioLPG, as alternative, low emissions fuels for New Zealanders, and the capability of existing infrastructure to carry alternative fuels.
18. Both First Gas Limited, and Rockgas Limited are companies within the Firstgas Group. First Gas Limited owns natural gas transmission pipelines and distribution networks in the North Island (but does not retail natural gas), and Rockgas Limited sells and

distributes LPG through its reticulated networks in the South Island and through cylinder and bulk deliveries nationwide.

19. The campaign does not advertise either a product, or a service and there is no sales aspect to the advertising. The intention of the advertising is to bring consumers' attention to the idea that the future of gas is changing and to pique the interests of those who wish to learn more about how gas is changing. The advertisement very clearly points consumers to where they can find more information.
20. The implication from the complaint received from Lawyers for Climate Action NZ Inc, is that consumers should be switching to electricity fuelled appliances immediately, despite the New Zealand electricity industry not currently being able to cope with demand without emissions generation power stations on board, both coal- and gas-fired. Firstgas considers that a variety of industries need to be investigating low-emissions alternatives, but there is no need for consumers to panic unnecessarily while those alternatives are developed.
21. Significant industry change will take time, research and planning to eventuate, and there is no suggestion in the advertising that this change is instant or available in New Zealand now.
22. The advertisement does not either overtly, or covertly, encourage increased use of fossil fuels, and does not suggest that consumers should convert to gas, over other forms of energy.
23. The use of the phrase "without changing too much of yours", does not create an absolute guarantee that consumers need do nothing ever to counter climate change, but makes it clear to consumers that there will need to be some action on their part, at some stage, but that right now, their lives are not about to change dramatically.

Further Context

24. Firstgas recognises that many consumers do not have control or choice over the type of fuel that is present in their homes for cooking, or water heating, and that the costs of converting to a different fuel can be prohibitively expensive for some. This appeared to be a matter of concern for many consumers following the release of the Climate Change Commission's draft advice⁹.
25. The advertisements simply depict commonplace, everyday activities, cooking, bathing, barbecuing, and eating out. For the time being, consumers continue to have choice over whether those activities are fuelled by gas.
26. To draw a parallel, despite the government having taken no action to either ban such advertising or even the activity itself, the same logic would need to be applied to advertisements for petrol or diesel vehicles, dairy products, or anything else that creates greenhouse gas emissions, which in Firstgas' view takes too far the arguments that this kind of advertisement is socially irresponsible.
27. To suggest that the advertisement correlates to an active encouragement to use more gas, specifically more natural gas, and to go so far as to suggest that the ad encourages consumers to convert their appliances to gas and do nothing for climate action implies too much into what is a simple recognition of the current state of affairs in terms of household activities and energy use, and consumer choice.
28. As noted in our previous response, the campaign uses humour to reassure the viewer that because gas is changing (e.g. through investigations into hydrogen, biogas and bioLPG and the capability of our existing infrastructure to carry those gases), for the

⁹ <https://www.stuff.co.nz/environment/climate-news/124626848/the-end-of-bbqs-or-a-load-of-hot-air-the-proposed-ban-on-natural-gas-connections>

time being they do not need to, and there is no need to change their appliances immediately.

29. The intention of the advertisements was to convey to consumers that they do not need to panic about the availability of anything they use now, because we have been investigating alternatives for some time, and we are working on possible solutions. We believe there is genuine public interest in providing information on the range of alternative energy sources that will emerge over the coming years.
30. Firstgas Group has been supportive of the Climate Change Commission's work, and has worked constructively with the recommendations. Firstgas Group does not dispute that greenhouse gas emissions need to be reduced, which is why it has proactively undertaken research into decarbonising New Zealand's gas supply. The timelines proposed by Firstgas Group (as set out at www.gasischanging.co.nz) are in line with the timeframe recommended by the Climate Change Commission in its advice for meeting New Zealand's 2050 emissions targets.
31. It is to be noted, that the Climate Change Commission in its final advice has significantly revised its earlier position in relation to gas connections, and recognised the need to carry out further work to develop hydrogen and low-emissions fuel alternatives to natural gas and LPG. The Commission has also recognised that the electricity sector has work to do to manage any increased demand; a mass conversion to electricity at this point in time could not be met by existing electricity supply¹⁰ and transition will need to be gradual.
32. Notwithstanding the above, at www.gasischanging.co.nz, Firstgas Group makes it clear, that for now, we are only at a trial stage for the delivery of a hydrogen/natural gas blended gas – and that any large-scale changes are still some way off.

Use of the words “our gas”:

33. By using the words “we’re ensuring *our gas* is going carbon zero too” we intended to convey that we’re working towards making sure (with the aspects we have control over, being pipelines) that collectively “New Zealand’s gas” can go carbon zero too.
34. While we do not believe it was necessary, given the confusion in the complaint received from the Lawyers for Climate Action NZ Inc about what Firstgas Group provides, we have re-recorded the voice-over to say “we’re helping make sure **New Zealand’s gas** can go carbon zero too.” The revised advertisements have already been deployed and a copy is attached to this response.

Material to substantiate claims

¹⁰ “The speed with which Aotearoa reduces fossil gas use for generating electricity needs to be carefully managed to ensure electricity remains reliable and affordable. Fossil gas currently plays an important role in maintaining this reliability and affordability by backing up renewable generation, particularly at peak times in winter and in dry years. Removing fossil gas too quickly from the system could increase electricity prices and reduce reliability. This could have significant consequences for the electrification of transport and low- to medium-temperature process heat – two big opportunities for reducing emissions in Aotearoa. Access to reliable and affordable electricity will also support homeowners and businesses as they gradually transition away from fossil gas for heating and cooking”; p85; Climate Change Commission report – “Ināia tonu nei – A Low Emissions Future for Aotearoa.”

See also, section title, “New generation will be needed to meet increased electricity demand” – p281; Climate Change Commission report – “Ināia tonu nei – A Low Emissions Future for Aotearoa.”

<https://ccc-production-media.s3.ap-southeast-2.amazonaws.com/public/Inaia-tonu-nei-a-low-emissions-future-for-Aotearoa/Inaia-tonu-nei-a-low-emissions-future-for-Aotearoa.pdf>

35. Available at the website www.gasischanging.co.nz, you can find all supporting material for the claims around the potential for hydrogen gas, the results of our hydrogen trial to date, and additional supporting information on biogas and bioLPG.
36. The website is an informative website, rather than a promotional one, and offers no suggestion of the availability in the near term of hydrogen gas at scale, nor of biogas or bioLPG.

Summary

37. The advertising campaign is deliberately high-level to avoid any suggestion of any near-term change, and does not attempt to promote either:
 - the sale of zero carbon gas;
 - the sale of natural gas;
 - the increased use of fossil fuels; or
 - the conversion of existing electrical appliances to gas appliances.
38. We do not consider that the complaints made are justified, and do not consider that we have made any unsubstantiated claims.
39. Although we did not consider it was strictly necessary, we have clarified the wording of the advertisement in any event.

Appendix 3

RESPONSE FROM COMMERCIAL APPROVALS BUREAU

Complaint 21/194 First Gas FGG 030 RES Classification: G

Three complainants queried the truthfulness regarding environment claims made in this commercial.

Since the Government announced New Zealand would be going Zero Carbon stories have abounded that the use of gas through pipelines or in the bottles or cylinders that we now use will become obsolete. The end of the family barbeque stories have been well aired.

This commercial simply conveys to consumers that this should not be the case. The goal of First Gas is to provide hydrogen and biogas through existing pipelines or bottles so that consumers can seamlessly transition to using zero carbon gas in their homes or businesses. With the support of the New Zealand Government, they have been conducting trials into both a Hydrogen Pipeline and studies of the Biogas Industry.

As stated in the advertisement there is no need for angst. Viewers are guided by both the voiceover and clear graphics to go to the website gasischanging.co.nz to find out more about the proposals.

The advertisement clearly lays out the intentions of First Gas and CAB sees no reason to uphold the complaint.