

Melbourne Climate Futures, Laureate Program on Global Corporate Climate Accountability and ARC Centre of Excellence for Automated Decision Making and Society

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Professor Christine Parker, Professor Jacqueline Peel, Ms Rebekkah Markey-Towler



Submission to the Senate inquiry into greenwashing

This submission brings together expertise from researchers from the University of Melbourne to respond to the call for submissions to the Senate's inquiry into greenwashing. Researchers involved in this submission are from Melbourne Climate Futures the Laureate Program on Global Corporate Climate Accountability and the ARC Centre of Excellence for Automated Decision Making and Society.

The Terms of Reference refer to greenwashing, including: (a) the environmental and sustainability claims made by companies in industries including energy, vehicles, household products and appliances, food and drink packaging, cosmetics, clothing and footwear; (b) the impact of misleading environmental and sustainability claims on consumers; (c) domestic and international examples of regulating companies' environmental and sustainability claims; (d) advertising standards in relation to environmental and sustainability claims; (e) legislative options to protect consumers from greenwashing in Australia; and (f) any other related matters. The committee is also seeking views on the role of corporate sponsorship and advertising by fossil fuel companies and their commercial arrangements with media organisations.

The submission highlights some of our key areas of research that may be relevant to the inquiry.

Frequent meaningless or unsubstantiated environmental and sustainability claims

This section refers to term of reference (a): the environmental and sustainability claims made by companies in industries including energy, vehicles, household products and appliances, food and drink packaging, cosmetics, clothing and footwear.

We refer the Committee to the evidence previously supplied in the Submission 25.1 by the Consumer Policy Research Centre. That submission provided evidence of the quantity and nature of green claims made by companies advertising on social media in Australia, collected and analysed by the ARC Centre of Excellence for Automated Decision Making and Society's ('ADM+S') Australian Ad Observatory in partnership with Consumer Policy Research Centre ('CPRC'), led by Prof Christine Parker (Univ. of Melbourne and ADM+S) and Ms Chandni Gupta. The research was published in late 2023 in the report, *Seeing*

Green (Gupta et al 2023). The report is also summarised and discussed in a *Conversation* article (Parker 2023). The following comments draw on both sources.

The research referred to above identified more than 8,000 Facebook ads shown more than 20,000 times to people in Australia that included environmental, or sustainability claims in the advertising text.

The top five sectors making the most environmental claims in their advertising were the energy sector, household products, fashion, health and personal care and travel. The top 10 most frequent environmental and sustainability claims made were 'clean', 'green', 'sustainable', 'recycled' or 'recyclable', 'bio', 'pure', eco-friendly, 'biodegradable', 'for the planet' and 'eco'.

Many of these terms are vague, meaningless or unsubstantiated. Similar terms are used in a variety of ways, with no common meaning. In addition, the same environmental term is used differently by multiple businesses with different meanings. Some social media ads provide succinct details to support an environmental claim, while in other ads it is difficult to ascertain the accuracy of the claim. Yet, all these ads imply a more environmentally

Postal address:

Melbourne Climate Futures (MCF)
The University of Melbourne VIC 3010
Australia

Email:

melbourne-climate-futures@unimelb.edu.au

responsible choice. Consumers are likely being deceived as to what they really mean.

Many ads also used colours and symbols to put a green “halo” around their products and business. These included green, blue and earthy beige tones, and background nature imagery. Many used emojis featuring leaves, planet Earth, the recycling symbol and the green tick, often with no context or specific information.

These features can exaggerate environmental and sustainability credentials or create the impression of an environmental or sustainability quality that does not exist. For example, the Möbius loop is often used in ads for products and services that may or may not be recycled or made from recyclable materials.

Consequences of vague, unsubstantiated and meaningless claims on consumers

This section refers to term of reference (b): the impact of misleading environmental and sustainability claims on consumers.

Vague, unsubstantiated and meaningless environmental and sustainability claims costs consumers, as products claiming to be greener are often more expensive. Consumers are forced to choose between accepting claims at face value or committing to a deep dive to research each product they buy, the claims they make, and whether any extra cost is worth it.

Businesses have a strong incentive to “go green” to respond to consumer concern about the environment and the impact of their consumption choices on the environment. These claims can entice more customers into buying their products. However, there is also a strong incentive for businesses to make claims that go beyond what is true. When these claims are false, exaggerated or meaningless, consumers are not supporting the action to protect the environment that they think they are. This harms consumer choice and their ethical commitments.

Such claims also deceive consumers as to how much business are doing to address environmental problems. This is because false and exaggerated green claims – or “greenwashing” – make it seem more is being done to tackle climate change and other environmental crises than is really happening. The widespread use of these claims could delay important and urgent action on tackling climate change.

Domestic and international examples of regulation

This section refers to term of reference: (c) domestic and international examples of regulating companies’ environmental and sustainability claims.

Domestic Regulation: ACCC and ASIC

Australian corporate regulators – the ACCC and Australian Securities and Investment Commission (ASIC) – have taken steps to address greenwashing. ASIC released an information sheet on how to avoid greenwashing when offering or promoting sustainability-related products (ASIC 2022). This includes questions to consider when offering or promoting sustainability-related products, namely:

- Is your product true to label?
- Have you used vague terminology?
- Are your headline claims potentially misleading?
- Have you explained how sustainability-related factors are incorporated into investment decisions and stewardship activities?
- Have you explained your investment screening criteria? Are any of the screening criteria subject to any exceptions or qualifications?
- Do you have any influence over the benchmark index for your sustainability-related product? If you do, is your level of influence accurately described?
- Have you explained how you use metrics related to sustainability?
- Do you have reasonable grounds for a stated sustainability target? Have you explained how this target will be measured and achieved?
- Is it easy for investors to locate and access relevant information?

The ACCC has also issued a guide for businesses on making environmental claims (ACCC 2023). This includes eight principles for making trustworthy environmental claims, namely:

- make accurate and truthful claims;
- have evidence to back up claims;
- do not hide or omit important information;
- explain any conditions or qualifications on your claims;
- avoid broad and unqualified claims
- use clear and easy to understand language;
- visual elements should not give the wrong impression; and
- be direct and open about your environmental sustainability transition.

Greenwashing is misleading and deceptive conduct and can be addressed using Australia’s general legal prohibitions on misleading and deceptive conduct. These

provisions can be found in the *Australian Securities and Investments Commission Act 2001* (Cth) (ASIC Act), the *Corporations Act 2001* (Cth) (Corporations Act) and the Australian Consumer Law.

The ACCC and ASIC are also prioritising enforcement action against greenwashing using these provisions. For example, one of the ACCC's enforcement priorities for 2025-26 is 'consumer, fair trading and competition concerns in relation to environmental claims and sustainability, with a focus on greenwashing' (ACCC 2025). They had similar priorities in 2024-25 and 2023-24. Addressing 'greenwashing and misleading conduct involving ESG claims' has been one of ASIC's enforcement priorities for 2025, 2024 and 2023 (ASIC 2025).

ASIC have intervened to address greenwashing in different ways. For example, as of August 2024, they obtained 60 corrective disclosure outcomes and 19 infringement notices (ASIC 2024, p.7). In addition, three civil penalty proceedings have been brought by ASIC. ASIC has said that they have pursued litigation where they 'identified particularly serious instances of a mismatch between investments held and stated ESG investment screens and objectives' (ASIC 2024, p.8).

The first case was commenced in February 2023 against Mercer, a superannuation trustee. Mercer admitted that they made false or misleading representations that their Sustainable Plus investment options excluded, and would continue to exclude, investments in companies profiting from, inter-alia, the extraction or sale of carbon intensive fossil fuels.

In August 2024, Justice Horan made declarations that Mercer had contravened the ASIC Act, ordered Mercer to pay a pecuniary penalty of \$11.3 million and made an adverse publicity order requiring Mercer to publish a notice on its website for six months describing the conduct that gave rise to the contraventions.

The second case, commenced in July 2023, was brought against Vanguard Investments. ASIC alleged that Vanguard had made false or misleading representations that their Vanguard Ethically Conscious Fund offered an ethically conscious investment opportunity. Instead, the research and screening against ESG criteria for securities for inclusion in the fund had important limits: a significant proportion of the securities were from those not researched or screened against the ESG criteria and issuers were included who violated the criteria.

Vanguard admitted to most of the contraventions and Justice O'Bryan accepted their arguments in relation to one dispute about their liability. In September 2024, O'Bryan J found that an aggregate penalty of \$12.9 million ought to be imposed on Vanguard. His Honour also made an adverse publicity order in the form sought

by ASIC to be displayed for 12 months on Vanguard's website.

The third case was commenced by ASIC in August 2023 against Active Super. ASIC successfully alleged that Active Super had engaged in greenwashing by misrepresenting on their website, inter-alia, that they had eliminated investments that posed too great a risk to the environment and the community, including coal mining, tobacco manufacturing, oil tar sands and gambling. They alleged that Active Super had holdings that exposed members to the securities that they claimed to restrict.

In March 2025, Justice O'Callaghan J imposed a total penalty of \$10.5 million on Active Super. The court also made an adverse publicity order that required Active Super to display on its webpages for six months a description of the conduct that gave rise to the contraventions.

The Australian Competition and Consumer Commission (ACCC) has also commenced litigation to address greenwashing.

For example, in June 2025, the ACCC commenced a case against Australian Gas Networks (AGN) in relation to its 'Love Gas' advertising campaign. The ACCC will argue that AGN misled millions of consumers when it alleged that the gas distributed will be renewable in a generation because there were no reasonable grounds for making this unqualified claim.

In addition, in an earlier case in April 2024, the ACCC commenced a claim against Clorox Australia Pty Ltd alleging that they have contravened the Australian Consumer Law. Clorox had supplied and promoted kitchen tidy bags and garbage bags labelled with '50% Ocean Plastic Recycled' in its 'GLAD to be GREEN' range. These bags were not, in fact, made from plastic collected from the ocean or sea.

Clorox admitted the contraventions. Justice Neskovic made declarations of contravention sought by the parties, ordered Clorox to pay a pecuniary penalty of \$8.25 million, issued an injunction, made orders in relation to a compliance program and ordered a corrective advertising notice to be placed on Clorox's website and social media channels for at least 90 days.

Previous enforcement actions brought by the ACCC have also addressed greenwashing claims. This has included cases against Volkswagen, DuluxGroup, Goodyear Tyres and GM Holden.

Domestic Regulation: Litigation by Civil Society Groups

Civil society groups have also commenced greenwashing litigation in Australia. This includes a case brought by the Australasian Centre for Corporate Responsibility against Santos over claims that Santos had a clear and credible pathway to net zero, that Santos is a producer of clean

energy, that natural gas is a clean fuel and that hydrogen produced from natural gas is clean and zero emissions. This matter is awaiting judgment from the Federal Court.

Another case was brought by Australian Parents for Climate Action against EnergyAustralia alleging that the company's marketing of 'Go Neutral' gas and electricity products was misleading and deceptive conduct. A settlement was reached just as the case was about to proceed to trial. In a [statement](#) released by EnergyAustralia on its website on 19 May 2025, the company acknowledged that "carbon offsetting is not the most effective way to assist customers to reduce their emissions" and apologised to customers who felt the marketing of 'Go Neutral' products was unclear. The settlement in this litigation suggests that where companies make claims of 'carbon neutrality' or net zero compliance, those claims will be misleading to consumers if the companies concerned are not undertaking action to reduce their direct emissions e.g. from fossil fuel use and are instead relying on 'carbon offsets'. In its website statement, EnergyAustralia acknowledged "the importance of consumers understanding the climate impact of products and services offered to them and that offsets are not the most effective means of reducing greenhouse gas emissions."

International Example of Regulation: European Union (EU)

In 2023, the EU proposed a new Directive to protect consumers and empower them to contribute to the green transition (European Commission 2023, p.1). This Directive would (Parker and Johnson 2025):

- set out minimum evidential standards for making environmental claims;
- require climate claims based on offsets clearly specify that they are based on offsets and provide information about these offsets (type, quantity, integrity);
- allow the EU Commission to make delegated acts that substantiate further the types of environmental evidence required for claims such as 'climate neutrality' and 'recyclability';
- require companies making claims based on their future performance on climate change to prioritise, and show evidence of, steps within their own company to decarbonise over a reliance on offsets;
- stipulate that all environmental claims and labels must be third-party certified (certain claims exempt provided companies comply with new rules for substantiating claims); and
- provide relevant authorities with more powers to check the evidence behind a claim and to check and monitor claims.

However, progress on this Directive has stalled, with an announcement in June 2025 that the Commission intended to withdraw the proposal (ClientEarth 2025).

International Example of Regulation: United Kingdom (UK)

The Competition & Markets Authority (CMA) in the UK has issued guidance on making environmental claims on goods and services. This includes a set of principles that businesses should abide by in making environmental claims, namely, ensuring they (CMA 2021):

- are truthful and accurate;
- are clear and unambiguous;
- do not omit or hide important information;
- compare goods or services in a fair and meaningful way;
- consider the full life cycle of the product or service; and
- are substantiated.

The Advertising Standards Authority (ASA) standards complement the CMA guidance to address greenwashing. These are designed to ensure that advertised claims are not misleading or deceptive.

The Financial Conduct Authority (FCA) has Sustainability Disclosure Requirements and a fund labelling scheme that aims to inform and protect consumers and improve trust in the market for sustainable investments. Measures in the regime include (FCA 2023):

- an anti-greenwashing rule for all authorised firms;
- 4 investment labels ('sustainability impact', 'sustainability focus', 'sustainability improvers' and 'sustainability mixed goals'); and
- new rules and guidance for firms marketing investment funds based on their sustainability characteristics.

The UK Sustainability Reporting Standards will also help to improve the quality and comparability of information for investors, reducing greenwashing.

The UK recently consulted on whether to adopt a Sustainable Finance Taxonomy. Taxonomies can be used to increase investment in sustainable activities and, most relevant to this inquiry, to reduce greenwashing (UK Treasury 2025, p.9). In relation to greenwashing, the hypothesis driving taxonomy development is that 'activity level data could help verify green and sustainability claims in the absence of a clear framework, and that a taxonomy could be the solution by definitively setting out what activities are "green"' (UK Treasury 2025, p.13).

Respondents to the consultation said that a UK Taxonomy would help to improve clarity and transparency in determining what activities count as green or aligned with the transition to a low-carbon economy (UK Treasury 2025, p.13). They said that this would help to increase comparability between the sustainable finance

frameworks of financial institutions in the UK (UK Treasury 2025, p.13).

However, respondents also said that this Taxonomy would be less helpful for companies working across jurisdictions. The Taxonomy could contribute to further fragmentation and increase ‘challenges and costs of arbitrage between different existing taxonomies’ (UK Treasury 2025, p.14). Instead, greater engagement between governments and taxonomies to improve interoperability of frameworks would instead have a greater impact on greenwashing (UK Treasury 2025, p.14). Efforts of this kind are underway at the international level as reflected, for example, in the 2024 report of the Taskforce on Net Zero Policy.

Respondents in the UK context also noted that the complexity of a taxonomy can reduce transparency and effectiveness. This makes it difficult for consumers and investors to understand the information and assess the veracity of green claims (UK Treasury 2025, p.14).

Instead, respondents pointed to other existing regulatory instruments in the UK that could more effectively address greenwashing, these are discussed above.

Legislative options to protect consumers in Australia

This section refers to term of reference (e): legislative options to protect consumers from greenwashing in Australia.

While increased enforcement action against greenwashing from regulators is encouraging, Australians cannot wait years for litigation against potentially misleading green claims. The economy and the digital world is moving too fast and the need for sustainability is too urgent. Governments must enact laws now to ensure green terms are clearly defined and based on the truth. ‘Regulation by litigation’ in Australia is not necessarily protecting and empowering consumers and is also creating considerable concern in the business sector which may promote unintended, maladaptive consequences like greenhushing.

We propose several legislative options for the Australian Government to consider. These are organised in a hierarchy from the most prescriptive and interventionist to more flexible and plural regulatory responses:

- Australian regulators should have the power to blacklist green terms that cannot be substantiated and are inherently meaningless or misleading. This reform would accompany the principles-based guidance that has already been issued by ASIC and the ACCC.
- Legislation and policy to define in advance precisely what environmental and climate claims

can be made in what circumstances and with what substantiating evidence and auditing. Green marketing that did not comply with those standards would be prohibited. The EU provides a good example of how Australia might do this.

- Regulatory instruments are needed to incentivise capital allocation that is aligned with climate change goals and to reduce production and consumption of goods and services that are emissions intensive. This will require transition plans for all industries to move away from reliance on fossil fuels and other emissions-intensive practices, realigning of tax incentives and subsidies to achieve a low-carbon society, caps on production of some goods and services and prohibitions of certain components as well as public campaigns.

Other Matters/Prohibiting Marketing by GHG-Intensive Industries

This section refers to term of reference (f) any other related matters. The committee is also seeking views on the role of corporate sponsorship and advertising by fossil fuel companies and their commercial arrangements with media organisations.

Some high-polluting sectors should be banned from making any kind of green claim in advertising, due to the overwhelming negative environmental impact of their business models and practices. Fossil-fuel companies, for example, should not be permitted to use green claims in marketing.

Advertising allows such industries to expand their market or to extend their social licence. An analogy can be drawn with big tobacco to argue that industries that profit from actively destroying the climate necessary for life and health should not have any more licence to market themselves than tobacco has to market its products. This argument suggests that fossil fuel industry marketing is inherently misleading because there is no future for the industry and such advertising should be banned. Notably, at the international level, the recent International Court of Justice Advisory Opinion on the international climate obligations of states emphasised that “[f]ailure of a State to take appropriate action to protect the climate system from [greenhouse gas] emissions — including through fossil fuel production, fossil fuel consumption, the granting of fossil fuel exploration licences or the provision of fossil fuel subsidies — may constitute an internationally wrongful act which is attributable to that State” [427].

Several local government authorities have used their powers to determine what can be advertised on billboards and council property to implement such bans. Some art galleries, newspapers and sporting bodies have also agreed

to not accept fossil fuel sponsorship. Any more encompassing ban would require an amendment to the Australian Consumer Law or the introduction of new legislation.

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