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| COMPLAINT NUMBER | 17/305 |
| COMPLAINANT | B Murdoch |
| ADVERTISER | Meridian Energy Limited |
| ADVERTISEMENT | Meridian Energy Limited, Television & Digital Marketing |
| DATE OF MEETING | 26 September 2017 |
| OUTCOME | Not Upheld |

SUMMARY

The television and digital advertisements for Meridian electric vehicles promote the environmental benefits of the electric car.

The Complainant said the advertisement claims were misleading because all cars have a negative impact on the environment.

The Advertiser maintained they have not misled the public and the language and claims made in the advertisement are supported by science and published sources.

The Complaints Board reviewed the substantiation provided by the Advertiser and agreed it had justified the claims made within the advertisement, namely that electric vehicles use renewable energy and have less of an impact on the environment due to reduced CO2 emissions than fossil fuel alternatives.

The Complaints Board ruled the advertisement had been prepared with a due sense of social responsibility, generally and in relation to any environmental claims made.

The Complaints Board ruled the complaint was Not Upheld.

[No further action required]

Please note this headnote does not form part of the Decision.

COMPLAINTS BOARD DECISION

The Complaints Board was asked to consider whether the advertisement contained any statement or visual presentation or created an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, was likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. The Chair also directed the Complaints Board to consider whether any qualified claims such as "environmentally friendlier/safer/kinder" require an ability to prove a meaningful environmental advantage over competitors or a meaningful improvement on a previous formulation, components, packaging, method of manufacture or operation and if it had been

prepared with a due sense of social responsibility, generally and in relation to any environmental claims.

The Complaint

The Complainant said the advertisement was misleading by claiming that electric vehicles are good for the environment, when in fact no cars are good for the environment.

The Advertiser's Response

The Advertiser disagreed that the advertisement had breached the Codes for Environmental Claims and provided substantiation for the claims made in the advertisement that electric vehicles were a positive and sustainable alternative to fossil fuel run vehicles. This substantiation included evidence from the Energy Efficiency and Conservation Authority (EECA) and a specialist energy and economics consultancy, Concept Consulting.

The Complaint's Board Discussion

The Complaints Board examined the evidence provided by the Advertiser. The EECA publication; Life Cycle Assessment of Electric Vehicles, provided clear substantiation to support the claim that electric vehicles were better for the New Zealand environment than petrol or diesel powered vehicles across the lifecycle of the vehicle, as well as in use. The report also concluded that the carbon footprint reduction and the estimated 80% less CO2 emissions compared to a petrol vehicle, further justified the environmental claims.

The Complaints Board noted the Advertiser said its intention was not to make a statement about the absolute merits of man-made vehicles versus a world where no cars existed. The Complaints Board agreed that it was unrealistic to compare the environmental impact of electric cars against the absence of all cars and dismissed this as an argument against the advertisement.

The Complaints Board were satisfied that Advertiser had provided evidence that electric vehicles were good for the environment because they will replace older fossil fuelled cars and reduce the negative environmental impacts associated with petrol and diesel vehicles.

The Complaints Board said the advertisement was not in breach of the Code for Environmental Claims.

The Complaints Board ruled the advertisement had been prepared with a due sense of social responsibility, generally and in relation to the environmental claims made in the advertisement.

Accordingly, the Complaints Board ruled to Not Uphold the complaint.

DESCRIPTION OF ADVERTISEMENT

The television and digital advertisement for Meridian Energy's electric vehicles shows a father and son driving through the countryside, passing wind turbines and states in part: "Meridian has always been committed to looking after New Zealand's future. So that's why they're right behind electric vehicles. They're good for the environment, just like generating power from wind...and they're a great way for the drivers of today, to look out for the drivers of tomorrow. Join Meridian and help us in powering today and protecting tomorrow..."

COMPLAINT FROM B MURDOCH

This advertisement was promoting electric vehicles. One of the comments made was "They are good for the environment" I consider this most misleading. It cannot be said that electric vehicles are "better (possibly) than" some other forms of vehicles. This is a very distinct difference. At the very best you could claim they are better than a petrol/ diesel vehicle for the particular part of the environment they are in at the time. There are significant environmental issues with building cars and batteries i.e no cars are "good" for the environment.

CODE FOR ENVIRONMENTAL CLAIMS:

Principle 1: Advertisements making an environmental claim should be prepared with a due sense of social responsibility to consumers and to society.

Guideline 1(b) Qualified claims such as "environmentally friendlier/safer/kinder" require an ability to prove a meaningful environmental advantage over competitors or a meaningful improvement on a previous formulation, components, packaging, method of manufacture or operation.

Principle 2: Advertisements making environmental claims should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive or is likely to deceive or mislead the consumer. (Obvious hyperbole, identifiable as such, is not considered to be misleading)

RESPONSE FROM ADVERTISER, MERIDIAN ENERGY

Meridian takes all complaints seriously and we are disappointed B Murdoch feels we have breached the Advertising Codes of Practice – Code for Environmental claims. Attached to this letter you will find the previous correspondence we have sent to B Murdoch on this matter.

For reference, the advertisement in question is part of a campaign showing Meridian's brand ambassador Jeremy Wells driving through the country in one of Meridian's fleet electric vehicles. A copy can be found here <https://www.youtube.com/watch?v=gJu30SnnjNQ> and the full text of the advertisement is as follows:

Big Jeremy: "Meridian has always been committed to looking after New Zealand's future."

Big Jeremy: "So that's why they're right behind electric vehicles."

Big Jeremy: "They're good for the environment, just like generating power from wind..."

Big Jeremy: "...and they're a great way for the drivers of today, to look out for the drivers of tomorrow."

Little Jeremy: Are we there yet?

Big Jeremy: Actually, we're just getting started. Now straighten your tie.

The Principles which Meridian is alleged to have breached and our response to alleged breaches are set out below:

Principle 1 – Advertisements making an environmental claim should be prepared with a due sense of social responsibility to consumers and to society.

b) Qualified claims such as "environmentally friendlier/safer/kinder" require an ability to prove a meaningful environmental advantage over competitors or a meaningful improvement on a previous formulation, components, packaging, method of manufacture or operation.

In our opinion we have not breached this Principle. In fact we would go as far as to say this Principle supports our very reason for such an advertisement. Meridian Energy is New Zealand's largest electricity generator and produces electricity from 100% renewable resources, wind and water. Sustainability and protecting the environment is incredibly important to our company. A strong sense of social responsibility to both consumers and to society has lead Meridian to invest in and support electric vehicles through transitioning our passenger car fleet to electric vehicles, partnering with providers of electric charging stations and safeguarding our renewable energy assets which feed the grid that will "fuel" such vehicles.

With over 80% of New Zealand's electricity coming from renewable resources, and transport responsible for 40% of New Zealand's emissions, converting drivers to electric vehicles is one of the most significant ways that New Zealand can reduce fossil fuel use and emissions, and subsequently our impact on the environment. Simply put, charging an electric car with electricity that is predominantly produced by renewable means will have a lower impact on the environment than running a vehicle on fossil fuels. This is based on the widely accepted science that CO₂ emissions directly correlate to climate change.

To ensure our statements linking electric vehicle uptake with decreased emissions were correct we substantiated our position using sources published by both an industry body, the Energy Efficiency and Conservation Authority (EECA), and a specialist energy and economics consultancy, Concept Consulting. Of particular relevance:

1. *Life Cycle Assessment of Electric Vehicles: The environmental impact of electric vehicles, a New Zealand Perspective* (November 2015), Verdant Vision, commissioned by EECA.
2. *Electric cars, solar panels and batteries – how will they affect New Zealand's greenhouse gas emissions?* (March 2016), Concept Consulting Group Ltd.

Notable quotes from the EECA Life Cycle Assessment report's executive summary, and associated press release, include:

"Electric vehicles (EVs) are better for the New Zealand environment than petrol or diesel powered vehicles, across the lifecycle of the vehicle as well as in use."¹

"Widespread adoption of PEV [Plug-in Electric Vehicle] technology promises to yield significant reductions in the 'carbon footprint' of the New Zealand light transport fleet, which currently relies upon the consumption of fossil fuels."²

"Significant reductions in emissions with global warming potential are available over the life cycle of PEVs... When looking only at the electricity consumed by a BEV [Battery Electric Vehicle] driven in New Zealand, a BEV will produce close to 80% less CO₂ equivalent emissions compared to a petrol vehicle."³

¹ EECA, press release for *Life Cycle Assessment of Electric Vehicles: The environmental impact of electric vehicles, a New Zealand Perspective* (November 2015), Verdant Vision for EECA, online at <https://www.eeca.govt.nz/news-and-events/media-releases/research-confirms-environmental-benefits-of-electric-vehicles/>

² Executive Summary, *Life Cycle Assessment of Electric Vehicles: The environmental impact of electric vehicles, a New Zealand Perspective* (November 2015), Verdant Vision for EECA, p.1. Online at <https://www.eeca.govt.nz/assets/Resources-EECA/ev-lca-exec-summary-nov-2015.pdf>

³ Ibid p.3

The EECA Life Cycle Assessment report also found that across the *total life cycle* of an electric vehicle, around 40% less energy is required for an electric vehicle than a petrol or diesel vehicle.⁴ Electric vehicles also have lower levels of photochemical oxidation (related to the formation of smog) than petrol vehicles and electric vehicles have the lowest level of particulate matter across the life cycle. In use, electric vehicles have no tailpipe emissions at all.⁵

Concept Consulting summarised their findings with respect to electric cars:

“... overall, we expect EVs to result in a significant net reduction of greenhouse gas emissions.”⁶

“EVs are expected to provide net emissions savings based on current conditions, and these are expected to grow over time...These conclusions appear robust against a range of different scenarios relating to future fuel prices, CO₂ prices and electricity demand growth.”⁷

B Murdoch’s complaint is based on the assertion that no car is good for the environment. By this argument, however, no modern item that changes the original, natural state of the earth is good for the environment. Meridian’s advertisement was not intended to make a statement about the absolute merits of manmade items for the environment; we were encouraging the uptake of electric vehicles because they will reduce negative impacts (namely CO₂ emissions) on the current environment of New Zealand. We cannot change the past: in comparison to the practical and current alternative (fossil fuel powered vehicles), electric vehicles are good for the environment and there is overwhelming evidence to support this, as outlined above.

B Murdoch acknowledges that electric vehicles are *better* for the environment than other, namely fossil fuelled, cars. Based on this, electric vehicles are therefore *good* for the environment by dint of the fact that they will replace these older, fossil fuelled cars in New Zealand’s fleet. Meridian’s advertisement encourages this transition.

Principle 2 – Advertisements making environmental claims should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive or is likely to deceive or mislead the consumer. (Obvious hyperbole, identifiable as such, is not considered to be misleading)

Again, in our opinion the advertisement has not breached Principle 2 and we comply with the guidelines outlined in the Principle. As explained above, we and expert organisations such as EECA believe electric vehicles and their uptake by New Zealanders will be good for the environment. We have not misled the public: the language and claim used in the advertisement is supported by science and published sources. Our language is plain and does not exaggerate, it states simply that electric cars are “good” for the environment of New Zealand.

As we also pointed out to B Murdoch, electric vehicle brands and manufacturers are taking great care to ensure that after their in-car life, batteries are re-purposed or recycled in an environmentally friendly manner. For example car makers are establishing “second-life” applications for used electric vehicle batteries as storage units (BMW already has this set

⁴ Ibid p.3

⁵ Ibid p.2

⁶ *Electric cars, solar panels and batteries – how will they affect New Zealand’s greenhouse gas emissions?* (March 2016), Concept Consulting, p.ii

⁷ Ibid p.iii

up), including adding them to a household solar system.⁸ This is only one of many initiatives to ensure positive environmental outcomes.

In terms of resource depletion (and therefore environmental harm) associated with creating electric lithium-ion batteries, the EECA Life Cycle Assessment report notes:

“The lithium salts used in lithium-ion batteries for current PEVs on the market are neither a rare-earth nor even a precious metal. The study also found that the resource depletion effect of the amount of lithium in PEVs was insignificant compared to other minerals or resources.”⁹

Finally, unlike our published sources, B Murdoch did not provide any evidence to support his claim that our advertisement is misleading. Without such evidence, we are left dealing with his opinion. We don't believe this is substantiated by the wealth of evidence above, on which we based our statement.

RESPONSE FROM MEDIA,

No response was received from the Commercial Approvals Bureau.

⁸ *Electric Vehicle Battery Life* (April 2017), Verdant Vision for EECA, p.25. Online at <https://www.energywise.govt.nz/assets/Resources-Energywise/on-the-road/ev-battery-report.pdf>

⁹ Executive Summary, *Life Cycle Assessment of Electric Vehicles: The environmental impact of electric vehicles, a New Zealand Perspective* (November 2015), Verdant Vision for EECA, p.4