

24 May 2021

Advertising Standards Complaints Board  
PO Box 10675, Wellington 6143

By email: [asa@asa.co.nz](mailto:asa@asa.co.nz)

## Complaint against Firstgas advertisement

### 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=RWsIoSveAEU> and the advertiser's campaign website at [gasischanging.co.nz](http://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](http://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.<sup>1</sup> It provides 20% of NZ's primary energy supply.<sup>2</sup>

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

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

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.<sup>6</sup>

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."<sup>7</sup>

## The standards

14. The relevant standards are as follows.

- **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 customers, abuse their trust or exploit their lack of

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<sup>1</sup> Gasischanging.co.nz: "The gas used in kiwi homes currently makes up less than 1% of the country's

<sup>2</sup> Firstgas group: Bringing Zero Carbon Gas to Aotearoa. Report Summary, 3.

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

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

<sup>5</sup> <https://ccc-production-media.s3.ap-southeast-2.amazonaws.com/public/evidence/advice-report-DRAFT-1ST-FEB/ADVICE/CCC-ADVICE-TO-GOVT-31-JAN-2021-pdf.pdf>, 117.

<sup>6</sup> <https://www.eboss.co.nz/detailed/marcus-baker/greenhouse-gas-emissions-gas-vs-electric-water-heating#:~:text=In%20NZ%2C%20natural%20gas%20has,than%20using%20a%20gas%20appliance.>

<sup>7</sup> <https://www.stuff.co.nz/environment/climate-news/125060135/what-it-would-take-for-nz-to-nearly-halve-methane-emissions-by-2030>

knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise.

- **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.
  - **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.

#### 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 well-advanced 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

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

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.