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Australian Competition & Consumer Commission (ACCC)
<https://consultation.accc.gov.au/accc/environmental-and-sustainability-guidance>

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Dear Commissioner

Re: Environmental and sustainability claims - Draft guidance for business

The Australian Aluminium Council (the Council) represents Australia's bauxite mining, alumina refining, aluminium smelting and downstream processing industries. The aluminium industry has been operating in Australia since 1955, and over the decades has been a significant contributor to the nation's economy. Today's aluminium industry contributes around \$15B¹ a year to the economy in export value. The industry includes six bauxite mines which collectively produce over 100 Mt per annum making Australia the world's largest producer of bauxite. Australia is the world's largest exporter of alumina with six alumina refineries producing around 21 Mt per annum of alumina. Australia is the seventh largest producer of aluminium, with four aluminium smelters and additional downstream processing industries including more than 20 extrusion presses. Aluminium² is one of the commodities most widely used in the global transition to a clean energy future. It is also recognised for its importance to both economic development and low emissions transition. Aluminium is Australia's top manufacturing export. The industry directly employs more than 19,000 people, including 6,600 full time equivalent contractors. It also indirectly supports around 60,000 families predominantly in regional Australia.

The Council welcomes the opportunity to provide feedback to the ACCC on the Environmental and sustainability claims - Draft guidance for business (the Guidance). The Council believes clear and sensible guidelines on environmental and sustainability claims will be helpful for businesses, consumers and other stakeholders. The Guidance should help identify conduct that is likely to mislead or deceive consumers and stakeholders while providing confidence to businesses that are aspiring to do the right thing to transparently inform consumers and stakeholders about their plans, actions and progress, as well as the challenges they face. The Council understands that the guidance is primarily aimed at consumer products but recognises the potential extension of these guidelines for applicability to other goods and services and our feedback is based on this premise. In this context the Council is seeking additional guidance from the ACCC to address common difficulties businesses face when making environmental claims.

Additional guidance on ambitions, goals and targets

Stakeholders expect that businesses operating in the aluminium industry will take action to reduce their greenhouse gas emissions in line with 'net-zero' targets. Consistent with this, the major operators and joint venture participants in Australia's aluminium industry have the common ambition of net zero by 2050, supported by interim goals and targets (Table 1). While increasing renewable energy supply will be the major pathways for these to be achieved, they also rely on technologies which are still under development.

¹ <https://www.industry.gov.au/publications/resources-and-energy-quarterly-june-2023>

² <https://www.worldbank.org/en/topic/extractiveindustries/brief/climate-smart-mining-minerals-for-climate-action>

Therefore, these are generally set as long-term ambition supported by interim goals and targets. Despite investing heavily in developing technologies (Table 2) to achieve these goals, the pathways are not yet certain. Australia’s aluminium industry also faces a number of domestic and international policy challenges and uncertainties.

Table 1. Summary of Corporate Ambitions³

Company	Interim Goal (s)	Net Zero Ambition
Alcoa	30% reduction in scope 1 & 2 emission intensity by 2025 50% reduction in scope 1 & 2 emissions emission intensity by 2030 from 2015 baseline	Net zero by 2050
Rio Tinto	15% reduction in scope 1 & 2 emissions by 2025 50% reduction in scope 1 & 2 emissions by 2030 From a 2018 baseline (equity basis)	Net zero by 2050
South32	50% reduction in operational carbon emissions (Scope 1 & 2) by 2035 from FY21 baseline	Net zero by 2050
Alumina Ltd ⁴	45% reduction in scope 1 and 2 emissions by 2030 (from a 2010 baseline)	Net zero by 2050
Hydro ⁵	Reduction of 30% by 2030	Net zero by 2050

Given the technological and policy uncertainties, the Guidance should give confidence to businesses that they will not be deemed to be engaged in misleading or deceptive conduct when expressing the net zero or other sustainability-related aspirations. Perhaps one way to balance the competing interests is to afford businesses the flexibility to express such aspirations as long as they are clear and transparent about the extent to which their aspirations are backed up by tangible plans and which rely on technological or policy developments that may not come to fruition.

Further, the Guidance should provide confidence to businesses that genuine action to implement sustainability-related initiatives will be recognised, even if all the anticipated benefits are not fully realised.

Balancing the need to inform and risk of information overload

Some aspects of sustainability reporting are very complex and based on specific technical definitions. For example, concepts like Location and Market-based Scope 2 Reporting or reporting consistent with the National Greenhouse and Energy Reporting (NGER) scheme or the Water Accounting Framework may not be well understood, however, a full explanation of the methods could be several pages of text and contain complex concepts. This would need to be taken into account when reviewing claims. These methods may also define terms and generally this would be the definition used in the claim which may not be the same as the common meaning and where reasonable, clarification could be provided, but this does need to be balanced with information overload.

The industry also provides commentary about aluminium’s properties in particular it being lightweight, and recyclable. Providing additional information to consumers regarding these claims (e.g., a detailed comparison of emissions savings associated with the weight of aluminium to steel) may have the unintended consequence of overloading consumers and stakeholders with information and may potentially increase confusion rather than increase clarity of claim.

³Sources: <https://www.riotinto.com/en/sustainability/climate-change/>; <https://www.alcoa.com/global/en/stories/releases?id=2021/10/advancing-sustainably-alcoas-2050-net-zero-ambition>; https://www.south32.net/docs/default-source/exchange-releases/2021-south32-sustainability-briefing.pdf?sfvrsn=d8a76a71_2; <https://www.hydro.com/en/media/news/2021/hydro-capital-markets-day-2021-sustainable-value-creation/>

⁴ Alumina Ltd are a JV participant in Alcoa World Alumina and Chemicals, which operate two mines and three refineries in Western Australia and has equity in the Portland Aluminium Smelter.

⁵ Hydro is a JV participant in Tomago Aluminium Company.

Additional guidance on applicability

While the ACCC's guidance is relates specifically to business' compliance with its obligations under the Australian Consumer Laws (ACL) and therefore is focused on consumer transactions, the Guidance then states that environmental claims can appear in many places – including corporate reporting materials. However, as most of the examples and case studies in the Guidance relate to consumer transactions it would be useful to get additional guidance on how the Guidance applies to business to communication with other stakeholder groups.

Additional guidance on the use of offsets

The Guidance contains some useful information on offsets. However, the Guidance does not address the point about when the emissions reductions associated with offsets actually occur – whether in the past, immediate future or distant future – and how businesses should present information relating to the temporal element of offsets. Additionally, the guidance is not clear on how and when offsets need to be retired. It would be helpful if the Guidance were updated to clearly outline that businesses need to provide transparency on which offsets are expected to occur, the basis of the statement and provide regular updates, which might change the status or timing of offsets. In being prescriptive, the ACCC also needs to consider the intersection of these guidelines with other requirements on businesses such as Guidance provided by the International Sustainability Standards Board.

Widely used terminology

The Guidance recommends against use of broad terms such as “green” and “sustainable”. The difficulty for businesses is that these words have become so commonplace and have already been used by many businesses. It would be helpful to understand:

- (a) whether ACCC's intention is to focus on future use rather than historical use of these terms; and
- (b) in what circumstances (if any) businesses may use terms such as “green” and “sustainable” without risking the allegations of misleading or deceptive conduct.

Environmental claims in highly polluting industries

Page 27 of the Guidance contains a section regarding environmental claims in highly polluting industries, and industries which sell or rely on fossil fuels. Due to currently available technology, products such as aluminium and its precursor alumina rely on the use of fossil fuels in their production. It is inaccurate to broadly state that “the overall environmental detriment of these industries is likely to overshadow any environmental improvements made by a business”. As discussed above, aluminium is widely used in the global clean energy transition² and this in turn is an important contributor to reducing emissions from aluminium production, as well as many other commodities.

The Council is concerned by requirements to verify all information which is relied on in making claims. While companies can verify their own data and sometimes external data on other facilities, where this is publicly available, there are some circumstances where the reference point is not able to be verified and therefore companies pay third parties to provide suitable data set. While the company may verify the qualifications of the third party provider, they are not able to verify the data itself.

Visual elements Pages 29 and 30 contain useful guidance on use of visual elements. As the ACCC may be aware, there is a common practice of businesses using stock photos of wind or solar farms in presentations or corporate communication materials. It would be helpful to understand whether and how businesses may use such stock photos without risking allegations of creating misleading impression.

Additionally, the Guidance suggests comments specifically on the use of colours such as green and blue including in branding and logos. However, some companies have had logos in these colours for many decades already and this historic legacy needs to be considered, compared with development of new logos with these visual elements.

The Council is happy to provide further information on any of the issues raised in this submission and looks forward to continuing to work with the ACCC on the continued development of this Guidance.

Kind regards,



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Table 2 Key Australian Aluminium Industry Initiatives

Activity	Link
Electric Calcination Study	https://arena.gov.au/projects/alcoa-renewable-powered-electric-calcination-pilot/
Gladstone Renewable Request for Proposals	https://www.riotinto.com/news/releases/2022/Rio-Tinto-calls-for-proposals-for-large-scale-wind-and-solar-power-in-Queensland
Hydrogen Calcination Study	https://arena.gov.au/projects/rio-tinto-pacific-operations-hydrogen-program/
Hydrogen Pilot Plant	https://www.riotinto.com/news/releases/2021/Rio-Tinto-and-Sumitomo-to-assess-hydrogen-pilot-plant-at-Gladstones-Yarwun-alumina-refinery
Yarwun Hydrogen Calcination Pilot Demonstration Program	https://www.riotinto.com/en/news/releases/2023/rio-tinto-and-sumitomo-to-build-gladstone-hydrogen-pilot-plant-to-trial-lower-carbon-alumina-refining https://arena.gov.au/projects/yarwun-hydrogen-calcination-pilot-demonstration-program/
Mechanical Vapour Recompression Study	https://arena.gov.au/projects/mechanical-vapour-recompression-for-low-carbon-alumina-refining/
Memorandum of Understanding between Tasmania and Rio Tinto	https://www.stategrowth.tas.gov.au/_data/assets/pdf_file/0010/334558/TAS-RIO_TINTO_MOU_Feb_2022.pdf
Refinery of the Future	https://www.alcoa.com/global/en/stories/releases?id=2021/11/alcoa-to-design-an-alumina-refinery-of-the-future
Rio Tinto and GMG	https://graphenemg.com/gmg-riotinto-energysavings-battery/
Spinifex Wind Farm (Portland)	https://arena.gov.au/news/offshore-wind-could-power-portland-aluminium-smelter/ https://www.spinifexoffshore.com.au/#/
Tomago Aluminium Renewable Future	https://www.tomago.com.au/tomago-aluminium-future-renewable-energy-needs/
Weipa Solar and Battery Capacity	https://www.riotinto.com/news/releases/2021/Rio-Tinto-to-triple-Weipa-solar-capacity-and-add-battery-storage-to-help-power-operations
Mission Possible Partnership	https://missionpossiblepartnership.org/wp-content/uploads/2022/10/Making-1.5-Aligned-Aluminium-possible.pdf
ARENA Roadmap for Alumina	https://arena.gov.au/knowledge-bank/a-roadmap-for-decarbonising-australian-alumina-refining/
HILT CRC	Heavy Industry Low-carbon Transition Cooperative Research Centre https://hiltcrc.com.au/
Affreightment Carbon Reduction	https://www.combinationcarriers.com/insights-and-news/2022/1/4/kcc-and-south32-conclude-first-sustainability-linked-contract-of-affreightment