Environmental Defenders Office

18 September 2024

Rami Greiss
Executive General Manager
Consumer and Fair Trading Division
Australian Competition and Consumer Commission
23 Marcus Clarke St
CANBERRA ACT 2601
Via email: rami.greiss@accc.gov.au

Dear Rami

Complaint about potential greenwashing by SGSP (Australia) Assets Pty Ltd (SGSPAA), trading as Jemena.

1. We act for Comms Declare. Comms Declare is a climate advocacy charity representing more than 95 advertising agencies and hundreds of communication professionals who have declared they will not promote the growth of fossil fuels, high greenhouse gas pollution or deception around climate science.

2. Our client requests that the Australian Competition and Consumer Commission (**ACCC**) investigate whether representations made by SGSP (Australia) Assets Pty Ltd (**Jemena**), in relation to its 'renewable gas' campaign are in breach of ss 4, 18 and/or 29 of the Australian Consumer Law (**ACL**), being Schedule 2 to the *Competition and Consumer Act 2010* (Cth).

3. The 'renewable gas' campaign, represented by Jemena, promotes developing 'renewable' hydrogen and biomethane products as alternatives to conventional 'natural' or fossil gas. Both are represented as lower-cost alternatives to natural gas, producing low or no-carbon emissions and as being compatible with existing gas network infrastructure. The campaign asserts the long-term viability of gas products in Australia's energy mix. Our client considers that the campaign seeks to promote products which are not practically or environmentally viable to consumers and in doing so, encourages the continued use of fossil fuels, which is not aligned with Australia's international climate agreements or domestic policy.

4. Our client notes the ACCC's Compliance and Enforcement Priorities for 2024-2025 which include 'consumer, product safety, fair trading and competition concerns in relation to environmental claims and sustainability.'[1] Our clients consider that the campaign is potentially a 'false and misleading sustainability claim [that] undermine[s] consumer trust in

[1] ACCC (2024). Compliance and enforcement priorities, https://www.accc.gov.au/about-us/accc-priorities/compliance-and-enforcement-priorities#:~:text=Our%20enforcement%20and%20compliance%20priorities,to%20environmental%20claims%20and%20sustainability.&text=Promoting%20competition%20in%20essential%20services,electricity%2C%20gas%20and%20financial%20services, accessed 10 September, 2024.

all green claims and reduce[s] confidence in the market' and, as such, we refer it to the ACCC for investigation.

Statements

5. The 'renewable gas' campaign consists of a series of statements relating to the environmental and economic benefits of two potential renewable gas products (biomethane and renewable hydrogen)and their future integration into domestic energy supply and production, in various media including the Jemena website,[2] Jemena renewable energy website,[3] and in their social media campaigns.[4] We have set out the details of some key statements made by Jemena in **Annexure A** (together, **the Statements**).

Representations

6. Our client considers that the statements, alone or combined, represent that:

    a. incorporating renewable gas into Australia's existing gas distribution networks is low, or no-cost and can be delivered through the existing network infrastructure and using consumers' existing gas appliances;

    b. transitioning to renewable gas in households will help achieve Australia's emissions reduction targets since renewable gas produces fewer emissions than fossil gas;

    c. renewable gas has a long-term future in Australia's energy network; and

    d. renewable gas is safe for home-use (together, the **Representations**).

7. Our client considers that the Representations may breach the ACL, including ss 18 and 29 for the following reasons.

Representation	**Why the representation is potentially misleading**
Incorporating renewable gas into Australia's existing gas distribution networks is low, or no-cost and can be delivered through the existing network infrastructure and using consumers' existing gas appliances	The statement may be misleading regarding the considerable costs and infrastructure adjustments needed to incorporate renewable gases like hydrogen and biomethane into existing gas networks. While lower compositions can be delivered without major modification to consumer networks, higher concentrations of renewable gas require significant changes to pipelines,

[2] Jemena. https://www.jemena.com.au/
[3] Jemena (2014). https://www.gonaturalgas.com.au/renewable
[4] Jemena (2024). www.youtube.com/@gonaturalgasgorenewablegas6835

	storage facilities, and distribution systems. Failing to communicate these distinctions could mislead consumers into believing that transitioning to renewable gas, including hydrogen, would be seamless and low-cost, or cost-free. Renewable gas, like biomethane, is unable to replace natural gas in households due to unadapted infrastructure. The claim that renewable gas will likely replace natural gas in households is inconsistent with current production stages, scalability, and deliverability to Australian households. Its commercial viability is challenged by high costs and limited organic waste supply. Current production can only meet one-third of demand, with uneven feedstock distribution adding costs and emissions. A complete transition will require complementary renewable energy sources and technological advancements.
Transitioning to renewable gas in households will help achieve Australia's emissions reduction targets since renewable gas produces fewer emissions than fossil gas	Replacing natural gas with Biomethane and Hydrogen is represented as a means to reduce emissions and aid Australia in achieving its net-zero targets. However, there is compelling evidence suggesting that both Biomethane and hydrogen are not sustainable for long-term household use and may not contribute significantly to Australia's net-zero targets by 2050.
Renewable gas has a long-term future in Australia's energy network	There is a policy trend among several Australian jurisdictions to phase out gas and prioritise electrification.
Renewable gas is safe for home-use	Experts have raised health and safety concerns with both hydrogen and biomethane when used in the home.

8. Our client considers that the representations are an attempt by Jemena to market its products to consumers as a legitimate support to Australia's energy transition. The statements may be intended to deter consumers from investing in more reliable, cost-effective, and renewable forms of energy consumption by falsely marketing 'Renewable gas' as viable, seamless, and low-or-zero emission.

Incorporating renewable gas into Australia's existing gas distribution networks is low-cost and can be delivered through the existing network infrastructure and using consumers' existing gas appliances (Representation 1)

9. In circumstances where Jemena does not adequately disclose the significant modifications and costs associated with delivering renewable gases to consumers, Representation 1 appears to be misleading, creating an inaccurate impression of the steps required to deliver renewable gas to Australian consumers.

Network modification costs

10. Our client notes that representing that "renewable gas" requires no additional costs or changes to infrastructure misleads consumers in circumstances where Jemena has failed to clarify that only biomethane gas may not require home upgrades. Jemena uses the term "renewable gas" interchangeably and does not clarify the risks and benefits with each product.[5] Our client's position is that labelling both hydrogen and biomethane as "renewable gas" without distinguishing their infrastructure needs could cause consumers to mistakenly believe that both are equally easy to integrate, potentially obscuring the true implications and costs of transitioning to each gas. While Biomethane only requires minimal changes to in-home appliances and small network changes, there is larger, far more substantial infrastructure and end costs for hydrogen, that are obscured by presenting "renewable gas" as cost free and deliverable without change.[6]

11. Existing natural gas infrastructure requires extensive modifications or replacements to handle hydrogen from production and delivery safely to homes. Constructing new 'hydrogen-ready' pipelines or converting existing gas pipelines to safely transport and store hydrogen will have higher upfront capital costs than fossil fuel natural gas, the costs of which will be passed onto consumers.[7] Jemena asserts alleged benefits in relation to its 'renewable gas' products without communicating to the consumer the costs associated with the changes.[8] Jemena asserts that "by using renewable gas in existing gas infrastructure, it will help keep energy affordable for our customers in the long term without the need to build new energy infrastructure."[9] However, to allow delivery of hydrogen into homes, production facilities must be modified, and supply chain changes are required at all major points of both manufacturing and delivery. The cost of these changes far exceed those of natural gas pipeline installation or new developments.[10]

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[5] Jemena (2024). 'Why Renewable Gas?'. https://www.gonaturalgas.com.au/renewable-advantages-of-a-renewable-gas-industry

[6] Jemena (2024). 'A quick, low cost transition' https://www.gonaturalgas.com.au/renewable-advantages-of-a-renewable-gas-industry

[7] Investor Group on Climate Change (2022). 'Unlocking investment in the Australian hydrogen industry' https://igcc.org.au/wp-content/uploads/2022/08/Investor-Group-on-Climate-Change-Hydrogen-Report.pdf

[8] https://www.jemena.com.au/future-energy/future-gas/

[9] Jemena YouTube channel: Renewable Gas – From Pipe Dream to Pipeline, https://www.youtube.com/watch?v=hOeFztDmgm4&t=2s, accessed 6 September 2024.

[10] Clean Energy Finance Corporation (2021). 'Australian hydrogen market study'. https://www.cefc.com.au/media/nhnhwlxu/australian-hydrogen-market-study.pdf

12. Hydrogen's lower volumetric energy density compared to natural gas necessitates high-pressure tanks or cryogenic temperatures for efficient storage and transportation, both of which involve advanced and costly technology, due to hydrogen's propensity to cause metal embrittlement.[11] Additionally, hydrogen molecules are smaller and can diffuse more easily through materials, increasing the risk of leaks, necessitating the use of specialised materials and coatings in pipelines and storage tanks.[12] Hydrogen's density differential to natural gas requires significant power expenditure to pump it through pipelines and material upgrades, or the manufacturing of entirely new 'Hydrogen-Ready' local networks.[13] In its statements, Jemena does not communicate this information or qualify its statements in relation to 'renewable gas'.

13. These changes are estimated to cost upwards of between $0.3 and 0.7 million U.S. dollars per kilometre of distribution pipeline.[14] Jemena's Representation 1 is likely to mislead consumers to believe that infrastructure costs and local gas supply, including delivery to homes will not be affected.

Costs of changing appliances

14. Delivering hydrogen gas to households entails significant additional costs and modifications to existing equipment. Jemena's claim is that renewable gas "is used in just the same way as natural gas. The claim it can be delivered through existing network infrastructure and there is no need to replace your gas appliances or change operations" is misleading.[15] "In fact, existing home appliances can only accommodate a 'blend' of up to 13% hydrogen. Compositions beyond this need substantial modifications to appliances for them to operate safely and efficiently.[16] Fully hydrogen-compatible domestic appliances, which currently exist only as prototypes, are expected to cost 20 to 30% more than current gas appliances and must be purposed for hydrogen only.[17] Given that there is no established commercial pathway for the production and distribution of hydrogen, cost estimates remain uncertain but are likely to

[11] Australian Energy Regulator (2021). 'Australia's First Hydrogen Pipeline Conversion Project'. https://www.aer.gov.au/system/files/APA%20VTS%20-%20Access%20Arrangement%202023-27%20-%20Business%20Case%20200%20-%20Appendix%20B%20-%20Australia's%20First%20Hydrogen%20Pipeline%20Conversion%20Project%20-%20December%202021.PDF

[12] M Yang (2023). 'A review of hydrogen storage and transport technologies'. https://academic.oup.com/ce/article/7/1/190/7126621

[13] Clean Energy Finance Corporation (2021). 'Australian Hydrogen Market Study'. https://www.cefc.com.au/media/nhnhwlxu/australian-hydrogen-market-study.pdf

[14] Deloitte (2023). 'Green hydrogen: Energizing the path to net zero.' https://www2.deloitte.com/content/dam/Deloitte/at/Documents/presse/at-deloitte-wasserstoffstudie-2023.pdf

[15] https://www.gonaturalgas.com.au/renewable, accessed 6 September 2024.

[16] Energy Networks Australia (2019). 'Renewable Gas Blending Scheme' https://www.energynetworks.com.au/resources/reports/renewable-gas-blending-scheme-oakley-greenwood/

[17] Frazer-Nash Consultancy (2018). 'Appraisal of Domestic Hydrogen Appliances.' https://assets.publishing.service.gov.uk/media/5acf818aed915d32a3a709c3/Hydrogen_Appliances-For_Publication-14-02-2018-PDF.pdf.
and Frontier Economics (2022,) 'Cost of switching from gas to electric appliances in the home.' p. 9

remain within the higher end of the projected range.[18] In these circumstances, our client considers that representation 1 is misleading.

Product cost

15. Currently, the cost of hydrogen is three times higher than natural gas.[19] Research suggests the cost of green hydrogen could readily be at or below A$3/kg in the near future.[20] Likewise, even the most ambitious forecasts predict that hydrogen will only match the price of natural gas by 2048. In comparison to using household electricity to perform the same tasks, both biomethane and hydrogen are less cost effective. For household users to claim the same benefits, hydrogen needs to be one third of the cost of electricity to achieve energy at the same price.[21]

16. Like hydrogen, biomethane is relatively expensive. The average global price is currently A$29 per GJ, which is significantly higher than conventional fossil fuel gas. [22] The Future Fuels Cooperative Research Centre, in its investigation of biomethane in the Australian context, offers an ambitious long-term forecast of A$15 to A$25 per GJ. While this forecasted price range is more competitive, it remains considerably higher than the current average price of natural gas at A$12 per GJ.[23] This cost difference highlights the financial challenges associated with transitioning to biomethane as an alternative renewable gas for most Australian consumers.
17. Jemena's Representation 1 is therefore misleading. Jemena's assertion that their renewable gas products can be transitioned "without costs" obscures the true cost of any transition, and the current costs in comparison to both electricity and natural gas.

Transitioning to renewable gas in households will help achieve Australia's emissions reduction targets (Representation 2)

18. Jemena uses the umbrella term 'renewable' in relation to various gas products in a way that is misleading. As described in Principle 5 of *the ACCC -Making Environmental Claims - A guide for business,* broad claims can be interpreted widely and more easily mislead consumers, than clear, specific claims that are substantiated. It also states businesses should clearly qualify their claims. Moreover, Principle 1 discusses the importance of making accurate and truthful claims and uses the example of a new product that markets itself as 'renewable gas'.

[18] IRENA (2022). 'Global Hydrogen Trade to Meet the 1.5C Climate Goal – Part II'. ISBN: 978-92-9260-431-8.
[19]Ibid.
[20] Longden et al, (2020). 'Green hydrogen production costs in Australia: implications of renewable energy and electrolyser costs' https://ccep.crawford.anu.edu.au/publication/ccep-working-paper/17458/green-hydrogen-production-costs-australia-implications
[21] Grattan Institute (2023). 'Getting of Gas: Why, how, and who should pay?' https://grattan.edu.au/wp-content/uploads/2023/06/Getting-off-gas-why-how-and-who-should-pay.pdf
[22] IEA (2020). Outlook for biogas and biomethane. International Energy Agency. https://www.iea.org/reports/outlook-for-biogas-and-biomethane-prospects-for-organic-growth/an-introduction-to-biogas-and-biomethane.
[23] Future Fuels CRC (2022). Where are the most viable locations for bioenergy hubs across Australia? https://www.futurefuelscrc.com/wp-content/uploads/RP1.2-04-BiomethaneViability_summary.pdf

19. Jemena has not disclosed sufficient evidence-based qualifications to prevent their representations from misleading consumers. Jemena promotes the benefits of switching households to predominantly hydrogen or Biomethane gas, without providing details regarding the plans or viability of their implementation.

20. There is demonstrable evidence that gases like biomethane and hydrogen may not be sustainable for long-term household use and lack the environmental benefits stated. As disclosed in Annexure A below, Jemena's social media campaign represents to consumers that both hydrogen and biomethane are sustainable, environmentally friendly, low or no-emission resources.[24]

21. While hydrogen and biomethane are often considered cleaner than fossil fuels in terms of direct emissions (e.g., CO2), their overall emissions profile can be more complex. Jemena does not disclose or qualify its statements to consumers in this regard. Biomethane production from organic waste can release methane, a potent greenhouse gas, during production and transportation processes.[25] Biomethane's 'carbon neutrality' is derived from the fact that it is produced from latent greenhouse gases (captured from sewage, food-waste and agricultural processes) that otherwise would have escaped into the atmosphere. By repurposing these latent gases into a useable fossil fuel, an additional fossil fuel source no longer needs to be extracted and used to generate the same amount of energy, nor are additional emissions produced. However, biomethane production still involves greenhouse gases to collect and transport it for use through the existing gas network, and the burning of biomethane still emits pollutants including benzene, nitrogen dioxide and carbon monoxide.[26]
22. Similarly, while pure hydrogen, when combusted, emits no greenhouse gases, that is not feasible or possible within the existing network. Jemena instead relies upon blended gases. Hydrogen blend gases do not result in a significant reduction in carbon emissions when combusted. David Cebon, Cambridge Professor, and co-founder of the Hydrogen Science Coalition has asserted that injecting 20% hydrogen into fossil gas blends will only reduce the carbon emissions of the resulting energy emissions by 7%.[27] This figure also presumes that the hydrogen used is 'green' (i.e. produced only by using renewable energy).

23. Additionally, when considering lifecycle emissions (including production, transportation, and utilisation), hydrogen and biomethane do not match the reductions compared to established renewable energy sources like solar and wind. Solar and wind power generate electricity with negligible direct emissions and increasingly lower lifecycle emissions due to advances in

[24] Jemena (2024).'Renewable gas explained: our renewable gas roadmap'. https://www.youtube.com/watch?v=aCFBCimzTf4&t=1s
[25] Australian Broadcasting Corporation, Nick Kilvert (2022). 'Gas might be expensive, but biogas comes with its own hidden cost in menthane emissions'. https://www.abc.net.au/news/science/2022-06-20/biogas-has-hidden-climate-cost-emissions-warming-methane/101149894
[26] See https://environmentvictoria.org.au/2024/01/16/green-gas-myths-debunked-why-hydrogen-and-bio-methane-cant-save-the-gas-network/, accessed 11 September 2024.
[27] https://reneweconomy.com.au/hydrogen-expert-says-blending-green-fuel-into-gas-network-an-expensive-waste/, accessed 6 September 2024.

technology and energy storage.[28] Our client's position is that Jemena seriously misleads consumers through Representation 2, even likening its 'renewable gas' products to wind, solar and other established renewable energy sources.[29]

24. In these circumstances, Comms Declare considers that Representation 2 is likely to mislead or deceive consumers to believe that Jemena's so-called 'renewable gas' products provide a sustainable alternative to traditional fossil fuels and supports Australia's emissions-reduction goals.

Renewable gas has a long-term future in Australia's energy network (Representation 3)

25. In 2022, the ACT announced a ban on new homes being connected to gas distribution networks to accelerate the transition towards renewable electricity as Australia's primary energy source.[30] Similar policies are feasible in other States and Territories. Furthermore, in NSW, several Local Councils including Waverley, Lane Cove and Parramatta have introduced similar electrification requirements in new buildings, with several other Councils exploring the option.[31] There appears to be a growing policy trend towards phasing out new fossil gas connections and associated infrastructure.
26. As such, there are more viable alternatives to renewable gas given the fact that electrification is easier and more cost effective. Likewise, there will be diminishing incentive for State governments to invest in upgrading gas networks to accommodate higher-concentration hydrogen blends when there are fewer new buildings relying on gas.

27. In these circumstances, Representation 3 misleads consumers, and potentially dissuades them from taking an active approach to supporting Australia's renewable energy transition.

Renewable gas is safe for home-use (Representation 4)

28. While hydrogen is nontoxic in isolation (making it safe and ideal for use in contained fuel cells, for example),[32] when burned, it emits nitrogen-oxide (NO) at levels of up to six-times the volume produced when combusting methane.[33]

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[28] The Australia Institute (2021). 'Undermining Climate Action' https://australiainstitute.org.au/wp-content/uploads/2021/11/P1163-Undermining-climate-action-the-Australian-way-WEB.pdf
[29] See https://www.youtube.com/watch?v=hOeFztDmgm4&t=2s, accessed 6 September 2024.
[30] https://www.abc.net.au/news/2022-08-04/act-no-new-gas-connections-from-2023-new-homes/101299552, accessed 6 September 2024.
[31] https://350.org.au/electrify-your-council/?gad_source=1&gclid=EAIaIQobChMIlOzq8O-2iAMViCSDAx1b3DHmEAAYASAAEgIHcvD_BwE, accessed 10 September 2024.
[32] Lipman, Timothy E., Jennifer L. Edwards, and Cameron Brooks. "Renewable Hydrogen: Technology Review and Policy Recommendations for State-Level Sustainable Energy Futures." Clean Energy Group: University of California–Davis, May 2006; https://www.cleanegroup.org/wp-content/uploads/Renewable-Hydrogen-Technology-Review-and-Policy-Recommendations.pdf.
[33] Cellek, Mehmet Salih, and Ali Pınarbaşı. "Investigations on Performance and Emission Characteristics of an Industrial Low Swirl Burner While Burning Natural Gas, Methane, Hydrogen-Enriched Natural Gas and

29. Long-term exposure to NO increases the risk of respiratory conditions and heightens sensitivity to allergens. NO is also a precursor to the formation of fine particles and ground-level ozone, both of which are associated with severe adverse health effects including asthma.[34]

30. Biomethane, like regular methane, produces carbon-monoxide (CO) and nitrogen dioxide (NO2) when combusted – both of which provoke risk of childhood asthma.[35] It is estimated that 12% of the burden of childhood asthma is attributable to the presence of gas cooking in the home.[36] Furthermore, CO poisoning remains a real risk when methane (whether traditional or 'bio') is used for heating homes, particularly when out-dated and potentially faulty appliances are used.[37]

31. Given hydrogen would need to be blended with LNG (which predominantly comprises methane) to be safely incorporated into systems, the above safety concerns with biomethane are also applicable to hydrogen.

32. Overall, neither hydrogen nor biomethane are entirely safe for home use. Incorporating these with fossil gas also will continue to cause significant health impacts by releasing NO2 which causes asthma attacks and allergic sensitisation.[38] It is therefore misleading to suggest these products are safe for use in the home.

Potential Legal Contraventions

33. Section 18 of the ACL provides that: A person must not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.

34. The Statements are also likely to raise concerns about potential breaches of s 29 of the ACL. Section 29 relevantly states:

> *a. person must not, in trade or commerce, in connection with the supply or possible supply of goods or services or in connection with the promotion by any means of the supply or use of goods or services:*

Hydrogen as Fuels." International Journal of Hydrogen Energy 43, no. 2 (January 11, 2018): 1194–1207. https://doi.org/10.1016/j.ijhydene.2017.05.107.

[34] https://www.cleanegroup.org/hydrogen-hype-in-the-air/, accessed 6 September 2024.

[35] https://www.climatecouncil.org.au/wp-content/uploads/2021/05/Kicking-the-Gas-Habit-How-Gas-is-Harming-our-Health.pdf

[36] https://www.climatecouncil.org.au/wp-content/uploads/2021/05/Kicking-the-Gas-Habit-How-Gas-is-Harming-our-Health.pdf

[37] https://www.climatecouncil.org.au/wp-content/uploads/2021/05/Kicking-the-Gas-Habit-How-Gas-is-Harming-our-Health.pdf at p 29.

[38] https://assets.nationbuilder.com/docsenvaus/pages/387/attachments/original/1716789132/Asthma_and_indoor_gas_appliances_fact_sheet_Dr-1.pdf?1716789132; https://www.dea.org.au/asthma_and_indoor_gas_appliances_fact_sheet, accessed 10 September 2024.

b. make a false or misleading representation that services are of a particular standard, quality, value or grade; …

g. make a false or misleading representation that goods or services have sponsorship, approval, performance characteristics, accessories, uses or benefits; or

h. make a false or misleading representation that the person making the representation has a sponsorship, approval or affiliation.

35. Jemena is an Australian private company limited by shares,[39] and, as such, is a "person" for the purpose of the ACL.

36. When determining whether conduct is misleading or deceptive, the central question is whether the impugned conduct, viewed as a whole, has a sufficient tendency to lead a person exposed to the conduct into error.[40] In making this assessment, it is unnecessary to prove that the conduct in question actually deceived or misled anyone. Additionally, if the conduct in question is directed to the public (or a section of the public), the Court will consider the likely effect on an ordinary and reasonable person in the relevant class to whom the conduct is directed.[41] In *Telstra Corporation Ltd v Singtel Optus Pty Ltd,* the Court confirmed that the number of reasonable persons who might be misled is irrelevant to the test under the ACL.[42]

    Comms Declare considers that the class of persons to whom the representations were directed was broad, including their main website, with two corresponding websites and social media campaigns. Notably, the dedicated websites featured prominently on the company's landing pages, alongside the use of social media campaigning to promote "renewable gas" campaigns to a broad Australian consumer base.

    <u>In trade or commerce</u>

37. The legal test as to whether conduct is in trade or commerce is as follows:

> "…the conduct of a corporation towards persons, be they consumers or not, with whom it … has or may have dealings in the course of those activities or transactions which, of their nature, bear a trading or commercial character. Such conduct includes, of course, promotional activities in relation to, or for the purposes of, the supply of goods or services to actual or potential customers be they identified persons or merely an unidentifiable section of the public …"[43]

[39] SGSP (AUSTRALIA) ASSETS PTY LTD (ABN 60 126 327 624).
[40] *Australian Competition and Consumer Commission v TPG Internet Pty* Ltd (2020) 278 FCR 450, 458 (the Court).
[41] *Campomar Sociedad, Limitada v Nike International Ltd* (2000) 202 CLR 45, 85.
[42] *Telstra Corporation Limited v Singtel Optus Pty Ltd* [2020] FCA 1372.
[43] *Concrete Constructions (NSW) Pty Ltd v Nelson* (1990) 169 CLR 594 (Concrete Constructions), 602 (Mason CJ, Deane, Dawson and Gaudron JJ).

38. Our clients consider that Jemena's "renewable gas" campaign seeks to promote its gas as a renewable resource or new product with low-or-no emissions. Jemena has a commercial interest in assuaging community concerns about the environmental harm caused by fossil fuel; its 'renewable gas' campaign is intended to protect the future decrease in household gas use by refuting environmental criticism of its product through promoting it as carbon neutral and renewable resource. Indeed, Jemena relies on the commercial viability of scaled domestic household gas use for revenue. It receives revenue from each gas user connected to its network.

39. Our client considers that the 'renewable gas' campaign was in trade or commerce since its purpose is to protect the commercial interests of the gas and gas pipeline industry and ensure that it is promoted as a renewable resource, so that consumers continue to use Jemena's products.

Request to investigate

40. For these reasons, and given the ongoing nature of Jemena's conduct, our client requests the ACCC investigate the concerns raised by our clients and take such compliance action as is deemed appropriate.

Yours sincerely,
Environmental Defenders Office

Kirsty Ruddock
Managing Lawyer
Safe Climate

Reference number:

Annexure A: Sample Statements

	Statement	Source
Feasibility		
1.	"At Jemena, we've identified the potential for about 30 petajoules per annum of biomethane to come from sources like agriculture, landfill and other wastewater plants close by our gas network – if utilised, these sources would produce enough biomethane to supply all of our current residential customers."	Media Release: Building a Future Flush with Renewable Gas[44]
2.	"Renewable gases, like biomethane and renewable hydrogen, can help many homes, businesses and manufacturing sectors to lower emissions efficiently, without disruption. ... At home, at work, or in a busy manufacturing plant, you wouldn't know the difference. Renewable gas, like biomethane, is used in just the same way as natural gas. It can be delivered through existing network infrastructure and there's no need to replace your gas appliances or change operations. The difference? It has low emissions. It can be blended with existing natural gas supply, and could ultimately replace it."	Go Natural Gas Website: From Transition Fuel to a Fuel in Transition[45]
Renewable Hydrogen		
3.	"**Renewable hydrogen** is made when renewable electricity, or certified renewable electricity, is used to split water into hydrogen and oxygen through a process called 'electrolysis'. This process doesn't involve any carbon emissions."	Go Natural Gas Website: Types of Renewable Gas[46]
4.	"Renewable hydrogen can be injected, stored or used within existing natural gas networks, with hydrogen blends in some Australian networks currently up to 10%."	Go Natural Gas Website: Types of Renewable Gas[47]
Biomethane		
5.	"Biomethane can displace natural gas sourced from fossil fuels and help prevent 'waste methane' from reaching the atmosphere. The waste methane that would have been released into the atmosphere can then be used for energy instead."	Go Natural Gas Website: Types of Renewable Gas[48]
6.	"Both green hydrogen and biomethane can be stored in existing underground gas pipes and can be blended with existing natural gas."	Go Natural Gas Website: Types of Renewable Gas[49]
7.	"Biomethane is considered renewable because organic waste is continually created. Another type of renewable gas is hydrogen which is created from splitting a water molecule into hydrogen and oxygen. Biomethane is entirely substitutable for natural gas and can be used with existing customer appliances and industrial equipment. Hydrogen can be blended with natural gas or biomethane to also be used in homes and businesses. Both renewable gases can be used to displace natural gas."	Jemena YouTube Page: Renewable gas explained: What is renewable gas?[50]

[44] https://www.jemena.com.au/media/building-a-future-flush-with-renewable-gas/#:~:text=%E2%80%9CAt%20Jemena%2C%20we've,of%20our%20current%20residential%20customers, accessed 6 September 2024.
[45] https://www.gonaturalgas.com.au/renewable, accessed 6 September 2024.
[46] https://www.gonaturalgas.com.au/renewable-types-of-renewable-gas, accessed 6 September 2024.
[47] https://www.gonaturalgas.com.au/renewable-types-of-renewable-gas, accessed 6 September 2024.
[48] https://www.gonaturalgas.com.au/renewable-types-of-renewable-gas, accessed 6 September 2024.
[49] https://www.gonaturalgas.com.au/renewable-types-of-renewable-gas, accessed 6 September 2024.
[50] Renewable gas explained: What is renewable gas? (youtube.com), accessed 6 September 2024.

8.	"**Biomethane** – won't change how your appliances work no matter how much of it you are using. As demonstrated on MasterChef Australia, 100% biomethane supply works perfectly on existing gas appliances."	Go Natural Gas website: FAQs[51]
9.	"Most existing gas appliances are tested and will work safely and efficiently on blends of up to 10% hydrogen by volume. In NSW Jemena will only blend up to 10% renewable hydrogen into its network in the short term."	Go Natural Gas website: FAQs[52]
Household		
10.	It's your choice - Renewable gas, such as biomethane, means customers can choose how to cook and heat homes and businesses, without the cost and burden of changing appliances and systems.	Go Natural Gas Website: Why Renewable Gas?[53]
Sustainability/Carbon Emissions		
11.	"**A sustainable future** Displacing or replacing natural gas with biomethane and renewable hydrogen will support the energy transition and lower emissions, helping Australia to achieve its net zero targets. Many Australian gas distributors aim to transition their networks to supply and store primarily renewable gases by 2050."	Go Natural Gas website: Why Renewable Gas?[54]
12.	"Our customers also tell us that they want to reduce their carbon emissions. So this is why we [Jemena] are investing in projects that demonstrate that renewable gas is a viable way to help Australia meet its net-zero emissions targets. By using renewable gas in existing gas infrastructure, it will help keep energy affordable for our customers in the long term without the need build new energy infrastructure. ... Focusing on green hydrogen and biomethane"	Jemena YouTube channel: Renewable Gas – From Pipe Dream to Pipeline[55]
13.	"When people talk about renewable energy, they often only think about wind, solar, hydro power. However, by also having renewable gas in the mix, customers can continue to have choice in how they power their homes. And we believe that by leveraging existing gas infrastructure and providing a renewable gas solution, that the path to net zero will be a lot quicker for the Australian economy."	Jemena YouTube channel: Renewable Gas – From Pipe Dream to Pipeline[56]
Expenses		
14.	"Is renewable gas more expensive? We understand that price is very important to customers. For customers in the Jemena network area, gas supply and prices won't change any time soon as a result of renewable gas projects and initiatives. Development and production of renewable gas is a new industry in Australia so costs can be high. Just like solar, wind and battery power, in order to drive down costs the industry needs to develop more projects, stimulate investment, and increase the scale of production. This is being done through collaboration with industry, government, other energy and utility companies, and co-funding projects in order to ensure customers do not have any added cost burden."	Go Natural Website: FAQs[57]

[51] https://www.gonaturalgas.com.au/renewable-faqs, accessed 6 September 2024.
[52] https://www.gonaturalgas.com.au/renewable-faqs, accessed 6 September 2024.
[53] https://www.gonaturalgas.com.au/renewable-advantages-of-a-renewable-gas-industry, accessed 10 September 2024.
[54] https://www.gonaturalgas.com.au/renewable-advantages-of-a-renewable-gas-industry, accessed 6 September 2024.
[55] https://www.youtube.com/watch?v=hOeFztDmgm4&t=2s, accessed 6 September 2024.
[56] https://www.youtube.com/watch?v=hOeFztDmgm4&t=2s, accessed 6 September 2024.
[57] https://www.gonaturalgas.com.au/renewable-faqs, accessed 6 September 2024.