

Greenwashing and energy consumers

Submission to the Senate Standing
Committees on Environment and
Communications

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About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is leading social justice law and policy centre. Established in 1982, we are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

PIAC builds a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality. Our work combines:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change and public interest outcomes.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program works for better regulatory and policy outcomes so people's needs are met by clean, resilient and efficient energy and water systems. We ensure consumer protections and assistance limit disadvantage, and people can make meaningful choices in effective markets without experiencing detriment if they cannot participate. PIAC receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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Public Interest Advocacy Centre office is located on the land of the Gadigal of the Eora Nation.

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PIAC welcomes the opportunity to make submissions to the Senate Standing Committees on Environment and Communications, inquiry into greenwashing.

Greenwashing is misleading or deceptive conduct which seeks to overstate a company's environmental credentials to maintain or increase product or service sales, or receive a premium on those sales it may not otherwise achieve were the true nature of those products or services presented accurately.

Greenwashing has direct costs to consumers, as well as a range of indirect impacts on consumers, consumer confidence and the effectiveness of markets for energy services. It often results in:

- consumers incurring additional costs (through products and services sold at a 'green premium'),
- consumers not purchasing genuinely green products,
- consumer confusion and the erosion of consumer confidence in genuine claims of environmental sustainability, and
- diverting investment away from products and services that are genuinely environmentally sustainable.

This fundamentally undermines the ability for markets to support the transition to more sustainable products and services.

1. Greenwashing in the Australian energy industry

There are many incentives for energy sector companies, at all stages in the supply chain from production to the delivery and sale of energy to consumers, to make claims which may overstate or confuse their environmental credentials. There are, similarly, many ways these claims may be made. These include:

- Misstating total GHG emissions of an energy product or service through inaccurate or selective accounting.
- Basing net-zero emissions claims on poorly verified offsets and the implication that offsets can effectively negate the GHG impact of equivalent emissions.
- Misleading claims that the life cycle GHG emissions from a specific energy source are less than from another form of energy. This includes making comparisons between emissions of gas and electricity, and not recognising the direct GHG emissions impact of methane involved in gas use, as well as the GHG emissions impact of its combustion.
- Using vague descriptors that have the possibility to mislead e.g. "renewable gas" or "clean energy"; and
- Aspirational claims that net-zero will be possible due to the development of new products and technologies which are unproven, unlikely to be practical at a competitive cost (such as carbon capture and storage and distributed hydrogen), and/or highly unlikely to be viable within the timeframes necessary to have an impact.

In a recent internet sweep for greenwashing the ACCC identified behaviour that raised concerns. These included using vague and unqualified claims, a lack of substantiating information, use of

absolute claims, use of comparisons, exaggerating benefits or omitting relevant information, and use of aspirational claims with little information on how these goals could be achieved.¹

The ACCC reviewed the claims of 25 energy companies and identified that the claims of 16 companies raised concerns.² The Environmental Defenders Office has in recent years sought to expose greenwashing claim, including by energy companies.³

As a consumer advocacy organisation PIAC is most interested in the interaction between energy companies and household energy consumers, and any misleading, inaccurate, or unverifiable claims. These include:

1. Claims by gas distribution network service providers that using natural gas home appliances are less costly and produce less emissions than grid electricity, when these selectively quote costs and GHG emissions data.
 - a. Some claims neglect to compare gas water heating appliances to electric heat pumps and only reference electric resistance water heating,
 - b. Failing to acknowledge the lower emissions profile of household generated renewable electricity,
 - c. Not recognising the ability to elect to purchase renewable grid electricity,
 - d. Failing to compare emissions from space heating,
 - e. Making emissions comparisons between gas and electricity at a 'point in time' and not recognising the rapid relative decarbonisation of the electricity network,
 - f. Only referencing the relative carbon dioxide emissions profile of gas, and not including the direct impact of methane itself (through fugitive emissions and leakage throughout the supply chain) as part of the GHG impact of gas,
 - g. Only providing 'average' reference emissions comparisons, and not recognising the temporal difference in current emissions intensity of electricity, where usage at certain times of the day (such as when generation is largely renewable) would have significantly lower emissions intensity than gas,
 - h. and referencing emissions comparisons only in specific states thereby not accounting for the different emissions profiles of grid emissions in each state.⁴
2. Claims by gas distribution network service providers on the future adoption of "renewable gas". These claims are opaque and largely aspirational.⁵ Renewable gas is used to refer to a range of potential products with a wide range of actual potential climate impacts and sustainability, with some of the the more likely options in the near term having much less

¹ ACCC 'Greenwashing by Businesses in Australia: Findings of the ACCC's internet sweep of environmental claims.' <https://www.accc.gov.au/system/files/Greenwashing%20by%20businesses%20in%20Australia.pdf>

² *Ibid.* p.2.

³ See <https://www.edo.org.au/corporate-greenwashing/>

⁴ With respect to the advantages of electrification see: the ACT government website <https://maketheswitch.org.au/about/>, the Victorian Government website <https://www.energy.vic.gov.au/renewable-energy/victorias-gas-substitution-roadmap>, the Sustainability Victoria website <https://www.sustainability.vic.gov.au/energy-efficiency-and-reducing-emissions/building-or-renovating/electrify-your-home>, and the reports available on the website of Rewiring Australia: <https://www.rewiringaustralia.org/reports>

⁵ With respect to the problematic nature of the claims of 'renewable gas' see the Renew article, *Costly and impractical: IRENA warns against hydrogen blending in gas networks* <https://reneweconomy.com.au/costly-and-impractical-irena-warns-against-hydrogen-blending-in-gas-networks/>

impact on GHG emissions reduction (such as gas blends or pure use of hydrogen sourced from fossil gases)⁶.

3. Advertising and claims by energy retailers to consumers, including advertising “green tariffs” or using images of renewables in adverts. Some such claims misrepresent the nature of the energy supplied and/or use of offsets.⁷

2. Impacts for energy consumers

2.1 Increased costs for consumers

Greenwashing misleads consumers and increases the likelihood of them making purchasing choices in the belief that an energy product or service is environmentally sustainable, including having low GHG emissions. Where the cost of those services is higher than those with more sound environmental credentials, consumers are effectively misled into incurring higher costs. This includes instances where consumers consciously choose to pay a ‘green premium’.

In the case of selecting household appliances, consumer’s purchasing choices involve large initial investments, and thereby lock in choices as to the energy source for the home for many years. In this context, claims regarding the sustainability and effectiveness of appliances and fixtures now, should include recognition of the relative impact of those appliances and fixtures over their likely life.

2.2 Decreased consumer confidence in genuine environmental claims

Greenwashing claims by companies can reduce consumer confidence in the factual accuracy of the environmental claims of other companies, thereby undermining the more general push to adopt more environmentally friendly business practices.

2.3 Delaying the transition from fossil fuels to net-zero, and overall total higher emissions

Energy companies that make misleading and deceptive claims as to the environmental credentials of their products and services divert financial investment, including investments decisions made by energy planners, governments, corporate finance, and household consumers.

They mislead these decision makers and their investments choices, steering them away from other energy products and services which have lower GHG emissions. In doing so they slow the transition to a net-zero energy system.⁸ The misleading and deceptive statements leads to higher total GHG emissions, and worse climate outcomes.

The consequences of greenwashing by businesses in Australia, and in particular energy companies, are of direct relevance to Australia’s ability to meet its Paris Agreement, Article 2(1)

⁶ E3G: briefing paper – ‘against hydrogen blending’ <https://www.e3g.org/wp-content/uploads/E3G-Briefing-Against-hydrogen-blending.pdf>

⁷ See the discussion under “Transparency in Marketing” in the *Green Electricity Guide Report* - <https://www.greenelectricityguide.org.au/report> and the assessment of individual companies marketing in the associated rankings, <https://www.greenelectricityguide.org.au/#rankings>. See also <https://www.theguardian.com/australia-news/2022/feb/08/cutting-through-the-greenwash-australian-energy-retailers-ranked-on-climate-action>

⁸ See <https://www.edo.org.au/corporate-greenwashing/>

commitments, namely to both pursue efforts to limit temperature rises to 1.5C and make financial flows consistent with low GHG emissions.

3. Protection measures

PIAC welcomes the current enforcement focus on greenwashing by regulators, including both the Australian Competition and Consumer Commission (**ACCC**) and Australian Securities and Investments Commission (**ASIC**).⁹ It is important in future years regulatory enforcement action against greenwashing by ACCC and ASIC remains a priority and is sufficiently resourced, given the importance of protecting consumers against the impacts of greenwashing.

However, regulatory enforcement responses tend to lag behaviour. Without stronger proactive measures there is a danger that greenwashing behaviour continues to evolve ahead of regulators, continuing to impact the market and consumers.

To assist in countering greenwashing, it is important that there are transparent company reporting requirements which are independently assessed. PIAC welcomes the recent government consultation on the introduction of mandatory climate disclosures aligned with international frameworks.¹⁰

Consumers would be aided by some form of government sponsored information source that fully interrogates the costs and GHG emissions of different forms of energy sources for homes and ensures this information is robust and independently verifiable. A government ratings scheme will protect consumers against greenwashing problems, including presentation of selective data by energy companies. The information presented should include a detailed analysis of costs and GHG emissions on an annual basis for retail providers and the different types of retail contracts they offer, and analysis across the life cycle of household energy appliances.¹¹ The information should be location specific given the different profiles of emissions intensity for each form of energy used in different states. Appliances analysed should include different forms of cooking, water, and space heating appliances. This analysis should also detail the total costs and emissions when electrifying all appliances in a household in comparison to using natural gas. This information could be added to the existing Energy Made Easy website.¹²

Presently GreenPower certifies additional renewable electricity generation. PIAC does not believe any changes to the scheme are required to separately certify electricity generation that includes

⁹ See ACCC recent media releases - <https://www.accc.gov.au/media-release/accc-greenwashing-internet-sweep-uneartths-widespread-concerning-claims>, and <https://www.accc.gov.au/media-release/businesses-told-to-be-prepared-to-back-up-their-environmental-claims>, and ASIC media release - <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2022-releases/22-302mr-asic-announces-enforcement-priorities-for-2023/>. See also the issuance of infringement notices against Black Mountain Energy Limited. <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2023-releases/23-001mr-asic-issues-infringement-notices-to-energy-company-for-greenwashing/>

¹⁰ Australian Government, The Treasury, *Climate-related financial disclosure*, (Consultation webpage) <https://treasury.gov.au/consultation/c2022-314397>

¹¹ Examples of existing comparison websites include Energy Made Easy (comparing costs) <https://www.energymadeeasy.gov.au/>, and the Green Electricity Guide (comparing the green credentials of different electricity providers), <https://greenelectricityguide.org.au/>.

¹² <https://www.energymadeeasy.gov.au/>. See further, PIAC's detailed analysis of a retailer rating scheme as provided in its prior submissions *GreenPower Program Review Consultation*, (22 August 2022), pp.12-13, <https://piac.asn.au/2022/08/22/submission-to-oecc-and-nsw-treasury-greenpower-program-review-consultation/>

the use of hydrogen. PIAC is opposed to any expansion of the scheme to separately certify “renewable gas”.¹³

International initiatives to consider for implementation in Australia include the requirement in the French Environmental Code which only allows claims that products or services are ‘carbon neutral’ where information on GHG emissions is made readily accessible.¹⁴ The European Union has also recently proposed amending its unfair practices laws to provide greater protection against greenwashing.¹⁵ In addition, a complimentary additional EU Green Claims Directive is proposed, which will introduce stringent requirements for companies making environmental claims.¹⁶

Continued engagement

We welcome the opportunity to provide input to the Committee. Please contact Douglas McCloskey at dmccloskey@piac.asn.au regarding any further follow up.

¹³ See further, PIAC’s submission *GreenPower Program Review Consultation*, (22 August 2022), p.8, <https://piac.asn.au/2022/08/22/submission-to-oecc-and-nsw-treasury-greenpower-program-review-consultation/>

¹⁴ See France: Update on “Greenwashing Regulation.” (World Law Group - webpage) https://www.theworldlawgroup.com/news/advertising-and-the-environment-update-on-greenwashing-regulation#_ftn1

¹⁵ See *France: Update on “Greenwashing Regulation.”* (World Law Group - webpage) https://www.theworldlawgroup.com/news/advertising-and-the-environment-update-on-greenwashing-regulation#_ftn1, *Proposal for a Directive on empowering consumers for the green transition and annex*, proposing amendments to EU Directive 2005/29/EC, (EC website) https://commission.europa.eu/publications/proposal-directive-empowering-consumers-green-transition-and-annex_en

¹⁶ See European Commission, *Proposal for a Directive on Green Claims*, (EC website) https://environment.ec.europa.eu/publications/proposal-directive-green-claims_en