



Environmental Defenders Office

13 May 2024

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Dear Rami

Complaint about potential greenwashing by the Australian Gas Network.

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 clients request that the Australian Competition and Consumer Commission (**ACCC**) investigate whether representations made by the Australian Gas Network Ltd (**AGN**), in relation to its 'renewable gas' campaign and collaboration with MasterChef Australia are in breach of ss 18 and 29 of the Australian Consumer Law (**ACL**) (Schedule 2 of the *Competition and Consumer Act 2010* (Cth)).
3. The 'renewable gas' campaign, spearheaded by AGN's collaboration with television programme MasterChef Australia, promotes two developing products – 'renewable' hydrogen and biomethane – as alternatives to conventional 'natural' or fossil gas. Both are represented as 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, encourage the continued use of fossil fuels whose carbon neutrality credentials are tenuous.
4. Our clients note the ACCC's Compliance and Enforcement Priorities for 2023-2024, which include 'consumer, product safety and fair-trading and competition concerns in relation to

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environmental claims and sustainability.’ Our clients consider that the campaign is potentially a ‘false and misleading sustainability claim [that] undermine[s] consumer trust in 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 benefits of two new gas products and their future role made on various media including on the campaign website,¹ on the AGN website,² and in a media release.³ We have set out the details of those statements in **Annexure A** (together, the **Statements**).

Representations

6. Our client considers that the **statements**, alone or combined, represent that:
- i. The gas used on MasterChef Australia, and allegedly, to be integrated into Australia’s energy mix, is renewably sourced and carbon-neutral in its emissions;
 - ii. renewable gas produces fewer emissions than fossil gas;
 - iii. incorporating renewable gas into Australia’s existing gas distribution networks is low-cost and feasible;
 - iv. renewable gas has a long-term future in Australia’s energy network; and
 - v. renewable gas is safe for home-use.

Together, the **representations**. We have outlined in the table below these representations and why they are potentially misleading.

Representation	Why the representation is potentially misleading:
The gas used on MasterChef Australia, to be integrated into Australia’s energy mix, is renewably sourced and is carbon-neutral in its emissions.	Headline statements about the ‘renewable’ nature of the gas obscures important information about the lifecycle of hydrogen and biomethane, and the need to combine them with fossil fuels to viably distribute them. In the manufacturing and combustion stage, both have associated emissions that render them non-renewable and carbon positive.
Renewable gas produces fewer emissions than fossil gas/low/no emissions	Blending renewable gas with fossil gas does not result in zero-emissions upon combustion. Hydrogen only generates fewer emissions when produced using renewable energy. This form of generation was not used by the AGN in the

¹ <https://renewable-gas.com.au/>

² <https://www.australiangasnetworks.com.au/our-business/about-us/media-releases/masterchef-australia-goes-gas-tronomic>

³ <https://www.australiangasnetworks.com.au/news-and-articles/life/masterchef-australia-world-first-biomethane>

	MasterChef collaboration. Biomethane generates the same emissions as fossil gas when combusted but has lower emissions during its production.
Incorporating renewable gas into Australia's existing gas distribution networks is low-cost and feasible	Australia's existing gas distribution network and household appliances are unable to withstand high concentrations of hydrogen. Upgrading the network to facilitate renewable gas will be costly, time-consuming and require significant technical assessment. Similarly, biomethane is not currently available to general customers and is unlikely to meet more than a small percentage of general gas needs.
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.

7. Our client considers that the representations are a sustained attempt by the AGN to market its products to consumers as a legitimate aspect of Australia's energy transition. The statements are intended to deter consumers from investing in more reliable forms of renewable energy by falsely marketing 'Renewable Gas' as low-or-zero emission.

The gas used on MasterChef Australia, and to be integrated into Australia's energy mix, is renewably sourced and carbon-neutral in its emissions (Representation 1)

8. The use of the term "renewable" or "carbon neutral" in relation to the gas used on MasterChef is a broad headline claim that is misleading as it is not currently renewable or carbon neutral. 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 "clean renewable gas", which "is in reality 5% renewable biomethane and 95% natural gas". The guide describes this is a misleading claim that should be qualified with a clarification that only a small percentage of the blended gas is renewable biomethane. Below we have set out the details of how this claim is similarly misleading.

Hydrogen is not currently renewable gas:

9. Currently, hydrogen cannot be safely integrated into gas distribution networks at any more than 10-20% of the total blend (see also, explanation of Representation 3 below). The remainder of the product must be fossil gas. Describing hydrogen as 'renewable' implies that the product used on MasterChef is entirely renewable. The website does not disclose on the main page any qualifications about the extent of the use of gas generated from renewable

sources. Instead, if consumers click and scroll through the website, there are important qualifications that the gas product is intended to 'transition to 100% renewable hydrogen in 2025'. This implies that, in 2025, 100% of the gas used on the show will be renewable hydrogen, when in fact, as technology currently stands, 20% of the gas will be '100% renewable' hydrogen. The claim that hydrogen is 'renewable' is not a meaningful one because it does not describe the reality of the currently usable product. Nor does it outline the steps that would be needed to produce a renewable product, including changing the pipeline distribution system to enable use of renewable gas as outlined in **Representation 3** below.

10. Even if used in an undiluted form, hydrogen is only 'renewable' if the electrolysis production process is powered exclusively by renewable energy. The hydrogen used in MasterChef's Barbecuing challenge, advertised in various statements,⁴ was produced using non-renewable energy, the emissions of which were offset with carbon credits. This was clarified in the FAQ section of the Renewable Gas website,⁵ however this caveat is difficult to access and not placed at the beginning of the website as an important qualification. Taken as a whole, the website implies that all hydrogen is renewable and/or carbon-neutral because it produces no emissions when combusted. This hides the fact that the life cycle of hydrogen is not necessarily renewable, and the type of hydrogen is important. The ACCC, in its guideline *Green marketing and the Australian Consumer Law* recommended that: 'When making claims about a particular characteristic or part of a product, (businesses) should also consider the whole product life cycle.' Importantly the website and television programme do not contain the proviso that the gas currently used is not produced from renewable resources of green hydrogen.

Biomethane:

11. Biomethane, like regular methane, emits greenhouse gases when combusted. It is not carbon neutral in its energy-generation phase. Rather, its 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. In fact, the biomethane in MasterChef was transported from the Sydney Water waste treatment plant in Malabar. The emissions generated in this process were being offset or "avoided", allowing the AGN to describe the product as 'carbon neutral'. However, as outlined in Representation 2 below, the burning of the gas also produces emissions, so the claim does not reflect the product's whole life cycle.

⁴ See, for example,

⁵ <https://renewable-gas.com.au/faq>

12. The ACCC's *Guide for Businesses making Environmental Claims* recommends that businesses ensure 'any information that is directly relevant to understanding (a) claim should be available directly on the product or at the point of sale.'⁶ The Renewable Gas website only states that biomethane is 'a renewable resource' that does not contribute 'further' carbon emissions.⁷ This is an inadequate explanation that leads consumers to assume renewable gas is similar to non-fossil fuel renewable energy (such as solar and wind). The ACCC Guide recommends that words be used to convey their ordinary, common meaning."⁸ 'Renewable' is conventionally understood to comprise non-Greenhouse gas energy sources. In this case, describing biomethane as 'renewable' rather than a recycled fossil gas, without considering how it is combusted for use, is misleading.
13. AGN asserts that methane and biomethane are 'interchangeable' but that 'their origin stories' differ because 'biomethane is captured from our environment.' However, this vague statement is insufficient to clarify the reasons for biomethane's carbon neutrality. Using biomethane does not directly remove emissions from the atmosphere, it only replaces additional emissions that would otherwise be released from using fossil gas.

Biomethane and hydrogen produce fewer emissions than fossil gas (Representation 2)

14. Most of the statements at Annexure A describe renewable gas as producing 'low emissions', 'no emissions' or 'lower emissions than 'natural' or fossil gas.' These terms are used interchangeably and inconsistently throughout the website. Again, the main headline claims relate to the emissions and carbon neutrality of renewable gas. The qualifying statements on the Renewable Gas website are found only if you research further and read through the entire website, where you find that the gas will require 'blending and mixing' with fossil gas.⁹ Gas blends which still overwhelmingly rely on fossil gas (a finite resource extracted from shale or offshore seabeds) are ostensibly not 'zero emissions' nor 'low emissions' as they rely on the combustion of fossil gas to produce energy. Representing the gas used on MasterChef and allegedly in future Australian networks in headline statements as 'zero emissions' purposefully misleads consumers as to the significant role that fossil gas plays in renewable gas projects.

Biomethane:

15. Biomethane, as stated above, emits greenhouse gases when combusted just as traditional methane or fossil gas does. Thus, it does not have 'lower carbon emissions when used'¹⁰ since 'use' denotes combustion and energy generation in homes and businesses.

Hydrogen:

⁶ <https://www.accc.gov.au/system/files/greenwashing-guidelines.pdf> at p.16

⁷ <https://renewable-gas.com.au/faq>

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⁹ <https://renewable-gas.com.au/faq> at "MasterChef Australia"

¹⁰ <https://renewable-gas.com.au/masterchef-australia-cooking-with-renewable-gas>

16. Pure hydrogen, when combusted, emits no greenhouse gases. However, MasterChef's barbeques used a blend of 20% hydrogen, 80% fossil gas.¹¹ Even smaller volumes of hydrogen are considered unsafe in other contexts (see **Representation 3**).
17. 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%.¹² This figure also presumes that the hydrogen used is 'green' - i.e. produced only by using renewable energy. When 'grey' or 'blue' hydrogen (hydrogen produced using non-renewable sources to extract it from water or fossil gas) is used, the reduction in emissions upon combustion is far outweighed by the emissions from producing the hydrogen (including methane, a potent greenhouse gas.)¹³ Grey hydrogen was used in the 2024 season of MasterChef, produced using grid energy and offset using ACCUs.¹⁴ This was not disclosed clearly on the website. Furthermore, more frequent statements throughout the website detailing how 'renewable hydrogen' was produced (using renewable energy) would be apt to lead consumers to assume that the hydrogen used was in fact 'green'. On these grounds, the statement that the hydrogen gas blend used on MasterChef produces fewer emissions than traditional fossil gas is unverifiable and misleading.

Incorporating renewable gas into Australia's existing gas distribution networks is low-cost and feasible (Representation 3)

Viability of biomethane

18. Biomethane or biogas is only currently produced at a small number of locations in Australia, including Malabar sewerage treatment plant.¹⁵ As the Climate Council has noted, Australia does not produce enough organic waste to replace gas in its systems¹⁶ and the gas must still be transported to be processed and then added to gas pipeline networks. As such, it will not be suitable to replace gas across the country.

Viability of Hydrogen:

19. Hydrogen can be unsafe and impractical when piped through existing gas networks at high concentrations. Because hydrogen is a smaller and more flammable molecule than methane,

¹¹ <https://renewable-gas.com.au/faq>

¹² <https://reneweconomy.com.au/hydrogen-expert-says-blending-green-fuel-into-gas-network-an-expensive-waste/>

¹³ See, for example, Australian National University, "'Serious threat' of fugitive emissions with Australia's hydrogen plan" (10 August 2021) <<https://cecc.anu.edu.au/news/serious-threat-fugitive-emissions-australias-hydrogen-plan>>; Howarth and Jacobson, 'How green is blue hydrogen?', *Energy Science & Engineering* (12 August 2021).

¹⁴ <https://renewable-gas.com.au/masterchef-australia-cooking-with-renewable-gas>

¹⁵ [From poo to you: Biomethane plant opens - Australian Renewable Energy Agency \(arena.gov.au\)](https://arena.gov.au/news/2021/08/10/from-poo-to-you-biomethane-plant-opens)

¹⁶ [Biogas, green gas, renewable gas: good ideas justifying terrible ones | Climate Council](https://climatecouncil.org.au/biogas-green-gas-renewable-gas-good-ideas-justifying-terrible-ones/)

it can leak through pipes, embrittling and damaging them.¹⁷ The US National Renewable Energy Laboratory found that 'permeation rates for hydrogen are about 4 to 5 times faster than for methane in typical polymer pipes used in the U.S. fossil gas distribution system.'¹⁸ Extended leaks of this kind can cause hydrogen to accumulate in surrounding atmospheres and increase risk of explosion.¹⁹

20. Furthermore, hydrogen has a lower energy-density than methane. More of the gas is required to produce the same energy output. Consequently, greater pressure is needed to transport it through pipelines to consumers. This additional pressure can place harmful strain on gas distribution networks, making them liable to damage.²⁰
21. As disclosed in the statements, blends containing 20% hydrogen were used for cooking on MasterChef. This is because blends above this percentage are not safe to use in current Australian gas distribution networks. The 20% blend advertised might itself be over-ambitious for Australia's systems: In the US, it is estimated that concentrations between 5-15% hydrogen by volume *may* be viable in existing systems, but that anything above this amount would be unsafe.²¹ The wide range of systems and materials used across different parts of the USA means that in-depth and costly case-by-case assessments is needed to determine the safe amount of hydrogen that each individual system could handle.^{22,23}
22. Research scientists at MIT recently concluded that, to make economically sound amounts of hydrogen combustion feasible, most existing gas infrastructure in the US would need to be replaced or retrofitted.²⁴ Assessments have indicated similar costs and delays in Australia: network planning in Victoria has shown that major works would be needed to both distribution and transmission systems before incorporating blends (of any volume) in most parts of the state, indicating that incorporation would be unlikely to be viable before 2030.²⁵
23. A gas distribution system aiming to comprising 100% hydrogen would therefore require drastic upgrades well beyond the 'minor incremental cost' suggested in the statements. Large investment in the existing infrastructure would be needed, the cost of which would be

¹⁷ <https://climate.mit.edu/ask-mit/can-we-use-pipelines-and-power-plants-we-have-now-transport-and-burn-hydrogen-or-do-we-need> ; <https://www.forbes.com/sites/energyinnovation/2022/03/29/gas-utility-hydrogen-proposals-ignore-a-superior-decarbonization-pathway-electrification/?sh=65846f6e76a1>

¹⁸ <https://www.nrel.gov/docs/fy13osti/51995.pdf> at (x)

¹⁹ <https://www.forbes.com/sites/energyinnovation/2022/03/29/gas-utility-hydrogen-proposals-ignore-a-superior-decarbonization-pathway-electrification/?sh=65846f6e76a1>

²⁰ <https://climate.mit.edu/ask-mit/can-we-use-pipelines-and-power-plants-we-have-now-transport-and-burn-hydrogen-or-do-we-need>

²¹ <https://www.nrel.gov/docs/fy13osti/51995.pdf> (v)

²² <https://www.nrel.gov/docs/fy13osti/51995.pdf> (v-vi). <https://climate.mit.edu/ask-mit/can-we-use-pipelines-and-power-plants-we-have-now-transport-and-burn-hydrogen-or-do-we-need>

²³ <https://climate.mit.edu/ask-mit/can-we-use-pipelines-and-power-plants-we-have-now-transport-and-burn-hydrogen-or-do-we-need>

²⁴ <https://climate.mit.edu/ask-mit/can-we-use-pipelines-and-power-plants-we-have-now-transport-and-burn-hydrogen-or-do-we-need>

²⁵ <https://reneweconomy.com.au/why-blending-hydrogen-into-the-gas-supply-is-still-just-a-pipe-dream/>

borne by consumers through increased gas prices. Since bodies such as the AGN derive profit from the value gas assets, rather than supplying the gas, they stand to benefit from the continued maintenance and upgrading of this system.²⁶

Renewable gas has a long-term future in Australia’s energy network (Representation 4)

24. In the past two years, two Australian jurisdictions (Victoria and ACT) have announced bans on new homes being connected to gas distribution networks to accelerate the transition towards renewable electricity as Australia’s primary energy source.²⁷ 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.²⁸ There appears to be a growing policy trend towards phasing out fossil gas and associated infrastructure.

25. As such, there is little prospect for the incorporation of renewable gas into ‘new’ homes 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.

Renewable gas is safe for home-use (Representation 5)

Hydrogen:

26. While hydrogen is nontoxic in isolation (making it safe and ideal for use in contained fuel cells, for example),²⁹ when burned, it emits nitrogen-oxide (NO) at levels of up to six-times the volume produced when combusting methane.³⁰

27. 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

²⁶ <https://environmentvictoria.org.au/2024/01/16/green-gas-myths-debunked-why-hydrogen-and-bio-methane-cant-save-the-gas-network/>

²⁷ <https://www.abc.net.au/news/2022-08-04/act-no-new-gas-connections-from-2023-new-homes/101299552>; <https://www.abc.net.au/news/2023-07-28/victoria-bans-gas-new-homes-housing-developments-emissions/102659636>

²⁸ [Electrify Your Council - 350 Australia](#)

²⁹ 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>.

³⁰ Cellek, Mehmet Salih, and Ali Pinarbaşı. “Investigations on Performance and Emission Characteristics of an Industrial Low Swirl Burner While Burning Natural Gas, Methane, Hydrogen-Enriched Natural Gas and 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>.

ground-level ozone, both of which are associated with severe adverse health effects including asthma.³¹

Biomethane:

28. Biomethane, like regular methane, produces carbon-monoxide (CO) and nitrogen dioxide (NO₂) when combusted – both of which provoke risk of childhood asthma.³² It is estimated that 12% of the burden of childhood asthma is attributable to the presence of gas cooking in the home.³³ 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.³⁴
29. 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 would also be applicable to hydrogen.
30. 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.³⁵ It is therefore misleading to suggest these products are safe for use in the home.

Potential Legal Contraventions

31. 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.

32. 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:

- 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.*

³¹ <https://www.cleangroup.org/hydrogen-hype-in-the-air/>

³² <https://www.climatecouncil.org.au/wp-content/uploads/2021/05/Kicking-the-Gas-Habit-How-Gas-is-Harming-our-Health.pdf>

³³ <https://www.nationalasthma.org.au/living-with-asthma/resources/patients-carers/factsheets/gas-stoves-and-asthma-in-children>; <https://www.climatecouncil.org.au/wp-content/uploads/2021/05/Kicking-the-Gas-Habit-How-Gas-is-Harming-our-Health.pdf>

³⁴ <https://www.climatecouncil.org.au/wp-content/uploads/2021/05/Kicking-the-Gas-Habit-How-Gas-is-Harming-our-Health.pdf> at p.29.

³⁵ [Doctors for Environment Asthmas and indoor gas](#)

33. 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.³⁶ In making this assessment, it is unnecessary to prove that the conduct in question actually deceived or misled anyone.³⁷ 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.³⁸
34. Our client considers that the class of persons to whom the representations were directed was broad, including a national television audience on a popular show, with a corresponding website and media campaign. In particular, headline claims to a television audience about a product can be more likely to deceive due to the lack of qualifications to the broad terms used.

Is Australian Gas Networks a “person”?

35. Australian Gas Networks is an Australian public company limited by guarantee³⁹, and, as such, is a person” for the purpose of the ACL.

Was the conduct in “trade and commerce”?

36. The legal test as to whether conduct is in trade and 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 ...*⁴⁰
37. In *Tobacco Institute of Australia Ltd v Australian Federation of Consumer Organisations Inc* (1992) 111 ALR 61, the issue on appeal was whether the publishing of an advertisement by the Tobacco Institute essentially claiming that passive smoking does not cause disease was in trade or commerce. In finding that the conduct was in trade or commerce, Foster J said at [83] that:⁴¹

³⁶ *Australian Competition and Consumer Commission v TPG Internet Pty Ltd* (2020) 278 FCR 450, 458 (the Court).

³⁷ *Taco Co of Australia Inc v Taco Bell Pty Ltd* (1982) 42 ALR 177, 202 (Deane and Fitzgerald JJ).

³⁸ *Campomar Sociedad, Limitada v Nike International Ltd* (2000) 202 CLR 45, 85 (the Court).

³⁹ *Australian Gas Networks Limited ACN 078 551 685*

⁴⁰ *Concrete Constructions (NSW) Pty Ltd v Nelson* (1990) 169 CLR 594 (**Concrete Constructions**), 602 (Mason CJ, Deane, Dawson and Gaudron JJ).

⁴¹ *Tobacco Institute of Australia Ltd v Australian Federation of Consumer Organisations Inc* (1992) 111 ALR 61; Perry J provides a comprehensive summary of the law in *ACCC v Homeopathy Plus! Australia Pty Limited* [2014] FCA 1412 at [289]-[298].

The material was... published extensively nation-wide. The advertisement was prominent and eye-catching and described itself as an advertisement. Even the most cursory reading of it would, in my view, have been sufficient to convey to an ordinary reader a message favourable to the consumption of cigarettes as an article of commerce. The advertisement was persuasive in tone. It sought to allay fears which it suggested were commonly and erroneously held that the inhalation of tobacco smoke in the air could be harmful. The name of the appellant, appearing as the authoriser of the advertisement, would, in my view, when coupled with its obvious message, be quite capable of conveying to such a reader that the appellant had a commercial interest in assuaging community concerns about the harmful effects of inhaling environmental tobacco smoke. The general tenor of the advertisement, its wide exposure, and the name of the appellant combined to create an irresistible impression that it was promotional material designed to advance the course of cigarette smoking and to assist in the sale of cigarettes.

38. Our clients consider that, like the Tobacco Institute’s advertisement, Australian Gas Networks “renewable gas” advertising campaign seeks to promote fossil gas as a renewable resource or new product with no emissions on behalf of the gas networks who rely on gas for their income. Like the Tobacco Institute, Australian Gas Networks (constituted of its members) has a commercial interest in assuaging community concerns about the environmental harm caused by fossil gas; its “renewable gas” campaign is intended to protect the commercial interests of the gas industry by refuting environmental criticism of its product through promoting it as carbon neutral and renewable resource.
39. In *ACCC v Homeopathy Plus! Australia Pty Limited* [2014] FCA 1412, the respondent sold homeopathic products and treatments through its website. The purpose of the respondent was to advocate for homeopathy and lobby the government to change attitudes towards it. Articles were published on the respondent’s website, which included statements about the effectiveness of the whooping cough vaccine. The respondent’s defence included assertions that the statements were not made in trade and commerce but “were uploaded for general information and education purposes and were a contribution to the ongoing public debate of scientific and political interest which is an activity regularly undertaken by [Homeopathy Plus]”.⁴²
40. In relation to the issue as to whether the conduct was in trade or commerce, Perry J said at [305] – [306] that it does not turn on whether the statements were made for the purpose of making a profit and that:
- ... the fact that an activity may be political in the sense of advocating for a change of policy (or equally, that it is educational) does not necessarily mean that the activity is not in trade or commerce.*

⁴² *ACCC v Homeopathy Plus! Australia Pty Limited* [2014] FCA 1412 [17] (Perry J).

41. As such, our clients consider 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 to ensure consumers continue to use their product.

Request to Investigate

42. For the reasons set out above and given the ongoing nature of Australian Gas Network’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

A handwritten signature in black ink, appearing to read 'KR', with a long horizontal flourish extending to the right.

Kirsty Ruddock
Managing Lawyer
Safe Climate

Reference number: 484816684

Annexure A:

Source	Statement
The gas used on MasterChef Australia, to be integrated into Australia's energy mix, is renewably sourced and carbon-neutral in its emissions.	
Website (Heading, main page) ⁴³	<i>'Renewable gas, as seen on MasterChef...is cooking up a storm in the MasterChef kitchen.'</i> Accompanied by a video of barbecue and gas-stove cooking (See Annexure B)
Website (MasterChef tab, second page) ⁴⁴	MasterChef intends to <i>'transition to 100% renewable hydrogen in 2025'</i>
Article (AGN) ⁴⁵	Biomethane has <i>'the added bonus of being carbon neutral.'</i>
Website (FAQ) ⁴⁶	MasterChef kitchen is to use <i>'carbon neutral biomethane'</i> for all challenges
Website (FAQ) ⁴⁷	Biomethane is <i>'a renewable resource that doesn't contribute any further carbon emissions. This makes biomethane an effective and sustainable source of energy that helps to reduce carbon emissions of homes, businesses and industry.'</i>
Article (AGN) ⁴⁸	The <i>'origin story'</i> of biomethane makes it carbon neutral because <i>'biomethane is captured from our environment.'</i>
Media release (AGN) ⁴⁹	Hydrogen used on MasterChef is <i>'carbon neutral'</i>
Graphic (Website - 'What is Renewable Gas?') ⁵⁰	Details the process for creating renewable hydrogen, using renewable energy and water for electrolysis. Note, there is no accompanying image to show how non-renewable hydrogen is made. (See Annexure B)
Website ('What about me?') ⁵¹	The investment required to scale up existing gas networks to facilitate 100% renewable gas is <i>'similar to other technologies such as renewable electricity and solar panels.'</i>

⁴³ <https://renewable-gas.com.au/>

⁴⁴ <https://renewable-gas.com.au/masterchef-australia-cooking-with-renewable-gas>

⁴⁵ <https://www.australiangasnetworks.com.au/news-and-articles/life/masterchef-australia-world-first-biomethane>

⁴⁶ <https://renewable-gas.com.au/faq>

⁴⁷ <https://renewable-gas.com.au/faq>

⁴⁸ <https://www.australiangasnetworks.com.au/news-and-articles/life/masterchef-australia-world-first-biomethane>

⁴⁹ <https://www.australiangasnetworks.com.au/our-business/about-us/media-releases/masterchef-australia-goes-gas-tronomic>

⁵⁰ <https://renewable-gas.com.au/what-is-renewable-gas>

⁵¹ <https://renewable-gas.com.au/what-about-me>

MasterChef Episode 24 April 2024	“And I’m excited to say this year, MasterChef is going greener with renewable gas”. (Annexure B)
Renewable gas produces fewer emissions than “natural” gas	
Website (homepage) ⁵²	<i>‘Renewable gas provides all the great benefits of natural gas but doesn’t contribute any additional carbon emissions when used – making it an excellent substitution to existing fossil fuels.’</i>
Website (FAQ) ⁵³	Biomethane is <i>‘a renewable resource that doesn’t contribute any further carbon emissions. This makes biomethane an effective and sustainable source of energy that helps to reduce carbon emissions of homes, businesses and industry.’</i>
Graphic on Website (‘What is Renewable Gas?’) ⁵⁴	Graphic detailing the ‘life cycle’ of biomethane from agriculture/food waste sources, to ‘carbon neutral biomethane (when burnt)’ to ‘reduced CO2 emissions’ (Annexure B)
Media release (AGN) ⁵⁵	<i>‘Carbon neutral biomethane and hydrogen on MasterChef Australia, shows that we can keep cooking the way we know and love with fewer emissions than natural gas.’</i>
Website (MasterChef) ⁵⁶	<i>‘Renewable gas can be used in the same way as natural gas but has lower carbon emissions when used.’</i>
Website (FAQ) ⁵⁷	Renewable gas is a <i>‘low carbon solution.’</i>
Incorporating renewable gas into Australia’s existing gas distribution networks is low-cost and feasible	
Website (FAQ) ⁵⁸	<i>‘AGIG’s aim is to have net-zero carbon emissions and 100% renewable gas across the entire network by 2050.’</i>
Website (‘What About Me?’) ⁵⁹	<i>‘For renewable gas blends of up to 20% renewable hydrogen by volume, everything will just work too. No new appliances. No upgrade to your connection. We’re doing all the heavy lifting to get it to your doorstep.’</i>

⁵² <https://renewable-gas.com.au/>

⁵³ <https://renewable-gas.com.au/faq>

⁵⁴ <https://renewable-gas.com.au/what-is-renewable-gas>

⁵⁵ <https://www.australiangasnetworks.com.au/our-business/about-us/media-releases/masterchef-australia-goes-gas-tronomic>

⁵⁶ <https://renewable-gas.com.au/masterchef-australia-cooking-with-renewable-gas>

⁵⁷ <https://renewable-gas.com.au/faq>

⁵⁸ <https://renewable-gas.com.au/faq>

⁵⁹ <https://renewable-gas.com.au/what-about-me>

	Accompanied by an image of a young woman reading beside a gas fireplace (See Annexure B)
Website (homepage) ⁶⁰	<i>'Australia needs many solutions to supply sustainable energy to homes and businesses into the future – so say hello to renewable gas! Like any great recipe, <u>it's all about what's in the mix</u>. Put simply, renewable gas is usually derived from waste (biomethane) or water (hydrogen). Renewable gas can be <u>blended into our existing gas supply over time</u>. So, <u>whether it's a dash, dollop, or the hero ingredient</u>, gas is changing for good.'</i>
Website (FAQ - 'why biomethane?') ⁶¹	<i>"Biomethane is essentially <u>interchangeable</u> with natural gas and can be used in existing gas networks and appliances without modification... There is significant opportunity to upgrade biogas into biomethane and <u>supply it to households and businesses via existing gas distribution networks</u>, making it easy for customers to reduce their carbon emissions without changes to infrastructure or appliances.'</i>
Website (FAQ - 'why renewable hydrogen?') ⁶²	<i>'Hydrogen ...can also be delivered to homes and businesses through existing gas networks at <u>minor incremental cost</u>, so there's no need to buy or build expensive new infrastructure.'</i>
Media Release (AGN) ⁶³	The MasterChef partnership is <i>'a practical demonstration of a low carbon solution that can be <u>delivered by existing gas networks</u> to support Australia's transition to net zero.'</i>
Renewable gas has a long-term future in Australia's energy network	
Media release (AGN) ⁶⁴	<i>'This is an incredible two-year partnership with AGN that has created a first-of-its-kind kitchen in Australia that we know will lead the way for new homes and commercial kitchens across the country.'</i>
Renewable gas is safe for use	
Website (FAQ - 'Why renewable hydrogen?') ⁶⁵	<i>'Hydrogen is colourless, nontoxic and is an excellent carrier of energy'³⁰</i>

⁶⁰ <https://renewable-gas.com.au/>

⁶¹ <https://renewable-gas.com.au/faq>

⁶² <https://renewable-gas.com.au/faq>

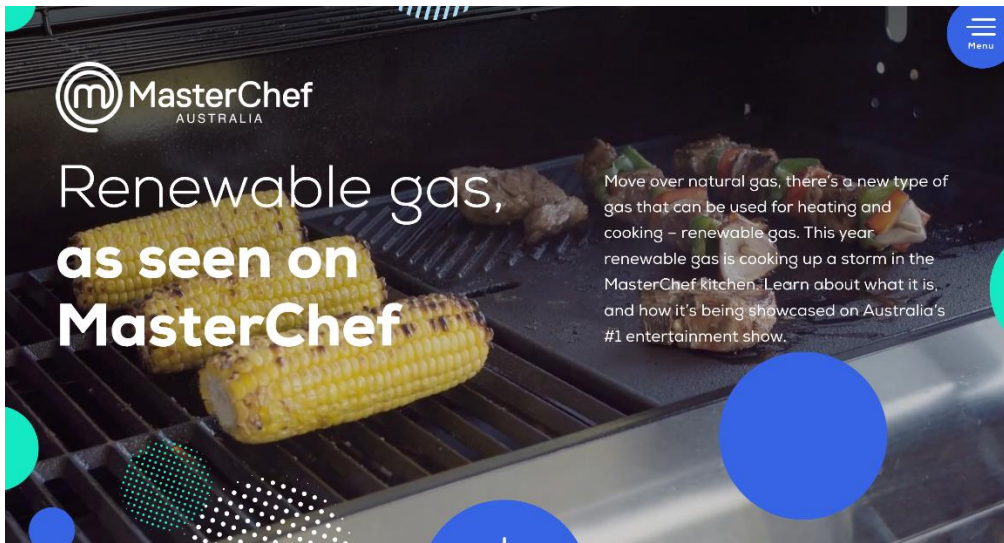
⁶³ <https://www.australiangasnetworks.com.au/our-business/about-us/media-releases/masterchef-australia-goes-gas-tronomic>

⁶⁴ <https://www.australiangasnetworks.com.au/our-business/about-us/media-releases/masterchef-australia-goes-gas-tronomic>

⁶⁵ <https://renewable-gas.com.au/faq>

Website ('What about me?')	<p><i>'We have been safely delivering natural gas for decades and are continuing the trend with renewable gases. Safety is our top priority, we have done our research, and we have already delivered blends of renewable gas to the community.'</i></p> <p>Accompanied by image of a man and a young boy cooking (See Annexure B).</p>
Image on Website (FAQ)	Image of a woman and a small child smiling (See Annexure B)
Image on Website ('What is Renewable Gas?')	Image of two young women and a dog, sitting and smiling in front of a gas fireplace (See Annexure B)
Image on Website ('What about me?')	Image of an older woman holding a smiling baby (See Annexure B)

Annexure B




m MasterChef AUSTRALIA

Renewable gas, as seen on MasterChef


Move over natural gas, there's a new type of gas that can be used for heating and cooking – renewable gas. This year renewable gas is cooking up a storm in the MasterChef kitchen. Learn about what it is, and how it's being showcased on Australia's #1 entertainment show.

Menu



What is renewable gas?

Menu



Frequently asked questions

Menu

You don't need to do anything.

That's right – nothing! Biomethane is directly interchangeable with natural gas. Your current gas appliances will continue to work as reliably as they do today.

For renewable gas blends of up to 20% renewable hydrogen by volume, everything will just work too. No new appliances. No upgrade to your connection. We're doing all the heavy lifting to get it to your doorstep.

Once the blend of hydrogen goes over 20% some changes to appliances may be required. Appliances manufacturers are already working on making appliances 'hydrogen ready' so the changeover process should be manageable. Go to our [FAQ](#) page to find more information about what renewable gas means for appliances.

The ultimate mix of renewable gases supplied to your region, and the timing of the supply will vary depending on state and territory you are located in, the natural resources in that area, the size of your network and the Government policy facilitating



Menu



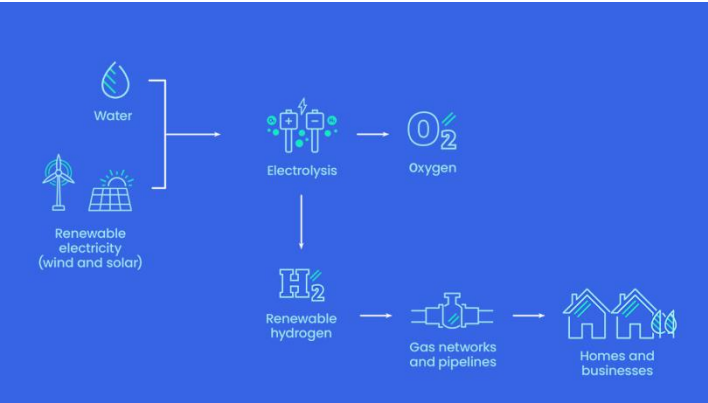
What about costs?

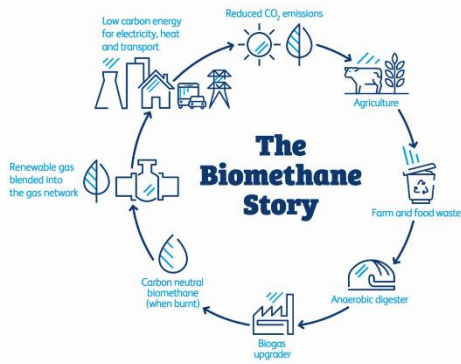
Renewable gas currently costs more to produce than natural gas. We are conscious of making renewable energy as affordable as possible to all Australians, and are working with Governments and business to increase scale and production, develop supply chains and improve technology to decrease the cost of renewable gas. This is similar to other technologies such as renewable electricity and solar panels.

Where can I buy renewable gas?

Renewable gas is not available for direct purchase by consumers in the retail market.

Gas distributors are working to introduce a mix of renewable gas into the network in different areas around Australia with a view to increasing the percentage blend overtime.





It's safe

We have been safely delivering natural gas for decades and are continuing the trend with renewable gases. Safety is our top priority, we have done our research, and we have already delivered blends of renewable gas to the community.

We're also not doing this alone – we're learning from [projects around the world](#). Similar international projects have shown that appliances work safely and reliably at blends of up to 20% hydrogen.



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