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Economic Regulation Authority  
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### **Draft review report: Gas Marketing Code of Conduct – 2024 Review**

Alinta Sales Pty Ltd (**Alinta Energy**) is pleased to provide comment on the Draft Review Report prepared by the Gas Marketing Code Consultative Committee (**GMCCC**) to assist with the 2024 review of the *Gas Marketing Code of Conduct 2022* (**Gas Marketing Code**).

We agree with the GMCCC's approach of seeking to align the Gas Marketing Code, where possible, with the *Code of Conduct for the Supply of Electricity to Small Use Customers 2022* (**Electricity Code**). As noted in previous submissions to the ERA, we would support the eventual development of a single energy code for both gas and electricity, enabling energy retailers to streamline processes and ultimately provide better outcomes for customers.

We have the following comments on the three recommendations in the Draft Review Report.

#### **Recommendation 1**

We support the minor amendments proposed in Appendix 1 of the Draft Review Report to align the Gas Marketing Code with the Electricity Code (including the proposed changes to the definitions in clause 3 which aren't specifically referenced in Recommendation 1).

#### **Recommendation 2**

We support the consolidation of clause 8, where practical, to provide consistent marketing identification requirements for marketing by phone and in person.

#### **Recommendation 3**

This recommendation proposes a new subclause that would require retailers and marketing agents to 'provide the basis for any claims of efficiency or lower emissions' when making comparative claims to consumers about gas and electricity. Its introduction is described as 'building on the principles-based approach of the ACL regarding misleading and deceptive conduct'.

The ACL captures false and misleading representations in Section 29:

##### **29 False or misleading representations about goods or services**

(1) 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:

- (a) make a false or misleading representation that goods are of a particular standard, quality, value, grade, composition, style or model or have had a particular history or particular previous use; or

Whilst we fully support legislation that works to eliminate misleading and deceptive conduct, it is important that any new clause in the Gas Marketing Code does not duplicate obligations under the ACL. Doing so may, in the event of an alleged non-compliance, cause confusion

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regarding the respective roles of the ERA and the ACCC, which administers and enforces the ACL jointly with state and territory consumer protection agencies. We note that, for this very reason, previous reviews of the Gas Marketing Code have seen the removal of clauses considered to duplicate the ACL.

We agree with the Expert Consumer Panel's view that it is important for consumers to have the right contextual information regarding claims about the efficiency of gas and note the obligations in the *Compendium of Gas Customer Licence Obligations (Compendium)* for retailers to provide information about energy efficiency, including the typical running costs of gas appliances. However, beyond providing very high-level information to customers as required in the Compendium, it is very unlikely that retailers would market the sale of gas to customers using comparisons between gas and electrical appliances.

Alinta Energy would welcome the opportunity to discuss this submission further with the ERA.

Yours sincerely

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