

**COMPLAINT SUBMITTED TO THE UK OECD NATIONAL CONTACT POINT
UNDER THE OECD GUIDELINES FOR MULTINATIONAL COMPANIES IN
RELATION TO STATEMENTS MADE BY DRAX GROUP PLC**

21 October 2021

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Filed by The Lifescape Project, The Partnership for Policy Integrity, RSPB,
Biofuelwatch, Conservation North and Save Estonia's Forests

the
Lifescape
project

 **PFPI**
driven by data



giving
nature
a home



**CONSERVATION
NORTH**



**SAVE
ESTONIA'S
FORESTS**

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1. EXECUTIVE SUMMARY

Burning woody biomass for heat and power has increased significantly in the UK in recent years because it is treated as a source of renewable energy, attracting generous renewable energy subsidies. However, while renewable energy is generally promoted as a way of reducing greenhouse gas emissions, burning woody biomass for energy generally emits more CO₂ per megawatt-hour of energy generated than burning fossil fuels.¹ Despite this fact, woody biomass is widely eligible for renewable energy subsidies alongside other renewable energy technologies such as wind and solar.

Drax, a UK power generator, has benefited significantly from this trend: since 2012 its power station in Selby has been converted from burning coal to burning wood pellets with the assistance of over £4.16 billion of public subsidies. Drax receives around £2 million per day in subsidies for burning biomass.² The majority of the wood pellet fuel that Drax burns is sourced from the USA, Canada, and Eastern Europe where Drax itself owns pellet-manufacturing operations. The wood pellets are manufactured from a combination of feedstocks, but mostly roundwood (i.e. stemwood of trees including thinnings) and mill residues. The pellet industry in North America has been extremely controversial because of the climate and biodiversity impacts of harvesting and burning forests for fuel.

Although there is no scientific controversy that CO₂ from burning wood warms the atmosphere just as effectively as CO₂ from burning fossil fuels, Drax's marketing and public statements continuously portray its energy as carbon neutral and suggest that with the assistance of carbon capture and storage technology, it will produce negative emissions by 2030. One of its prominent claims at the moment is that it has reduced its carbon emissions by over 90% since converting to burning woody biomass.

The reality, however, is that rather than being a carbon neutral energy generator, Drax is now the UK's largest single source of CO₂ emissions and the EU's third largest CO₂ emitter.³

Complaint to the OECD

This document is a formal complaint about Drax's public statements to the Organisation for Economic Co-operation and Development (OECD) under its Guidelines for Multinational Enterprises, which set standards for global responsible business conduct. The guidelines relevant to the complaint require that businesses provide the public with measurable and verifiable information on environmental impacts of the enterprise, including on greenhouse gas emissions and biodiversity; provide accurate information that allows consumers to compare products and make informed decisions; and to refrain from misleading and fraudulent claims. The OECD refers to other international and national-level codes to support its interpretation of the Guidelines, some of which are particularly relevant to this complaint. For example, under the UK's Competition and Markets Authority's guidance, where businesses make claims regarding their carbon neutrality, they must

¹ Booth, M.S. (2014) *Trees, Trash and Toxics: How Biomass Energy has Become the New Coal*. Pelham, Massachusetts, Partnership for Policy Integrity. Available at: <https://www.pfpi.net/wp-content/uploads/2014/04/PFPI-Biomass-is-the-New-Coal-April-2-2014.pdf>. At pp.16-18 [C/1/1]; Brack (2017) *Woody Biomass for Power and Heat: Impacts on the Global Climate*. Available at: <https://www.chathamhouse.org/sites/default/files/publications/research/2017-02-23-woody-biomass-global-climate-brack-final2.pdf> (the "2017 Chatham House report"). At p.2 [C/2/82].

² MacDonald, P. and Moore, C (2020) *The Burning Question. Should the UK end tax breaks on burning wood for Power?*. Ember. Available at: <https://ember-climate.org/project/the-burning-question/#:~:text=Should%20the%20UK%20end%20tax,at%20Drax%20power%20station%20alone> (the "2020 Ember report"). See estimated subsidies figures for Drax for 2020-2027 at p.9. These subsidies amount to approximately £2 million per day [C/3/154].

³ Harrison, T. (2021) *UK biomass emits more CO2 than coal*. 8 October 2021. Available at: <https://ember-climate.org/commentary/2021/10/08/uk-biomass-emits-more-co2-than-coal/> (the "2021 Ember report") [C/5/176].

make it clear if this is the case due to carbon offsetting, such as via CO₂ compensation schemes, and provide information about such schemes.⁴

The Complainants are a group of non-governmental organisations that are concerned with climate and forests: The Lifescape Project, the Partnership for Policy Integrity (PFPI), the Royal Society for the Preservation of Birds (RSPB), Conservation North, Save Estonia's Forests and Biofuelwatch. The purpose of the complaint is to explain and provide evidence for why Drax's public statements about the climate and environmental impacts of its business are untrue and misleading, and to demonstrate that they breach the OECD Guidelines.

The Complainants have identified five misleading claims that repeatedly appear in Drax's public statements. Broadly, these claims fall into the following categories:

Claim 1: Woody biomass energy is already effectively a carbon neutral energy generation technology.

e.g. *"Biomass is used to generate carbon neutral electricity"* [Diagram on Drax's website, titled *"How BECCS removes carbon from the atmosphere"*]

Such statements are misleading because Drax is in fact the UK's largest single source of CO₂ emissions and it is widely recognised that burning woody biomass is not "carbon neutral", meaning that emissions are offset so that the net impact on the atmosphere is zero. In making this claim, Drax ignores the biogenic CO₂ emissions (the "stack emissions") which are instantaneously released when woody biomass is burnt for energy as well as important upstream biogenic CO₂ emissions. Drax relies on a number of contradictory rationales to justify why these emissions are excluded, relying on these arguments interchangeably, an approach which is itself counter-intuitive, misleading, and which undermines each of the arguments.

For instance, Drax claims that *"The biogenic carbon emissions resulting from generation are counted as zero in official reporting to both UK authorities and under the European Union Emissions Trading System (EU ETS) as the use of sustainable biomass is considered to be CO₂ neutral at the point of combustion. This methodology originates from the United Nations Framework Convention on Climate Change."*⁵

International rules governing how countries report greenhouse gas emissions under the United Nations Framework Convention on Climate Change (UNFCCC) do indeed count carbon loss from forest harvesting in the "land sector." To avoid double-counting of this carbon loss, emissions from burning woody biomass are counted as zero in the energy sector. However, the Intergovernmental Panel on Climate Change (IPCC), which developed the reporting rules, has explicitly warned that *"the approach of not including these [bioenergy] emissions in the Energy Sector total **should not be interpreted as a conclusion about the sustainability or carbon neutrality of bioenergy.**"*⁶

⁴ Competition and Markets Authority (2021) *CMA Guidance on Environmental Claims on goods and services*. 20 September 2021. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1018820/Guidance_for_businesses_on_making_environmental_claims.pdf (the "CMA Guidance"). At paragraph 3.72: "where a business makes important claims about things like net zero or carbon neutrality targets ... they should include accurate information about whether (and the degree to which) they are actively reducing the carbon emissions created in the production of their products or delivery of their services or are offsetting emissions with carbon removal." [A/1/1]

⁵ Drax Group Plc (undated) *Carbon emissions* (available at: <https://www.drax.com/sustainability/carbon-emissions/>) ("Drax website: carbon emissions") [B/1/1].

⁶ IPCC (2021) *Frequently Asked Questions*. Available at: <https://www.ipcc-nggip.iges.or.jp/faq/FAQ.pdf> ("IPCC Frequently Asked Questions"). At Q2-10: "According to the IPCC Guidelines CO₂ Emissions from the combustion of biomass are reported as zero in the Energy sector. Do the IPCC Guidelines consider biomass used for energy to be carbon neutral?" [C/6/185].

Thus while counting bioenergy emissions in the land sector is appropriate for country-level carbon balance sheets, it does not justify Drax making any public representations that woody biomass energy is carbon neutral or that its biogenic emissions should in some way be disregarded. Drax's representation of the carbon reporting convention as affirming biomass carbon neutrality is misleading.

Drax separately suggests that its woody biomass energy is carbon neutral because the biogenic CO₂ emissions will be sequestered by tree regrowth, and / or that emissions are simply releasing CO₂ which had only relatively recently been sequestered by the trees which are manufactured into wood pellets. These claims themselves contradict each other. A key issue is one of timing: burning wood pellets emits carbon instantaneously, but regrowing forests to sequester equivalent CO₂ takes decades. Accordingly, a variety of peer-reviewed studies have found that burning wood actually increases cumulative net emissions compared to fossil fuels for decades to centuries.⁷ By their use of the present tense, many of the statements issued by Drax suggest that such sequestration occurs instantaneously.

Claim 2: Woody biomass energy has resulted in Drax reducing its carbon emissions by 90% compared to when it burnt coal for energy.

e.g. "Drax cuts emissions by over 90% to become one of Europe's lowest carbon power generators" [Drax website home banner, 12 October 2021]

When Drax claims it has reduced its emissions, it is basing this on counting fossil fuel CO₂ emissions from wood pellet manufacturing and transport, but not including CO₂ emissions from burning the wood pellets or from wood burned during the pellet manufacturing process. Drax does not disclose that it is excluding these emissions when it makes such claims. Accordingly, the average consumer who is not familiar with how Drax counts CO₂ emissions is likely to understand that the reduction reflects a like for like comparison with coal, and burning wood literally emits 90% less CO₂ than burning coal (when in reality it emits more CO₂ per megawatt-hour of electricity). Such claims are therefore misleading and in breach of the OECD Guidelines.

⁷ See, e.g., Laganière, J., et al. (2017) *Range and uncertainties in estimating delays in greenhouse gas mitigation potential of forest bioenergy sourced from Canadian forests*. *Global Change Biology Bioenergy* 9(2): 358-369. Available at: <https://onlinelibrary.wiley.com/doi/epdf/10.1111/gcbb.12327> [C/7/204]. See also Natural Resources Canada (undated) *Bioenergy GHG calculator*, a calculator for woody biomass energy emissions based on Laganière et al (2017). Available at: <https://apps-scf-cfs.rncan.gc.ca/calc/en/bioenergy-calculator> [C/8]; Buchholz, T., et al. (2021). *When Biomass Electricity Demand Prompts Thinnings in Southern US Pine Plantations: A Forest Sector Greenhouse Gas Emissions Case Study*. *Frontiers in Forests and Global Change* 4(42). Available at <https://www.frontiersin.org/articles/10.3389/ffgc.2021.642569/full> [C/9/216]; Walker, T., et al. (2013) *Carbon Accounting for Woody Biomass from Massachusetts (USA) Managed Forests: A Framework for Determining the Temporal Impacts of Wood Biomass Energy on Atmospheric Greenhouse Gas Levels*. *Journal of Sustainable Forestry* 32(1-2): 130-158. Available at: https://www.researchgate.net/publication/241746647_Carbon_Accounting_for_Woody_Biomass_from_Massachusetts_USA_Managed_Forests_A_Framework_for_Determining_the_Temporal_Impacts_of_Wood_Biomass_Energy_on_Atmospheric_Greenhouse_Gas_Levels [C/10/230]; Colnes, A. et al. 2012. *Biomass supply and carbon accounting for Southeastern Forests*. Biomass Energy Resource Center, Montpelier, VT. Available at: <https://www.southernenvironment.org/wp-content/uploads/legacy/publications/biomass-carbon-study-FINAL.pdf> [C/11/262]; Mitchell, S. et al. 2012. *Carbon debt and carbon sequestration parity in forest bioenergy production*. *GCB Bioenergy*. Available at: <https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1757-1707.2012.01173.x> [C/12/394].

Claim 3: Using bioenergy with carbon capture and storage (“BECCS”) technology, Drax can become “carbon negative” by 2030.

e.g. *“By 2030 Drax could be delivering millions of tonnes of negative emissions and leading the world in providing a critical technology needed to tackle the climate crisis”* [York Press, 29 July 2021, Drax CEO Will Gardiner]

Biomass combined with carbon capture and storage (BECCS) stores CO₂ emitted at the smokestack in geological formations. The idea is that a carbon neutral process becomes carbon negative if emissions are prevented from entering the atmosphere so that the offsetting action of feedstock regrowth now serves to achieve a net removal of CO₂ from the atmosphere. Thus, to produce “negative emissions”, more CO₂ must be captured by regrowing fuel in a timely way (in this case trees) than is released from the entire fuel supply chain and combustion.

Drax’s statements in relation to BECCS and its ability to produce negative emissions rely on the underlying premise that woody biomass energy is carbon neutral, but for reasons explained above, this claim is itself flawed and misleading.

Separately, Drax claims that it will have operational commercial-scale BECCS units by 2027 and 2030. In reality, significant practical hurdles to implementing BECCS potentially make this timeframe unrealistic and misleading.

Claim 4: Drax accounts for all supply chain emissions of woody biomass energy

e.g. *“we...collect fuel and energy data for each step in the supply chain, enabling us to calculate lifecycle GHG emissions for our biomass”* [Drax 2020 Annual Report, p.53]

These statements suggest to the reader that all greenhouse gases emitted during the production of woody biomass energy are included in Drax’s lifecycle emissions. This is misleading because Drax does not include sources of biogenic CO₂ emitted during pellet manufacturing, including soil carbon loss during forest harvesting, CO₂ emitted from roots and forestry residues left on-site after harvesting, and CO₂ emitted from burning wood during pellet manufacturing (especially for pellet drying).

Claim 5: Whole trees are not felled to produce wood pellets burnt by Drax and Drax’s woody biomass energy does not damage forests.

e.g. *“... Drax does not burn whole trees or trees harvested solely for bioenergy. Our sustainable biomass pellets are produced from the material leftover from when forests are harvested for other sectors, such as construction and furniture”* [Energy Live News, 2 July 2021, Drax spokesperson]

“The sustainable biomass we use does not cause deforestation – quite the opposite. Sustainable demand for wood products leads to bigger forests, better growth and larger inventories of trees” [Letter to the Sunday Times, 29 September 2019, Drax CEO Will Gardiner]

These statements by Drax are misleading because there is clear factual evidence arising from NGO investigations that whole trees are in fact utilised at Drax’s own pellet plants and by pellet manufacturers supplying Drax.

Drax is generally correct that its activities do not lead to “deforestation,” since the technical definition of this term is conversion of forests to another land use category, such as agriculture. However, the average reader of these statements will not be aware of this technical definition. If readers were shown a picture of clearcut forests where all or a substantial majority of the trees go to pellet manufacture, they would likely consider such activity to constitute deforestation.

Consumers would also likely understand from Drax’s statements that Drax’s woody biomass energy does not harm forest habitats and ecosystems. However, the available factual evidence demonstrates that intensive forest harvesting for wood pellets, including clear cutting, destroys forest ecosystems. Drax’s statements are therefore misleading and in breach of the OECD Guidelines.

Conclusion and the Complainants' Requests

Each of these claims mislead consumers and accordingly are in breach of the OECD Guidelines.

To remedy these breaches of the OECD Guidelines, the Complaints are requesting that Drax engage in an OECD-supported mediation and will:

- Withdraw and/or correct each of the Relevant Statements described in this Complaint in a manner agreed with the Complainants and cease to rely on equivalent or similarly misleading statements in the future;
- Make a public statement, to be agreed with the Complainants, which draws attention to these corrections and provides a full explanation of the reasons for them; and
- Make a public commitment to ensure that its future communications about the carbon, biodiversity and wider environmental impacts of its woody biomass energy are consistent with the OECD Guidelines.

PART 1: INTRODUCTORY AND BACKGROUND ANALYSIS

2. INTRODUCTION

The Complaint

- 2.1 This Complaint is brought to the UK OECD National Contact Point (the "**NCP**") by the Lifescape Project ("**Lifescape**"), the Partnership for Policy Integrity ("**PFPI**"), the Royal Society for the Protection of Birds (the "**RSPB**"), Conservation North, Save Estonia's Forests and Biofuelwatch (together, the "**Complainants**"), as further described in section 3 below.
- 2.2 The Complaint is brought against Drax Group plc ("**Drax**") in relation to certain public statements, advertising and communications regarding the woody biomass energy produced at its power plant in North Yorkshire, which the Complainants contend are misleading consumers and policymakers.
- 2.3 The OECD Guidelines exist to ensure clear, honest, accurate and informative communication between enterprises and the public, including in relation to the impact of an enterprise's activities on the environment. Such clarity and accuracy are vital in furthering the OECD Guidelines' purpose of promoting sustainable development. The Complainants wish to support the OECD in achieving this objective and are filing this Complaint to draw attention to statements issued by Drax which run counter to the Guidelines' objective. The Complainants hope that an OECD-facilitated mediation with Drax will prove productive.
- 2.4 The Complainants have identified five claims that Drax repeatedly makes in public statements which the Complaints submit are misleading and in breach of the OECD Guidelines for Multinational Enterprises (the "**OECD Guidelines**") on the Environment (Chapter VI, paragraphs 2(a) and 6(c)) and Consumer Interests (Chapter VIII paragraphs 2, 4 and 5) (the "**Relevant OECD Guidelines**").⁸ These claims are analysed in detail in Part 2 of this Complaint where multiple examples of statements made by Drax are identified (the "**Relevant Statements**").

Woody biomass energy

- 2.5 Biomass energy is energy produced from burning biological materials, usually from plants.⁹ Several sources of biomass are used for energy, including woody biomass which is biomass sourced from a variety of wood sources. These sources include residues from industry (such as sawdust from sawmills); residues from agriculture and arboriculture; forestry residues (branches and tops left over from forestry); and roundwood (which, as explained in section 13 below, may include wood from trees specifically cut down to be burned for energy).¹⁰ Wood may be burned as logs, chips, or it may be pulverised and manufactured into dried wood pellets. Drax burns wood pellets, the majority of which are transported from the USA, Canada and Eastern Europe.

Drax: who they are and what they do

- 2.6 Section 3 of this Complaint provides details about Drax and its international operations.

⁸ OECD (2011) *Guidelines for Multinational Enterprises*, OECD Publishing. Available at: <https://www.oecd.org/daf/inv/mne/48004323.pdf> (the "**OECD Guidelines**") [A/2/42].

⁹ The 2020 Ember report. At p.6 [C/3/154].

¹⁰ See e.g. Drax Group Plc (2021) *Annual Report and Accounts 2020* ("**Drax Annual Report and Accounts 2020**"). At p.54, referring to wood sources including sawmill and wood industry residues, branches and tops, thinnings, low-grade roundwood, arboricultural residues and agricultural residues. Available at: https://www.drax.com/wp-content/uploads/2021/03/Drax_AR2020.pdf [B/2/5]. See also PFPI and Dogwood Alliance (2016) *Carbon Emissions and Climate Change Disclosure by the Wood Pellet Industry- A Report to the SEC on Enviva Partners LP*. Available at: <https://www.pfpi.net/wp-content/uploads/2016/03/Report-to-SEC-on-Enviva-March-14-2016.pdf> (the "**2016 PFPI and Dogwood Alliance report**") [C/15/441]. This report found evidence that Enviva, one of Drax's US suppliers, uses whole trees to make its pellets and notes that the category 'low-grade wood' used by the wood biomass industry can represent whole trees.

- 2.7 Drax owns a power station in Selby, North Yorkshire which since 2012 has gradually converted from burning coal to burning wood pellets. The Drax Group also includes wood pellet production and supply businesses in the USA and Canada.
- 2.8 Drax portrays itself as part of the climate solution and, through the misleading statements examined in this Complaint, potentially leads the public to see Drax as an environmentally friendly and "green" company. For example, Drax has stated that by burning woody biomass for energy, it enables a "zero-carbon, lower-cost energy future"¹¹, "[s]upporting the nation's energy needs, tackling climate change and promoting the UK's socio-economic growth and global leadership ambition through negative emissions".¹²
- 2.9 Drax refers to itself as "the UK's largest single source of renewable electricity by output"¹³ and the "largest decarbonization project in Europe",¹⁴ with intentions of becoming "the world's first carbon negative company".¹⁵ Drax has publicly stated its target to become a carbon negative company by 2030.¹⁶ As explained further in part 2 below, such portrayals are misleading as Drax's activities are highly damaging to the climate and wider environment.
- 2.10 The misleading nature of Drax's statements on woody biomass is starting to be understood by the financial sector, with Drax being dropped by the S&P Global Clean Energy Index in October 2021.¹⁷

The Climate Crisis and its relevance to policy and consumer decision-making

- 2.11 This Complaint must be considered in the wider context of the climate and biodiversity crises the world is facing. The Complainants refer in particular to the Intergovernmental Panel on Climate Change (the "IPCC") reports including "AR6 Climate Change 2021: The Physical Science Basis",¹⁸ which warns that global warming must be limited to 1.5°C to prevent catastrophic climate change. Significant reductions in emissions are needed urgently: the IPCC's Special Report on Global Warming of 1.5°C states that to achieve the 1.5°C target, global emissions will need to decline by around 45% from 2010 levels by 2030, and reach net zero around 2050.¹⁹ On a global basis, governments (including the UK) have agreed plans to tackle these issues in the 2015 Paris Agreement, with national governments setting increasingly ambitious climate targets to try to reach their obligations under that Agreement. In the UK, this is manifested in the 2019 amendments to the Climate Change Act, which commit the UK to being "net zero" by 2050, and a commitment under the Paris Agreement framework to reduce emissions by 68% compared to the 1990 level by 2030. –

¹¹ Drax Group Plc (2019) *How is Drax helping the UK reach its climate goals CEO Will Gardiner answers 1*. Available on Youtube. Available at: <https://www.youtube.com/watch?v=NmuYr8hI-v4> [B/3]; Drax Annual Report and Accounts 2020. On the page preceding page 1 [B/2/5].

¹² Drax Annual Report and Accounts 2020. At p.2 [B/2/5].

¹³ Drax Annual Report and Accounts 2020. At p.4 [B/2/5].

¹⁴ Drax Group Plc (2019) *Climate change is the biggest challenge of our time*. Available on Youtube at: <https://www.youtube.com/watch?v=ukVbSKDjHK4> (Drax Youtube 2019) [B/4].

¹⁵ Drax Group Plc (2019) *Drax sets world-first ambition to become carbon negative by 2030*. 10 December 2019. Available at: https://www.drax.com/press_release/drax-sets-world-first-ambition-to-become-carbon-negative-by-2030/ ("Drax website December 2019") [B/5/17].

¹⁶ Drax Annual Report and Accounts 2020, page preceding p.1 [B/2/5].

¹⁷ Ambrose, J. (2021) *Drax dropped from index of green energy firms amid biomass doubts*. The Guardian. 19 October 2021 (the "October 2021 Guardian article"). Available at: <https://www.theguardian.com/business/2021/oct/19/drax-dropped-from-index-of-green-energy-firms-amid-biomass-doubts> [B/16/482].

¹⁸ IPCC (2021) 'Summary for Policymakers'. In Masson-Delmotte, V. et al (eds.) *Climate Change 2021. The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*. Cambridge University Press. Available at: https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf ("IPCC 2021 Summary for Policymakers"). At pp.20, 22, -25, 29, 33 [C/13/404].

¹⁹ IPCC (2018) 'Summary for Policymakers' In Masson-Delmotte et al (eds.) *Global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty*. Available at: https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf ("IPCC 2018 Summary for Policymakers"). At paragraph C.1 [C/14/417].

At the end of October 2021, governments are set to meet to agree on further action towards climate goals at COP26 in Glasgow.

- 2.12 Research has shown that a significant number of UK consumers are environmentally conscious in their purchasing decisions and take into account factors such as the greenhouse gas ("GHG") footprint of products and services they purchase.²⁰ More generally, individuals are now more likely to consider how they can reduce their own carbon footprint, including by switching their domestic energy suppliers to those using renewable energy. Consumers are therefore likely attuned to and influenced by statements about the carbon and biodiversity impacts of Drax's woody biomass energy.
- 2.13 As the Chapter VI, paragraph 2(a) of the OECD Guidelines recognises, companies must provide "*adequate, measurable and verifiable ... and timely information on the potential environment ... impacts of the activities of the enterprise*" and more generally, under Chapter VIII, paragraph 4, companies must "*not make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent or unfair*". This is particularly important in the current context in which consumers are increasingly aware of the environmental impact of their decisions and consumption habits.
- 2.14 This wider context must be considered as central to this Complaint which considers the misleading nature of Drax's statements about its climate and biodiversity impacts.

Structure of this Complaint

- 2.15 Following this introduction, this Complaint is split into 11 sections:

No.	Title	Summary
Part 1: Introductory and Background Analysis		
3.	Parties to the Complaint	Details of the Complainants and Drax are provided, along with an explanation of why the UK NCP is the relevant NCP to consider this Complaint.
4.	Woody biomass energy as a renewable energy: its legal and regulatory treatment	Explains the UK's legal and regulatory treatment of biomass energy; how the international carbon reporting rules assign zero emissions to biomass energy in the energy sector; and why neither of these frameworks undermine this Complaint.
5.	Which of the OECD Guidelines have been breached by the Relevant Statements?	Identifies the OECD Guidelines which the Complainants contend are breached by the Relevant Statements.
6.	Applicable External Codes to assist in interpretation of the OECD Guidelines	Identifies and analyses key themes arising from national and international legislation and codes of conduct which the Complainants submit are relevant to the NCP's interpretation of the OECD Guidelines.
Part 2: Misleading Statements by Drax		

²⁰ Mavrokefalidis, D. (2020) *Almost half of UK consumers seek more eco-friendly products*. Energy Live News. 23 February 2020. Available at: <https://www.energylivenews.com/2020/02/23/almost-half-of-uk-consumers-seek-more-eco-friendly-products/> [C/17/484]; Deloitte (2021) *Shifting sands: Are consumers still embracing sustainability? Changes and key findings in sustainability and consumer behaviour in 2021*. Available at: <https://www2.deloitte.com/uk/en/pages/consumer-business/articles/sustainable-consumer.html> [C/81/487].

7.	Introduction and Summary	<p>Identifies and introduces the Relevant Statements, grouped into five themes which are examined in the following sections.</p> <p>A table summarising each of the Claims and why it breaches the OECD Guidelines is at Appendix A of this Complaint.</p> <p>Details of the methodology followed to compile the Relevant Statements is at Appendix B.</p> <p>Appendix C sets out further examples of Relevant Statements.</p>
8.	Claim 1: Woody biomass energy is already effectively a carbon neutral energy generation technology	Identifies Relevant Statements falling within Claim 1 and examines why they breach the OECD Guidelines.
9.	Claim 2: Woody biomass energy has resulted in a carbon emissions drop of 90% compared to the use of fossil fuels	Identifies Relevant Statements falling within Claim 2 and examines why they breach the OECD Guidelines.
10.	Claim 3: Using bioenergy with carbon capture and storage (BECCS) technology, Drax can become "carbon negative" by 2030	Identifies Relevant Statements falling within Claim 3 and examines why they breach the OECD Guidelines.
11.	Claim 4: Drax accounts for all of the supply chain emissions of woody biomass	Identifies Relevant Statements falling within Claim 4 and examines why they breach the OECD Guidelines.
12.	Claim 5: Whole trees are not felled to produce wood pellets burnt by Drax and Drax's woody biomass energy does not damage forests	Identifies Relevant Statements falling within Claim 5 and examines why they breach the OECD Guidelines.
Part 3: Conclusion		
13.	Conclusion and the Complainants' Requests	Brings the Complainants' submissions together and sets out the Complainants' requests of the Company for consideration during the mediation process.

2.16 This Complaint is supported by three bundles of documents which include all documents referenced in footnotes. Bundle references are provided in bold text in the format **[Bundle/ Tab/page]**.

3. PARTIES TO THE COMPLAINT

Introduction and summary

- 3.1 This section of the Complaint provides details about (i) the Complainants and their interests in bringing this Complaint; (ii) Drax, its activities and its status as a "multi-national enterprise" to which the OECD Guidelines apply; and (iii) why the UK NCP is the relevant NCP to address this Complaint.

The Complainants

- 3.2 Lifescape is a UK registered charity which, amongst other activities, uses the law to achieve and support its vision of a world rich in wild landscapes. PFPI is an American Not for Profit organisation which works to promote policies that protect climate, ecosystems and people and is pursuing reform of international biomass energy policies. Together the two organisations comprise the Forest Litigation Collaborative, which uses legal mechanisms across international jurisdictions to promote restoration of forest ecosystems and their associated carbon sinks, with particular emphasis on countering the use of forest wood for renewable energy.
- 3.3 The RSPB is Europe's largest wildlife conservation charity with over one million members. It works domestically throughout the UK and internationally including through BirdLife. Tackling the nature and climate emergency is the foundation of the charity's strategy to 2030. The RSPB has worked on bioenergy for a number of years, analysing and understanding the risks to both nature and the climate of some forms of large-scale woody biomass energy and presenting these concerns to decision-makers. It has published reports on biomass energy, including "Dirtier than Coal" which examined the true lifecycle emissions of woody biomass energy relative to fossil fuels.
- 3.4 Biofuelwatch is a non-profit organisation based in the UK and USA. Biofuelwatch was founded in 2006 and provides information, advocacy and campaigning in relation to the climate, environmental, human rights and public health impacts of large-scale industrial bioenergy. The main focus of Biofuelwatch's work in the UK in recent years has been on wood burning in large power stations and on the subsidies facilitating this form of energy.
- 3.5 Save Estonia's Forests is an Estonian environmental NGO founded with the aim of fighting for forest policies that take into account the ecological, cultural, economic and social value of Estonian forests. Rising demand for forest biomass by the wood pellet industry has resulted in excessive logging of Estonia's forests, especially during the last 10 years. Logging is occurring even in Natura 2000 protected sites and national parks and clearcutting (which is very harmful to biodiversity) already constitutes 90% of all logging methods.
- 3.6 Conservation North is a nature advocacy group based in British Columbia, Canada which is dedicated to combating declining wildlife caused mainly by habitat loss and degradation. In British Columbia, industrial scale logging (meaning large-scale market-orientated logging using heavy machinery, with offtakes that exceed natural rates of tree mortality) is responsible for habitat loss and degradation over the last 70 years. Fourteen wood pellet plants operate within British Columbia and the growing demand for woody biomass is causing forest destruction in British Columbia's primary forests. Drax has recently purchased Pinnacle Renewable Energy Inc, the largest wood pellet manufacturer in Canada.
- 3.7 The misleading statements from Drax examined in this Complaint portray woody biomass energy as an environmentally friendly energy solution. Through their various activities, each of the Complainants are seeking to challenge and limit the growth in woody biomass energy because of the harm that it causes to the climate and to biodiversity. Together, the Complainants therefore have a legitimate interest in bringing the Complaint given its relevance to their respective activities and objectives.

- 3.8 The Complainants confirm that they are each aware that all the information they provide will be shared with Drax and they understand that the NCP's approach to resolving complaints will in the first instance be to facilitate conciliation or mediation between the Complainants and Drax.

The Company – Drax

Subsidiaries, supply chain and recent acquisitions

- 3.9 Drax is a multinational energy company incorporated in England and Wales (company number: 05562053). Drax's registered office is located at Drax Power Station, Selby, North Yorkshire, YO8 8PH.²¹
- 3.10 Drax operates a wide range of subsidiaries in the UK, USA and Canada, the activities of which are detailed in paragraphs 3.11 to 3.16 below.²²

Drax's activities

- 3.11 Drax currently operates three key businesses: energy generation ("**the generation business**"), supply of energy to business customers ("**the supply business**") and wood pellet production ("**the pellet production business**").²³
- 3.12 The generation business includes Drax's power station in Selby, North Yorkshire ("**Drax Power Station**") which it has operated since 1974 and is operated by Drax Power Limited.²⁴ Originally a coal-fired power station, Drax has, since 2012, converted four of its six coal-fired generation units at the site to run on wood pellets. Drax ended commercial coal generation at Drax Power Station in March 2021 and plans to formally close its coal units planned for September/October 2022,²⁵ although there are reports that this closure may be delayed.²⁶
- 3.13 Drax launched a biomass energy with carbon capture and storage ("**BECCS**") pilot project in October 2018 and aims to build two commercial-scale BECCS units as part of the Drax Power Station which it claims will become operational in 2027 and 2030, although Drax has yet to apply for or obtain formal planning approvals from the UK Planning Inspectorate.²⁷
- 3.14 Drax's pellet production business includes processing facilities in the USA and Canada. Drax Biomass Inc is headquartered in Louisiana and operates three manufacturing plants in the USA that convert wood fibre into compressed pellets.²⁸ Drax Canadian Holdings Inc acquired Pinnacle Renewable Energy Inc, a company with several pellet manufacturing facilities, in April 2021.²⁹

²¹ Drax Annual Report and Accounts 2020. At p.226 [B/2/5].

²² Drax Biomass Inc (undated) *About us* (Drax's US pellet manufacturing subsidiaries). Available at: <https://www.draxbiomass.com> ("**Drax Biomass Inc Website: About us**") [C/19/501]; Drax Group Plc (2021) *Drax completes acquisition of Pinnacle Renewable Energy Inc*. Available at: https://www.drax.com/press_release/drax-completes-acquisition-of-pinnacle-renewable-energy-inc/ ("**Drax website: completion of Pinnacle acquisition**") (Drax's recent acquisition of a Canadian wood pellet manufacturer) [C/20/505]. A list of subsidiaries of Drax (which was published before the Pinnacle Renewable Energy Inc acquisition completed) is provided in Drax Annual Report and Accounts 2020 at pp.231-232.

²³ Drax Group Plc (undated) *Our sites & businesses* ("**Drax website: our sites and businesses**"). Available at: <https://www.drax.com/about-us/our-businesses/#biomass-production> [C/21/513].

²⁴ Drax Group Plc (undated) *Our history*. Available at: <https://www.drax.com/about-us/our-history/> [C/22/517].

²⁵ Drax Group Plc (2020) *End of coal generation at Drax Power Station*. Available at: <https://www.drax.com/investors/end-of-coal-generation-at-drax-power-station/> [C/23/529].

²⁶ Bower, D. and Sheppard, D. (2021) *Drax could delay retirement of UK coal power plants if requested*. Financial Times. New York and London. 23 September 2021. Available at: <https://www.ft.com/content/c3fb3e96-713b-41da-8ab6-3b582940d97c> [C/24/534].

²⁷ Planning Inspectorate (undated) *Generating stations: Drax Bioenergy with Carbon Capture and Storage Project by Drax Power Limited*. Available at: <https://infrastructure.planninginspectorate.gov.uk/projects/yorkshire-and-the-humber/drax-bioenergy-with-carbon-capture-and-storage-project/> [C/25/536].

²⁸ Drax Biomass Inc Website: About us [C/26/538].

²⁹ Drax website: completion of Pinnacle acquisition [C/20/505].

- 3.15 Drax also sources wood pellets from external suppliers globally, including from the USA, Canada, Latvia, Portugal, Brazil, Belarus, Russia, Estonia and Lithuania.³⁰
- 3.16 The supply business is engaged in the supply of electricity or electricity and gas to business customers in the UK through two subsidiaries of Drax: Drax Energy Solutions Limited (trading as Drax) (formerly Haven Power) and Opus Energy.³¹ At least some of the electricity supplied by Drax Energy Solutions Limited and Opus Energy is provided by Drax Power Station.³²

Drax as a multinational enterprise

- 3.17 The OECD Guidelines provide a broad definition of "multinational enterprise." Chapter I, paragraph 4 states:

"A precise definition of multinational enterprises is not required for the purposes of the Guidelines. These enterprises operate in all sectors of the economy. They usually comprise companies or other entities established in more than one country and so linked that they may coordinate their operations in various ways. While one or more of these entities may be able to exercise a significant influence over the activities of others, their degree of autonomy within the enterprise may vary widely from one multinational enterprise to another. Ownership may be private, State or mixed. The Guidelines are addressed to all the entities within the multinational enterprise (parent companies and/or local entities)."

- 3.18 The OECD Guidelines are also intended to apply expansively: Chapter I paragraph 6 notes that governments "*wish to encourage the widest possible observance of the Guidelines*".
- 3.19 Accordingly, given its multinational presence and co-ordinated efforts between its subsidiaries, Drax is clearly a multinational enterprise and thus subject to the OECD Guidelines.

The UK NCP

- 3.20 The Commentary on the Procedural Guidance for NCPs in the OECD Guidelines states that "*Generally, issues will be dealt with by the NCP of the country in which the issues have arisen.*"³³
- 3.21 As stated above, Drax is incorporated in England and Wales.³⁴ Its board is responsible for the overall conduct of the Drax's business, including direction of long-term strategy relevant to the issues arising in this Complaint. Drax's woody biomass energy generation and supply businesses are also both based in England and Wales.³⁵ The issues complained of here therefore relate to misleading statements made by an England and Wales-registered company, about activity centred in the UK, and so have "arisen" in the UK, as per the Procedural Guidance.
- 3.22 The UK NCP is therefore the correct national contact point for this Complaint.

³⁰ Drax Annual Report and Accounts 2020. At p. 54 [B/2/5].

³¹ Drax website: our sites and businesses [C/21/513]; Drax (undated) *Drax*. Available at: [https://energy.drax.com/\[C/26/538\]](https://energy.drax.com/[C/26/538]); Opus Energy (undated) *Home*. Available at: [https://opusenergy.com \[C/27/543\]](https://opusenergy.com [C/27/543]).

³² Drax (2021) *Fuel Mix Disclosure*. Available at: <https://energy.drax.com/support/fuel-mix-disclosure/> (Drax is supplied by Drax Power Station) [C/28/548]; Opus Energy obtains Renewable Energy Guarantee of Origin certificates from Drax Power Station: extract from Ofgem Renewables and CHP Register search [C/29/552]. The Ofgem Renewables and CHP Register is available at <https://www.renewablesandchp.ofgem.gov.uk/Public/ReportViewer.aspx?ReportPath=/DatawarehouseReports/CertificatesExternalPublicDataWarehouse&ReportVisibility=1&ReportCategory=2>.

³³ The OECD Guidelines. At Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises, p.82, para.23 [A/2/42].

³⁴ Drax Annual Report and Accounts 2020. At p.226 [B/2/5].

³⁵ Drax Annual Report and Accounts 2020. At pp.231-232 [B/2/5].

4. DRAX AND CONSUMERS

Introduction

- 4.1 The Complainants rely on various paragraphs of Chapter VIII of the OECD Guidelines, which is titled "Consumer Interests."
- 4.2 This section of the Complaint explains why the "consumer" chapter of the OECD Guidelines is applicable notwithstanding the fact that Drax does not supply woody biomass energy directly to natural persons in the UK.
- 4.3 The OECD Guidelines do not include a definition of "consumer". The Complainants submit that the NCP should adopt the definition of "consumer" used in the CAP Code (see paragraph 7.3.1 below): *"a consumer is anyone who is likely to see a given marketing communication, whether in the course of business or not"*.³⁶
- 4.4 It is also worth emphasising the stated purpose of the OECD Guidelines as being *"to strengthen the basis of mutual confidence between enterprises and the societies in which they operate"*.³⁷ This Complaint relates directly to Drax's relationship with UK society more generally and the key messages it is portraying to consumers.

Drax's engagement with consumers

- 4.5 Although Drax does not have any direct contractual interaction with consumers, its energy feeds into the national grid and is ultimately consumed by individuals and businesses in the UK.
- 4.6 Far from being a discreet supply chain entity with no interest in engaging with or influencing UK consumers, Drax goes to considerable efforts to make itself and its energy-producing activities known within wider UK society. The intention of its engagement with consumers appears to be to build a picture of an environmentally friendly energy company that is apparently vital to the UK's net zero future. Drax portrays itself as being part of the solution to climate change³⁸ and it wants to spread this message far and wide within UK society.
- 4.7 Drax receives significant renewable energy subsidies for its woody biomass generation activities. These subsidies amounted to £4.163 billion for the period between 2012 and 2019 and are estimated to amount to approximately £5.834 billion between 2020 and 2027.³⁹ The current subsidy schemes for woody biomass energy will not be available to Drax from 2027 onwards meaning that it will need to rely on any new subsidies introduced by the government, for example for the development of BECCS. Public attitudes towards woody biomass energy and the publicly funded subsidies that support it are therefore highly relevant to Drax's business model.⁴⁰
- 4.8 Drax engages with UK consumers through a number of channels, including:

³⁶ Committee of Advertising Practice (2014) UK Code of non-Broadcast Advertising and Direct & Promotional Marketing. Edition 12 (the "CAP Code"). Available at: <https://www.asa.org.uk/uploads/assets/47eb51e7-028d-4509-ab3c0f4822c9a3c4/adf7ccc3-7f09-4fcd-9502a60ffb4a786/The-Cap-code.pdf>. At p.8, para III(b) [A/3/68].

³⁷ OECD Guidelines. At Preface, p.13, para 1 [A/2/42].

³⁸ Drax website: carbon emissions which states *"Tackling climate change is at the heart of our purpose and we are committed to helping the UK and the wider world to achieve its climate change targets."* [C/1/1]

³⁹ The 2020 Ember report. At p.9 [C/3/154].

⁴⁰ The importance of subsidies to Drax's business is acknowledged in Drax Annual Report and Accounts 2020, which sets out the following risk disclosure at p.72: *"Sustainability policy changes on the sourcing and use of biomass in the UK, EU or other countries in which we operate or from which we source biomass could be unworkable and make it difficult for us to comply with policy requirements or adversely affect our ability to claim subsidy in support of economic biomass generation. Changes in policy could increase costs, make it difficult to source biomass, or reduce the current support for the benefits of biomass."* [B/2/5]

- 4.8.1 **The press:** Drax employs a very active press office which seeks to engage journalists multiple times a week with its press releases. Between 1 January 2021 and the date of this Complaint alone, Drax issued 60 press releases.
- 4.8.2 Drax was mentioned in at least 315 articles in key UK broadsheet, tabloid and local print media in the 24 months to 15 October 2021.⁴¹ Such publications are read by and influence UK consumers.
- 4.8.3 That Drax is mentioned frequently in local press is illustrated by the appearance of a question about the year when Drax aims to be carbon negative in a Boxing Day quiz in the Yorkshire Post on 26 December 2020.⁴²
- 4.8.4 **Drax's website:** through the other channels referred to in this list, Drax encourages (sometimes actively and always implicitly) individuals to find out more about Drax and its woody biomass energy by visiting its website. That Drax anticipates uninformed, non-specialist audiences to visit its website is evidenced by the content and tone adopted. For example, the "Net Zero Energy" pages on the Drax website contains easy to read explanatory pages with titles such as "What is biomass?,"⁴³ "What is a biomass wood pellet?"⁴⁴ and "What are negative emissions?"⁴⁵. These pages use pictures, diagrams and short digestible chunks of text to communicate Drax's core messages on these topics. Inclusion of this type of summary guide on its website also means that these pages appear prominently in search engine results for information on biomass energy. For example, a google search conducted on 24 September 2021 for "what is biomass energy?" included the Drax webpage "What is biomass?" in the first page of results.
- 4.8.5 **Paid advertising:** Drax uses paid-for banner advertising in mainstream UK press and on websites visited by UK consumers. For example, earlier this year a Drax advertising banner appeared on the "Conservative Home" website which brands itself as "the home of conservatism" and provides news updates, blogs and comment on issues relevant to government and the Tories in the UK. It appears to be aimed at members of the Conservative Party rather than MPs. The following Drax advertising banner also appeared on the front page of the Sunday Times on 17 October 2021:



⁴¹ Media search run using Factiva across the following publications: Financial Times, The Times (U.K.), The Telegraph (U.K.), The Sun (U.K.), The Economist, The Guardian (U.K.), New Statesman, The Spectator, Evening Standard, The Daily Mirror (U.K.), Daily Mail (U.K.), The Sunday Times (U.K.), BBC, Yorkshire Post. The following search parameters were used: "DRAX" and ("energy" OR "power") NOT ("biggest movers" OR "jersey electricity" OR "henry drax" OR "tv tonight" OR "what to watch" OR "today's tv" OR "viewing guide" OR "colin farrell" OR "the week in the markets" or "the week ahead" OR "business briefing" OR "closing summary").

⁴² Snowdon, R. (2020) *The Blackfriar Quiz of 2020*. The Yorkshire Post. 26 December 2020. Available at: <https://www.yorkshirepost.co.uk/business/blackfriar-quiz-2020-3077478> [C/30/553].

⁴³ Drax Group Plc (2020) *What is biomass?*. Available at: <https://www.drax.com/sustainable-bioenergy/what-is-biomass/> [C/31/563].

⁴⁴ Drax Group Plc (2021) *What is a biomass wood pellet?*. Available at: <https://www.drax.com/sustainable-bioenergy/what-is-a-biomass-wood-pellet/> ("Drax website: what is a biomass wood pellet?") [C/6/22].

⁴⁵ Drax Group Plc (2020) *What are negative emissions?*. Available at: <https://www.drax.com/carbon-capture/what-are-negative-emissions/> [C/32/568].

4.8.6 **Paid for social media advertising:** Drax uses paid-for advertising on social media channels. For example, in August 2021, the following advertisement appeared on an individual’s Twitter feed, inviting the relevant individual to learn more about Drax by visiting its website:



4.8.7 When the individual user clicked on the “why am I seeing this” button, the following information was provided, evidencing that Drax is specifically targeting UK consumers in its advertising:

× Why this ad?



You might be seeing this ad because Drax wants to reach people who are located here: United Kingdom.

You can view and manage information connected to your account that Twitter might use for ads purposes. [View your Twitter data](#).

Twitter also personalizes ads using information received from partners and your app and website visits. You can control these interest-based ads using the "Personalize ads" setting.

4.8.8 **Event or campaign sponsorship:** Drax seeks to sponsor "green" events, particularly those that are associated with achieving the climate goal of net zero emission. For example, Drax sponsored an event at the September 2021 Labour Conference called "How can the UK build a zero carbon, lower cost energy future?"⁴⁶ Clare Harbord, Drax's Group Director of Corporate Affairs, was part of the event's panel. Drax was also a commercial partner to the Net Zero Festival, which took place on 29 September – 1 October 2021.⁴⁷

4.8.9 **Social media:** Drax has a Twitter account and makes claims about the impacts of its business activities on climate change and the environment in its Twitter posts. Drax's Twitter account has 13,700 followers. Drax also has a Youtube account with 726 subscribers, a LinkedIn account with 26,961 followers, an Instagram account with 1,244 followers, a Facebook account with 4,939 followers and has posted videos on Vimeo. Drax has also published the explanatory pages on its website referred to above on Medium, an open digital publishing platform.

4.9 This determined effort by Drax to engage with UK consumers, to be a recognised brand and to be understood as being part of the solution to climate change is important to understand in the context of this Complaint as it brings the statements examined in this Complaint squarely within Chapter VIII of the OECD Guidelines.

⁴⁶ Labour (2021) *How can the UK Build a Zero Carbon, Lower Cost Energy Future?*. Available at: <https://labour.conference-cms.co.uk/web/page/120> [C/33/573].

⁴⁷ BusinessGreen (2021) *Net Zero Festival*. Available at: https://netzerofestival.com/netzerofestival2021/en/page/home?gclid=CjwKCAjw7rWKBhAtEiwAJ3CWLAPNj0kHLjFSvOwTLsJYLqbcD3arhGTkXTACvma_K_dA-qelqgPvRoCjN8QAvD_BwE [C/34/576].

5. WOODY BIOMASS ENERGY AS RENEWABLE ENERGY: ITS LEGAL AND REGULATORY TREATMENT

- 5.1 For each unit of energy produced, the burning of woody biomass to produce energy releases more CO₂ into the atmosphere than burning coal or other fossil fuels. Drax is the single biggest emitter of CO₂ in the UK.⁴⁸
- 5.2 Despite this, the UK legal and regulatory frameworks treat biomass energy (including woody biomass, to the extent that it satisfies associated sustainability criteria⁴⁹) as a form of renewable energy.⁵⁰ The sustainability criteria include land criteria and GHG criteria, the first of which requires that all woody biomass is legally harvested and that at least 70% of it is “legal and sustainable.” Amongst other requirements, to be “sustainable,” management of the sourcing forest must “ensure that productivity of the forest is maintained” and that harvest levels “do not exceed the long-term production capacity of the forest based on adequate inventory and growth and yield data.”⁵¹ The concept of sustainability does not mean that woody biomass energy produces zero emissions or is carbon neutral.⁵²
- 5.3 The designation of woody biomass energy as a renewable energy source allows it to fall within various UK government subsidy schemes such as the Renewable Heat Incentive, the Renewables Obligation Scheme and the Contracts for Difference Scheme. In addition, the recently introduced UK Emissions Trading System (the “UK ETS”), which replaces the EU Emissions Trading System for the UK, contains an exemption for installations which use only biomass as a fuel (which includes Drax’s four units burning woody biomass).⁵³ This means that such installations are not required to receive or purchase emissions allowances reflective of their CO₂ emissions.
- 5.4 Carbon dioxide emissions from burning biomass are also counted as zero under reporting rules for the United Nations Framework Convention on Climate Change (the “UNFCCC Reporting Rules”). These rules govern the preparation of emissions inventories by parties to the UNFCCC under Article 4(1)(a). The UNFCCC Reporting Rules follow the Guidelines for National Greenhouse Gas Inventories developed by the IPCC.
- 5.5 The UNFCCC Reporting Rules identify two sectors relevant to measuring the biogenic carbon impact of burning wood for energy: the land sector and the energy sector. Under the Rules, the loss of forest carbon from harvesting wood is, in theory, noted as a reduction in forest carbon stocks, and then reported in the land sector as a potential impact on the forest carbon sink (which is the difference between forest stocks in subsequent measurements). In order to avoid double-counting this forest carbon loss from harvesting, emissions from burning biomass are not counted in the energy sector.⁵⁴
- 5.6 Neither the national nor international regulatory or reporting frameworks support any representation of biomass energy as producing zero carbon emissions. In fact, by requiring that

⁴⁸ The 2021 Ember report [C/3/154].

⁴⁹ The Renewables Obligation Order 2015 (SI 2015 No. 1947) (as amended). Available at: <https://www.legislation.gov.uk/uksi/2015/1947/contents>. At Schedules 2 and 3 [A/4/80].

⁵⁰ The Promotion of the Use of Energy from Renewable Sources Regulations 2011 (SI 2011 No. 243). Available at: <https://www.legislation.gov.uk/uksi/2011/243/made/data.pdf> [A/5/92].

⁵¹ Department of Energy and Climate Change (2014) *Woodfuel Advice Note*. 22 December 2014. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/390145/141222_Woodfuel_Advice_Note_-_Guidance_final.pdf. At p.9 [A/6/101].

⁵² A detailed analysis of the EU’s sustainability criteria is provided in Booth, M.S. and Mitchell, B. (2020) *Paper Tiger: Why the EU’s RED II biomass sustainability criteria fail forests and the climate*. 6 July 2020. Available at: <http://eubiomasstcase.org/wp-content/uploads/2020/07/RED-II-biomass-Paper-Tiger-July-6-2020.pdf> (The “Paper Tiger Report”) [C/35/586]. Although not directly applicable to the UK sustainability criteria, this paper provides a lot of relevant analysis.

⁵³ Greenhouse Gas Emissions Trading Scheme Order 2020 (SI 2020 No. 1265). At Schedule 2 para.2(a). Available at: <https://www.legislation.gov.uk/uksi/2020/1265/made/data.pdf> [A/7/104].

⁵⁴ Garg, A. and Weitz, M.M. (2019) *Chapter 2: Stationary Combustion*. In 2019 Refinement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories, Vol. 2: Energy. Available at: https://www.ipcc-nggip.iges.or.jp/public/2019rf/pdf/2_Volume2/19R_V2_2_Ch02_Stationary_Combustion.pdf [C/36/647].

emissions are recorded in the land sector, the UNFCC Reporting Rules inherently acknowledge that woody biomass energy produces carbon emissions. Furthermore, the IPCC explicitly warns that "*the approach of not including these [bioenergy] emissions in the Energy Sector total should not be interpreted as a conclusion about the sustainability or carbon neutrality of bioenergy.*"⁵⁵

- 5.7 In any case and notwithstanding the above, the Polish NCP has previously accepted that the OECD Guidelines may go over and above and enhance the legal or regulatory position in the relevant jurisdiction. In the Polish NCP's Final Statement in the complaint by "Development YES – Open-Pit Mines NO" against Group PZU S.A.,⁵⁶ it accepted that although the non-financial statements published by Group PZU S.A. complied with legal requirements, they did not fulfil the Group's obligations of complete reporting and transparency of the environmental impacts of its activities under the OECD Guidelines. In considering the current Complaint, the Complainants invite the NCP to follow the Polish NCP's approach in accepting that a regulatory position is not determinative of whether or not an activity is in breach of the OECD Guidelines.

⁵⁵ IPCC Frequently Asked Questions. At Q2-10: "*According to the IPCC Guidelines CO₂ Emissions from the combustion of biomass are reported as zero in the Energy sector. Do the IPCC Guidelines consider biomass used for energy to be carbon neutral?*" [C/6/185].

⁵⁶ Polish OECD NCP (2019) *Final Statement on alleged non-observance of the OECD Guidelines for Multinational Enterprises*. Warsaw, 26 July 2019. Available at: <https://www.gov.pl/attachment/87f5815f-d3b6-4937-ad1d-22470c47d21e> (the "Development YES – Open Pit Mines NO NCP final statement") [C/8/107].

6. RELEVANT OECD GUIDELINES

6.1 The role of the Guidelines is to provide non-binding principles and standards for responsible business conduct by multinational enterprises operating in or established in OECD-adhering countries.⁵⁷ Responsible business conduct “sets out an expectation that all businesses – regardless of their legal status, size, ownership or sector – avoid and address negative impacts of their operations, while contributing to sustainable development in countries where they operate”.⁵⁸ Chapter II of the OECD Guidelines sets out general principles on how multinational enterprises should conduct their business responsibly. For example, they should “[c]ontribute to economic, environmental and social progress with a view to achieving sustainable development...” and “[a]void causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur...”.⁵⁹ The OECD Guidelines also make specific recommendations for multinational enterprises in a range of areas, including the environment and consumer interests.

6.2 The Complainants contend that the following OECD Guidelines are most relevant to this Complaint:

6.2.1 Chapter VI, Paragraph 2(a) which requires that enterprises “provide the public ... with adequate, measurable and verifiable (where applicable) and timely information on the potential environment ... impacts of the activities of the enterprise”;

6.2.2 Chapter VI, paragraph 6(c) which requires enterprises to “[c]ontinually seek to improve corporate environmental performance, at the level of the enterprise and, where appropriate, of its supply chain, by encouraging such activities as: ... promoting higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise, including, by providing accurate information on their products (for example, on greenhouse gas emissions, biodiversity, resource efficiency, or other environmental issues)”;

6.2.3 Chapter VIII, Paragraph 2 which requires that enterprises should “provide accurate, verifiable and clear information that is sufficient to enable consumers to make informed decisions, including information on ... environmental attributes ... of goods and services. Where feasible this information should be provided in a manner that facilitates consumers’ ability to compare products”;

6.2.4 Chapter VIII, Paragraph 4 which requires enterprises “not [to] make representations or omissions, nor engage in any other practices, that are deceptive, misleading, fraudulent or unfair”; and

6.2.5 Chapter VIII, Paragraph 5 which requires enterprises to “Support efforts to promote consumer education in areas that relate to their business activities, with the aim of, inter alia, improving the ability of consumers to ... (ii) better understand the ... environmental ... impact of their decisions”.

together, the “**Relevant OECD Guidelines**”.⁶⁰

⁵⁷ OECD Guidelines. Foreword [A/2/42].

⁵⁸ OECD (undated) Home. Available at: <http://mneguidelines.oecd.org/>.

⁵⁹ OECD Guidelines. Chapter II [A/2/42].

⁶⁰ Complete copies of the Relevant OECD Guidelines are at [A/2/42].

7. APPLICABLE EXTERNAL CODES TO ASSIST IN INTERPRETATION OF THE GUIDELINES

7.1 In this section, the Complainants identify legislation, industry standards and codes of practice applicable in the UK which the Complainants contend should inform the NCP's interpretation and application of the OECD Guidelines (together, the "**Applicable External Codes**").

7.2 The important role of wider legislation, industry standards and codes of practice in interpreting the OECD Guidelines is acknowledged explicitly in the *chapeaus* of both Chapters VI and VIII of the Guidelines. The chapeau of Chapter VI requires that "*enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles and objectives and standards, take due account of the need to protect the environment ...*" The chapeau of Chapter VIII requires enterprises to act in accordance with "*fair business, marketing and advertising practices.*" The Guidelines therefore bring within their scope relevant marketing and advertising practices and standards, including the Applicable External Codes.

Overview of the Applicable External Codes

7.3 The Complainant submits that the following are Applicable External Codes and should be referenced as interpretive aids during the NCP's assessment of this Complaint:

7.3.1 The UK Consumer Protection from Unfair Trading Regulations 2008⁶¹ and the UK Code of Non-Broadcast Advertising and Direct & Promotional Marketing⁶² (the "**CAP Code**"): In the UK, the Consumer Protection from Unfair Trading Regulations 2008 provide a framework for consumer protection and prohibit commercial practices that are deemed to be misleading, either on their face or by omission. Marketing and advertising is largely self-regulated in the UK with oversight and any enforcement required being carried out by the Advertising Standards Agency (the "**ASA**"), under a framework that includes the CAP Code.

The CAP Code generally applies to any non-broadcast advertisements and other marketing communications by UK-registered companies, including in newspapers, magazines, on their own websites or online space under their control and "*other electronic or printed material*".⁶³ Its objective is to "*protect consumers from misleading marketing communications*".⁶⁴

7.3.2 The UK Competition and Markets Authority's ("**CMA**") Guidance on Environmental Claims on Goods and Services (the "**CMA Guidance**")⁶⁵: The purpose of the CMA Guidance is "*to help businesses understand and comply with their existing obligations under consumer protection law when making environmental claims.*"⁶⁶

The CMA Guidance sets out the expected standards for companies making "eco-friendly" claims in the UK and will apply to all claims that are "*ultimately aimed at consumers...even if the claims are made by a manufacturer, wholesaler or distributor which does not have direct contact with a consumer.*"⁶⁷ It sets out six principles that firms in scope must adhere to: (i) claims must be truthful and accurate; (ii) claims should be clear and unambiguous; (iii) claims should not omit or hide important information; (iv) claims should compare goods

⁶¹ The UK Consumer Protection from Unfair Trading Regulations 2008 (SI 2008 No 1277). Available at: <https://www.legislation.gov.uk/ukxi/2008/1277/contents/made> [A/9/116].

⁶² CAP Code [A/3/68].

⁶³ CAP Code. Introduction, p. 5 [A/3/68].

⁶⁴ CAP Code. Chapter 2, Background, p.15 [A/3/68].

⁶⁵ CMA Guidance [A/1/1].

⁶⁶ CMA Guidance. At para.1.5 [A/1/1].

⁶⁷ CMA Guidance. At paras.2.20-2.22 [A/1/1].

or services in a fair and meaningful way; (v) in making the claim businesses should consider the full lifecycle of the product or service; and (vi) claims should be substantiated.

- 7.3.3 The International Chamber of Commerce's Advertising and Marketing Communications Code ("ICC Marketing Code"): Chapter VIII of the Guidelines makes direct reference to the ICC Marketing Code and the Guidelines 2012 "Reference Instruments" explicitly confirms that the ICC Marketing Code⁶⁸ is "*relevant to aspects of the OECD Guidelines...and their implementation.*"⁶⁹ The ICC Marketing Code itself contains extensive guidance on environmental claims in marketing communications (Chapter D), and also refers to additional guidance in the ICC Framework for Responsible Environmental Marketing Communications (the "**ICC Environmental Communications Framework**").⁷⁰

Relevant requirements of the Applicable External Codes

- 7.4 Each of the Applicable External Codes provides guidance on the manner in which a company's advertising or marketing may be deceptive or misleading to consumers, and therefore in breach of the Guidelines. A summary of key themes / requirements of the Applicable External Codes is set out below and the Complainants submit that these should inform the NCP's consideration of whether the Relevant Statements are in breach of the Guidelines.

Impression rather than intention

- 7.5 The impression created by marketing communications as well as the specific claims made are relevant to whether a marketing communication is misleading. For example, the ASA's approach is to assess the likely effect on consumers, not the marketer's intentions.⁷¹
- 7.6 "Green" or "sustainable" claims must be evaluated in their entirety to assess how the reasonable consumer will interpret the advertising message.⁷² Such terms, especially if used without explanation, are likely to be seen as suggesting that a product, service, process, brand or business as a whole has a positive environmental impact, or at least no adverse impact.⁷³ An evaluation of the "net impression" of the advertising on its intended target audience should ensure that it is not deceptive or misleading.⁷⁴
- 7.7 All marketing communications should be judged by their likely impact on the reasonable consumer, having regard to the characteristics of the targeted group and the medium used.⁷⁵ Claims can also be misleading if what they say is factually correct or true, but the impression they give consumers about the environmental impact, cost or benefit of a product, service, process, brand or business is deceptive.⁷⁶

⁶⁸ International Chamber of Commerce (2018) *ICC Advertising and Marketing Communications Code*. 2018 edition (the "**ICC Marketing Code**"). Available at: <https://iccwbo.org/content/uploads/sites/3/2018/09/icc-advertising-and-marketing-communications-code-int.pdf> [A/10/167].

⁶⁹ OECD Guidelines. At para 81 (reference to the ICC's standards in general). OECD (2012) *OECD Guidelines for Multinational Enterprises: Reference instruments and initiatives relevant to the updated Guidelines*, March 2012. At p.19 (more specific reference to the ICC Marketing Code) [A/2/42].

⁷⁰ ICC Marketing Code. At pp.39-42 [A/10/167]; International Chamber of Commerce (2019) *ICC Framework for Responsible Marketing Communications* (the "**ICC Environmental Communications Framework**"). Available at: <https://iccwbo.org/content/uploads/sites/3/2019/08/icc-framework-for-responsible-environmental-marketing-communications-2019.pdf> [A/11/173].

⁷¹ CAP Code. At Chapter 3, Background, p.17 [A/3/68].

⁷² ICC Marketing Code. At p.5 [A/10/167].

⁷³ CMA Guidance. At para.3.9 [A/1/1].

⁷⁴ ICC Environmental Communications Framework. At p.6 [A/11/173].

⁷⁵ ICC Marketing Code. At p.5 [A/1/1].

⁷⁶ CMA Guidance. At para.3.11 [A/1/1].

Clarity, data, evidence

- 7.8 The basis of environmental claims must be clear and unambiguous, and the meaning of all terms used in marketing communications must be clear to consumers.⁷⁷
- 7.9 Environmental claims must have a sound scientific basis. They should be conveyed consistently with the nature and scope of the evidence that supports both the express and implied messages that the reasonable consumer is likely to take away from the statement.⁷⁸
- 7.10 Marketing communications must not suggest that their claims are universally accepted if a significant division of informed or scientific opinion exists.⁷⁹
- 7.11 A company's action may not be honest and truthful if it is framed in such a manner that it abuses consumers' concern for the environment or exploits their possible lack of environmental knowledge.⁸⁰

Misleading omissions

- 7.12 Marketing communications must state significant limitations and qualifications. Qualifications may clarify but must not contradict the claims that they qualify.⁸¹ The CMA Guidance suggests that businesses could think about whether consumers would be surprised or disappointed to hear the omitted information after they had decided to buy a product.⁸²
- 7.13 Marketing communications may mislead the consumer by omitting material information, by hiding material information or by presenting it in an unclear, unintelligible, ambiguous or untimely manner.⁸³
- 7.14 Where businesses make claims regarding their carbon neutrality, such as in respect of emissions, they must make it clear if this is the case due to carbon offsetting, such as via CO₂ compensation schemes, and provide information about such schemes.⁸⁴

Lifecycle emissions / impact of products

- 7.15 Marketers must ensure that claims that are based on only part of the advertised product's lifecycle do not mislead consumers about the product's total environmental impact.⁸⁵
- 7.16 Environmental claims should not be presented in such a way as to imply that they relate to more stages of a product's life cycle, or to more of its properties, than is justified by the evidence. It should always be clear to which stage or which property a claim refers. A life cycle benefits claim should be substantiated by a life cycle analysis. When a claim refers to the reduction of components or elements having an environmental impact, it should be clear what has been reduced. Such claims are justified only if they relate to alternative processes, components or elements which result in a significant environmental improvement.⁸⁶ Businesses making broad, general claims (such as that a product is environmentally friendly) are at risk of misleading consumers, unless they have done a

⁷⁷ CAP Code. Rules 11.1 and 11.2; CMA Guidance. At para.3.51 [A/3/68].

⁷⁸ ICC Marketing Code. At p.10 [A/10/167].

⁷⁹ CAP Code. Rule 11.5 [A/3/68].

⁸⁰ ICC Marketing Code. At Article D1 [A/10/167].

⁸¹ CAP Code. Rule 3.9 [A/3/68].

⁸² CMA Guidance. At para.3.94 [A/1/1].

⁸³ CAP Code. Rule 3.3 [A/3/68]; The UK Consumer Protection from Unfair Trading Regulations 2008. Regulation 6(1) [A/9/116].

⁸⁴ CMA Guidance. At paras.3.72-73 [A/1/1].

⁸⁵ CAP Code. At Rule 11.4 [A/3/68]; CMA Guidance. At para.3.114 [A/1/1].

⁸⁶ ICC Marketing Code. At Article D4 [A/10/167].

thorough assessment of the product's entire life cycle, and the product has an overall beneficial impact.⁸⁷

Exaggeration

- 7.17 It is misleading to overstate environmental attributes.⁸⁸ A claim that is literally true may nonetheless be misleading if, for example, it could be misinterpreted to convey a broader benefit or if it exaggerates a product or service's environmental benefit or features.⁸⁹
- 7.18 It is misleading for marketing communications that refer to specific products or activities to imply, without appropriate substantiation, that they extend to the whole performance of the company, group or industry.⁹⁰

⁸⁷ CMA Guidance. At para.3.113. See also para.3.131 [A/1/1].

⁸⁸ ICC Marketing Code. At Article D1 [A/10/167].

⁸⁹ ICC Environmental Communications Framework. At p.8 [A/11/173].

⁹⁰ ICC Marketing Code. At Article D1 [A/10/167].

PART 2: MISLEADING STATEMENTS BY DRAX

8. INTRODUCTION AND SUMMARY

- 8.1 This section of the Complaint identifies specific misleading statements by Drax and sets out why the Complainants believe they are in breach of the Relevant OECD Guidelines.
- 8.2 The Relevant Statements fall into the following five categories:
- 8.2.1 Claim 1: Woody biomass energy is already effectively a carbon neutral energy generation technology;
 - 8.2.2 Claim 2: Woody biomass energy has resulted in a carbon emissions reduction of 90%;
 - 8.2.3 Claim 3: Using bioenergy with carbon capture and storage (BECCS) technology, Drax can become "carbon negative" by 2030;
 - 8.2.4 Claim 4: Drax accounts for all of the supply chain emissions of woody biomass; and
 - 8.2.5 Claim 5: Whole trees are not felled to produce wood pellets burnt by Drax and Drax's woody biomass energy does not damage forests.
- 8.3 The Complainants invite the NCP to have regard to the Applicable External Codes (see section 7 above) when considering whether or not each of the statements set out in this section breach the Relevant OECD Guidelines. The Complainants draw the NCP's attention to specific rules etc as relevant under each Claim. There are, however, a number of overarching rules which the Claimants invite the NCP to consider as applicable to every Claim:
- 8.3.1 CAP Code Rule 11.7: *"Marketing communications must not mislead consumers about the environmental benefit that a product offers"*;
 - 8.3.2 CMA Guidance paragraph 3.41: *"The overall impression created by a claim must match the environmental impact of what is being marketed. Businesses should consider how a consumer is likely to interpret what they are told and what they are shown"*; and
 - 8.3.3 ICC Framework for Responsible Environmental Marketing Communications 2019 p. 11: *"Information and claims about a product's environmental attributes should be judged by the likely perception of the reasonable consumer"*.
- 8.4 The Relevant Statements detailed below are a selection of Drax's statements. The Complainants draw the NCP's attention to Appendix C which includes further statements falling into each of Claims 1-5. Appendix B provides a methodology of how the statements in Appendix C were compiled.

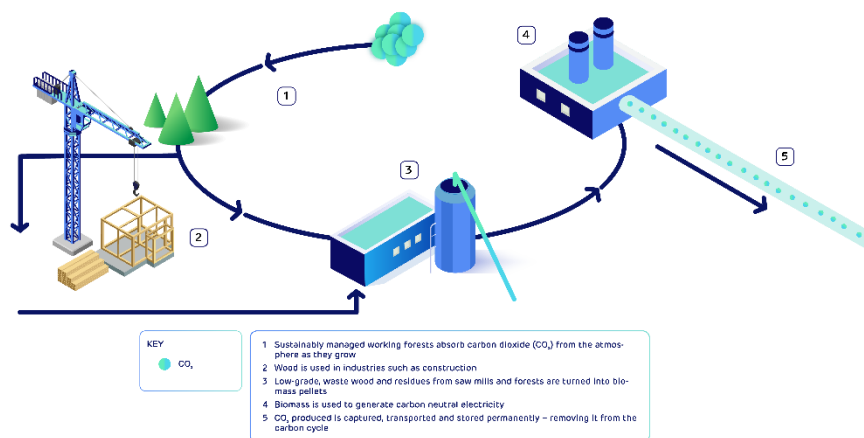
9. CLAIM 1: WOODY BIOMASS ENERGY IS ALREADY EFFECTIVELY A CARBON NEUTRAL ENERGY GENERATION TECHNOLOGY

Drax's overarching claims of carbon neutrality

9.1 Drax has made various public statements claiming that its woody biomass energy is already practically carbon neutral (emphasis added):

- Drax's CEO, Will Gardiner, has explicitly claimed in an interview with the management consultancy firm McKinsey & Company on 9 July 2020, available on McKinsey's website: "we are, broadly based, **neutral in terms of CO₂**".⁹¹
- In the same interview, Will Gardiner claimed: "we're using biomass at the power station to generate the electricity – and that's effectively, again, a **neutral generation technology**...".⁹²
- In a webpage on Drax's website titled "What is a biomass wood pellet?", Drax states: "**Sustainable wood pellets are considered to be carbon neutral at the point of combustion. As they grow, forests absorb carbon from the atmosphere. When a biomass pellet is combusted, the same amount of atmospheric CO₂ is released. The overall amount of CO₂ in the atmosphere remains neutral, unlike with fossil fuels which release ancient carbon that has long fallen out of the natural carbon cycle.**"⁹³
- In a diagram on Drax's website titled "How BECCS removes carbon from the atmosphere", Drax states "**Biomass is used to generate carbon neutral electricity**".⁹⁴

How BECCS removes carbon from the atmosphere



9.2 These claims by Drax are demonstrably wrong, contradicted by a vast body of scientific research and are fundamentally misleading. They are therefore in breach of Chapter VI paragraph 2(a) (provide information on potential environmental impacts), Chapter VIII paragraph 2 (provide information to enable consumers to make informed decisions) and Chapter VIII, paragraph 4 (do not mislead) of the OECD Guidelines.

9.3 Further examples of similar statements made by Drax are provided in Appendix C at rows 4-6 and 8.

⁹¹ McKinsey & Company (2020) *A power company's potent vision: From neutral to negative emissions*. 9 July 2020. Available at: <https://www.mckinsey.com/business-functions/sustainability/our-insights/a-power-companys-potent-vision-from-neutral-to-negative-emissions> ("McKinsey July 2020") [B/7/25].

⁹² McKinsey July 2020 [B/7/25].

⁹³ Drax website: what is a biomass wood pellet? [B/6/22].

⁹⁴ Drax Group Plc (undated) *Sustainable bioenergy*. Available at: <https://www.drax.com/sustainability/sustainable-bioenergy/> [B/8/33].

Why these statements are misleading

- 9.4 Drax's carbon neutral claims are based on it accounting solely for certain fossil fuel-derived emissions from growing, harvesting and chipping biomass feedstocks, transporting feedstocks to the pellet mill, manufacturing wood into pellets, drying (where fossil fuels rather than wood are burned as part of the drying process) and transporting pellets to the power station (including transport to the port, international shipping and transport within the UK to the power plant).⁹⁵ Acknowledgement of these emissions should stop Drax from claiming outright that its woody biomass energy is 100% carbon neutral, even leaving aside the fact that Drax does not count at all the main source of emissions, which is burning the wood pellets in the power boiler.
- 9.5 In making its carbon neutral claims, Drax ignores supply chain emissions of biogenic CO₂ associated with the production of wood pellets. These are detailed in Claim 4 below (see section 12) which addresses specific Drax statements made in relation to supply chain emissions.
- 9.6 Most significantly, however, Drax's carbon neutral claims exclude the largest source of emissions associated with burning wood pellets which is the CO₂ coming out of the smokestack when the fuel is combusted. Drax records these emissions in its annual report as "biologically sequestered carbon" and notes that they are "*are counted as zero in official reporting*".⁹⁶ These emissions are not disclosed or referenced by Drax in its other public communications.
- 9.7 To exclude these emissions from its public statements and claims as to its carbon impact is highly misleading in circumstances where Drax is the largest single emitter of CO₂ in the UK and the third largest emitter of CO₂ in Europe.⁹⁷ In a recent report (the "**2021 Chatham House report**"), the think tank Chatham House noted that in the UK CO₂ emissions from burning wood pellets sourced from the USA alone were 13– 16 million tonnes in 2019 (equating to 2.8 – 3.6% of total UK greenhouse gas emissions) and that almost all of these emissions can be attributed to Drax.⁹⁸ In addition to this biogenic CO₂ released from the smokestack, manufacturing pellets emits biogenic CO₂ from wood burned to dry the pellets and through the decomposition of forestry residues and tree roots left over after forest harvesting. Forest harvesting can also increase loss of soil carbon, which can be significant.
- 9.8 Drax's claims of carbon neutrality give the clear impression that woody biomass energy represents a positive environmental change from its prior burning of coal. However, burning woody biomass generally emits more CO₂ than burning fossil fuels per unit of energy produced.⁹⁹ This is even clear from figures recorded in Drax's Annual Reports: the carbon emissions and generation figures from the 2019 Annual Report indicate smokestack emissions from burning wood pellets as 955g CO₂e per kilowatt hour (KWh), compared with smokestack emissions of 898g CO₂e per KWh for burning coal based on Drax's 2018 Annual Report.¹⁰⁰
- 9.9 The claims made by Drax therefore omit key information about the lifecycle emissions from woody biomass. Rule 3.9 of the CAP Code requires that "*marketing communications must state significant limitations and qualifications*" and paragraph 3.64 of the CMA Guidance notes that "*Claims made by businesses must not omit or hide information that consumers need to make informed choices*",

⁹⁵ Drax Annual Report and Accounts for 2020. At p.54 [B/2/5]; Drax Group Plc (undated) *Biomass Carbon Calculator User Guide*. Version 2.0. Available at: <https://www.drax.com/wp-content/uploads/2020/11/Biomass-Carbon-Calculator-User-Guide-V2.01.pdf>. [B/2/5]

⁹⁶ Drax Annual Report and Accounts 2020. At p. 50. They are recorded as "biologically sequestered carbon" emissions [B/2/5].

⁹⁷ The 2021 Ember report [C/37/652].

⁹⁸ Brack, D. et al (2021) *Greenhouse gas emissions from burning US-sourced woody biomass in the EU and UK*. Chatham House. 14 October 2021. Available at: https://www.chathamhouse.org/sites/default/files/2021-10/2021-10-14-woody-biomass-us-eu-uk-research-paper_0.pdf. At p.2 [C/38/693].

⁹⁹ Booth, M.S. (2014). At pp.16-18 [C/1/1]; The 2017 Chatham House report. At p.2 [C/ /].

¹⁰⁰ As calculated for the 2020 Ember Report. See also the underlying calculations, available at <https://ember-climate.org/project/the-burning-question/> [C/3/154].

indicating that statements that fail to do so, such as those quoted above, are misleading for consumers.

- 9.10 These statements mislead the reasonable consumer into thinking that CO₂ emissions from woody biomass are negligible. The UK CAP Code¹⁰¹ and CMA Guidance¹⁰² require companies to ensure that claims that are based on only part of the advertised product's lifecycle do not mislead consumers about the product's total environmental impact. Any lifecycle benefits claim should be substantiated by a lifecycle analysis. For Drax to use only a small part of the CO₂ emissions lifecycle (ignoring most of the emissions from burning wood) as the basis for a claim that woody biomass is "effectively" or "broadly based" carbon neutral is clearly misleading. Drax has not provided any lifecycle analysis that can substantiate its claims.
- 9.11 Although a significant amount of informed scientific opinion exists that contradicts Drax's claims (much of which is described in this Complaint), the Complainants are not aware of any instance where Drax refers to this information. Such an omission effectively implies that claims about woody biomass being "effectively" or "broadly based" carbon neutral are universally accepted. Rule 11.5 of the CAP Code would suggest that such an approach is in itself misleading.¹⁰³
- 9.12 Drax's misleading statements about the effective carbon neutrality of woody biomass energy are therefore clearly in breach of Chapter VIII paragraph 4 (do not mislead) of the OECD Guidelines.
- 9.13 Drax also has obligations under the Guidelines with respect to the information it provides to consumers and the public at large, set out in particular in Chapter VI paragraph 2(a) (provide information on potential environmental impacts) and Chapter VIII paragraph 2 (provide information to enable consumers to make informed decisions) of the Guidelines. In publicly presenting woody biomass energy as "effectively" or "broadly based" carbon neutral, it is failing to provide this required level of information and clarity about the environmental impacts of its activities and is therefore in breach of these Guidelines.

Rationales used by Drax to support its carbon neutral claims

- 9.14 Drax does not account for the smokestack emissions of CO₂ by relying on a variety of scientifically flawed and misleading rationales to claim emissions from burning woody biomass do not add net CO₂ to the atmosphere, or more generally, that various factors mean that the CO₂ emissions from woody biomass energy are mitigated or reduced. Each of these statements and rationales (which are examined below) are misleading in themselves and are therefore in breach of Chapter VIII paragraph 4 (do not mislead) of the OECD Guidelines. They are separately in breach of Chapter VI paragraph 2(a) (provide information on potential environmental impacts) and Chapter VIII paragraph 2 (provide information to enable consumers to make informed decisions) of the OECD Guidelines.

Rationale 1: The UNFCCC carbon accounting methodology

¹⁰¹ CAP Code. At Rule 11.4: "Marketers must base environmental claims on the full life cycle of the advertised product, unless the marketing communication states otherwise, and must make clear the limits of the life cycle. ... Marketers must ensure that claims that are based on only part of the advertised product's life cycle do not mislead consumers about the product's total environmental impact" [A/3/68].

¹⁰² CMA Guidance. At para 3.114: "Claims may be based on a specific part of an advertised product's life cycle ... It should be clear which aspect they refer to. They should not mislead consumers about the total environmental impact. A claim could itself be true, but misleading, if it suggests a product is greener than it is by ignoring some other aspect of its life cycle" [A/1/1].

¹⁰³ CAP Code. At Rule 11.5: "Marketers must not suggest that their claims are universally accepted if a significant division of informed or scientific opinion exists" [A/3/68].

- 9.15 Drax claims on a page on its website relating to carbon emissions that woody biomass energy can be treated as carbon neutral at the point of combustion due to the UNFCCC carbon accounting methodology:
- “The biogenic carbon emissions resulting from generation are counted as zero in official reporting to both UK authorities and under the European Union Emissions Trading System (EU ETS) as the use of sustainable biomass is considered to be CO₂ neutral at the point of combustion. This methodology originates from the United Nations Framework Convention on Climate Change.”¹⁰⁴*
- 9.16 A similar explanation is also provided in Drax’s annual reports.¹⁰⁵
- 9.17 In an article published by the Guardian on 19 October 2021, a Drax spokesperson is quoted as saying that the *“science underpinning carbon accounting for bioenergy”* was *“crystal clear”*.¹⁰⁶
- 9.18 Drax’s implication that the UNFCCC methodology justifies treating woody biomass as carbon neutral at the point of combustion is clearly false, mischaracterising the UNFCCC carbon accounting methodology and misleading the reader. The UNFCCC rules apply to country-level accounting where all sectors are reported and there is a need to avoid double-counting biomass emissions, so they are counted in the land sector but not the energy sector.¹⁰⁷ Treating biomass as zero emissions in the energy sector is therefore a reporting convention that has no relationship to the concept of carbon neutrality (meaning emissions are offset so there is net zero CO₂ added to the atmosphere). The sector where CO₂ emissions happen to be technically allocated for carbon accounting purposes is irrelevant to the fact that burning wood for energy results in significant CO₂ emissions and works against short and medium-term climate objectives. Drax’s claim that the *“science underpinning carbon accounting for bioenergy”* is *“crystal clear”* suggests that such science supports Drax’s claims of being effectively carbon neutral. In direct contradiction to this, the IPCC explicitly warns against making the exact argument that Drax employs: *“the approach of not including these [bioenergy] emissions in the Energy Sector total should not be interpreted as a conclusion about the sustainability or carbon neutrality of bioenergy.”¹⁰⁸*
- 9.19 Nowhere does the IPCC or the UNFCCC treat biomass burning as *“carbon neutral at the point of combustion”*.
- 9.20 The average consumer reading Drax’s statement will not understand that Drax has misrepresented the intent of the UNFCCC carbon reporting rules.¹⁰⁹ The Complainants draw the NCP’s attention to the UK CAP Code which stresses that the meaning of all terms used in marketing communications must be clear to consumers.¹¹⁰

¹⁰⁴ Drax website: carbon emissions **[B/1/1]**.

¹⁰⁵ e.g. Drax 2020 Annual Report and Accounts at p. 50, Note 5 **[B/2/5]**.

¹⁰⁶ The October 2021 Guardian article **[B/16/482]**.

¹⁰⁷ The 2017 Chatham House report. At p.37 **[B/2/82]**.

¹⁰⁸ IPCC Frequently Asked Questions. At Q2-10: *“According to the IPCC Guidelines CO₂ Emissions from the combustion of biomass are reported as zero in the Energy sector. Do the IPCC Guidelines consider biomass used for energy to be carbon neutral?”* **[A/6/185]**

¹⁰⁹ Note ICC Marketing Code at Article D1: *“Marketing communications should not contain any statement or visual treatment likely to mislead consumers in any way about the environmental aspects or advantages of products, or about actions being taken by the marketer in favour of the environment”* **[A/10/167]**.

¹¹⁰ CAP Code. At rule 11.2: *“The meaning of all terms used in marketing communications must be clear to consumers”* **[A/3/68]**.

Rationale 2: The CO₂ released from burning woody biomass was captured previously when the trees grew

9.21 Drax explains on its website that burning woody biomass is only releasing CO₂ that has already been captured previously as forests grew, meaning that its wood pellets are carbon neutral when they are burned as they are not releasing any additional or new CO₂ into the atmosphere:

- *“Sustainable wood pellets are considered to be carbon neutral at the point of combustion. As they grow, forests absorb carbon from the atmosphere. When a biomass pellet is combusted, the same amount of atmospheric CO₂ is released. The overall amount of CO₂ in the atmosphere remains neutral, unlike with fossil fuels which release ancient carbon that has long fallen out of the natural carbon cycle.”¹¹¹*

9.22 Further examples of similar statements made by Drax are provided in Appendix C at rows 6, 10 and 12-14.

9.23 However, the point in time at which the carbon was sequestered is irrelevant to its impact on the atmosphere at the time of emission. In fact, the first part of Drax’s statement could equally be said to apply to coal which, prior to burning, stores CO₂ that is not present in the atmosphere. The fact that the carbon was embodied in the wood prior to combustion does nothing to solve the problem of post-combustion biogenic CO₂ that now needs to be offset before the wood-burning can be considered “carbon neutral.” Trees do not grow back instantaneously, and a variety of peer-reviewed carbon modelling studies have demonstrated that the cumulative net emissions from burning forest wood exceed those from fossil fuels for decades to centuries (see paragraph 9.29 below). Drax’s claim that “[t]he overall amount of CO₂ in the atmosphere remains neutral” is therefore simply false: by burning woody biomass, Drax’s power station releases vast amounts of CO₂ which was previously stored in forests.

9.24 This statement might mislead the reasonable consumer¹¹² into thinking that the emissions from burning woody biomass are “offset” prior to combustion, which is obviously an absurd and nonsensical claim. This statement by Drax therefore breaches Chapter VIII paragraph 4 of the Guidelines (do not mislead) as well as Chapter VI paragraph 2(a) (provide information on potential environmental impacts) and Chapter VIII paragraph 2 (provide information to enable consumers to make informed decisions) of the Guidelines.

Rationale 3: tree regrowth recaptures the CO₂ released

9.25 While relying on the prior rationales, Drax has separately and concurrently claimed in the media that biomass is effectively carbon neutral because forest regrowth offsets emissions *after* the wood is burned. In the interview with McKinsey & Company on 9 July 2020 referred to at paragraph 9.1 above, Will Gardiner stated as follows:

“Biomass is considered a renewable fuel source because the forests where we get our wood pellets regrow. The recapture of the CO₂ in the forest offsets the emissions that still come from the power station.”¹¹³

9.26 A further example of a similar statement made by Drax is provided in Appendix C at row 15.

¹¹¹ Drax website: what is a biomass wood pellet? **[B/6/22]**

¹¹² The ICC Environmental Communications Framework notes at p.5: “All marketing communications should be judged by their likely impact on the reasonable consumer, having regard to the characteristics of the targeted group and the medium used. A consumer’s interpretation of a green claim is affected by the context in which it is presented, the level of knowledge and experience (e.g. professional and sophisticated users versus typical consumers), and form in which it is conveyed. As such, a green claim that is scientifically accurate could still be deceptive if it misleads consumers because of what it implies or omits” **[A/11/173]**.

¹¹³ McKinsey July 2020 **[B/7/25]**.

- 9.27 At least this statement is correct about the sequencing of events: combustion emissions must have occurred before they can be offset. The use of the present tense in this statement, however, suggests to the reader that recapture of CO₂ by tree regrowth is very quick or even instantaneous.
- 9.28 The time taken to recapture CO₂ emissions from woody biomass energy is of critical importance. Climate modelling shows that avoiding catastrophic climate change requires reducing greenhouse gas emissions immediately and increasing carbon stored in the land sector, particularly forests. The Paris Agreement goal of a balance of sources and sinks by mid-century is increasingly reflected in international policy goals of achieving carbon neutrality by 2050¹¹⁴ and the IPCC's 2018 report states that carbon emissions will need to be reduced by almost half by 2030.¹¹⁵ As a result of extensive media coverage and political discussions, including around the preparation for COP 26 in Glasgow in November 2021, consumers are increasingly aware of the urgency of climate action.
- 9.29 Numerous studies have demonstrated that even if forests are allowed to regrow, net biomass emissions continue to exceed those from a comparable fossil fuel plant for decades, well past the 2050 target by which climate neutrality is supposed to occur.¹¹⁶ The trajectory of net cumulative forest biomass and fossil fuel emissions over time is represented in Figure 1.¹¹⁷ Before the parity point of equal cumulative emissions is reached, woody biomass energy has higher cumulative emissions than burning fossil fuels, even accounting for sequestration from tree regrowth, which is what pulls the biomass curve down. Drax's claim and its suggestion of instantaneous sequestration is therefore inaccurate, misleading and in breach of the Relevant OECD guidelines.

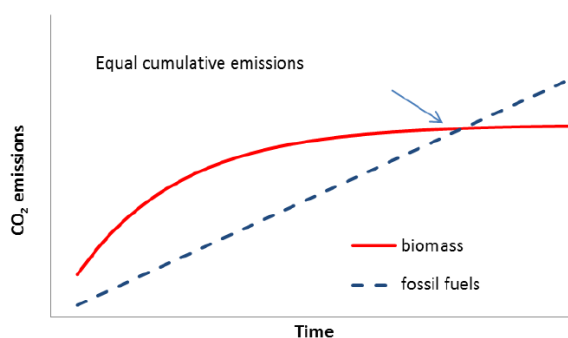


Figure 1: A comparison of net CO₂ emissions from woody biomass plants against CO₂ emissions from fossil fuel plants. Woody biomass emissions include smokestack and other biogenic emissions with CO₂ from forest regrowth subtracted.¹¹⁸

- 9.30 The insufficiency of future tree growth as a tool for offsetting CO₂ emissions from woody biomass energy is apparent from a number of relevant scientific reports and policy documents. For example, a modelling study by the former UK Department of Energy and Climate Change also considered net emissions in scenarios where wood pellets were obtained from trees harvested for energy, taking into account counterfactuals where fossil fuels were burned for energy and forests were left to grow

¹¹⁴ Paris Agreement 2015. Available at https://unfccc.int/sites/default/files/english_paris_agreement.pdf. At article 2(1)(a) [A/12/179]; United Nations (undated) *Raising Ambition*. Available at <https://www.un.org/en/climatechange/net-zero-coalition>. This states “[a]long with companies, cities and financial institutions, more than 130 countries have now set or are considering a target of reducing emissions to net zero by mid-century”.

¹¹⁵ 2018 IPCC Summary for Policymakers. At C.1 [C/14/417]; See also 2021 IPCC Summary for Policymakers. At B1 [C/13/404].

¹¹⁶ See, e.g., Laganière, J., et al. (2017) [C/7/204]; See also Natural Resources Canada (undated) *Bioenergy GHG calculator*, a calculator for woody biomass energy emissions based on Laganière et al (2017) [C/8]; Buchholz, T., et al. (2021) [C/9/216]; Walker, T., et al. (2013) [C/10/230]; Colnes, A. et al. (2012 [C/11/262]); Mitchell, S. et al. (2012) [C/12/394]. Walker et al (2012) [C/10/230].

¹¹⁷ Walker et al (2012) [C/10/230].

¹¹⁸ Figure from Bitov, K. and Booth, M.S. (2014) *Climate of Deception: Why electricity consumers who care about global warming and air pollution need FTC protection from biomass industry greenwashing*. 29 July 2014. Available at: <https://www.pfpi.net/wp-content/uploads/2014/07/PFPI-report-to-FTC-on-biomass-power-greenwashing.pdf>. At p.25. Figure after Walker et al (2012) [C/39/770].

or were harvested for other purposes. This study reached the conclusion that for pellets largely sourced from naturally-regenerated hardwood forests, the rate of net emissions remains high for several decades: 1270 to 3988 g CO₂ equivalent per kWh over 40 years and 766 to 5174 g CO₂ equivalent per kWh over 100 years.¹¹⁹ For comparison, Drax's emissions from coal in 2018 were 898g CO₂e per kWh, based on figures from Drax's Annual Report and Accounts for that year.¹²⁰ A proportion of Drax's wood pellets are sourced from naturally-regenerated hardwood forests: investigations into Enviva, a pellet manufacturer in the USA and a key supplier to Drax, have shown that Enviva regularly uses whole trees from biodiverse natural hardwood forests to make its pellets.¹²¹ Even when the pellet feedstock is thinnings from pine plantations, the CO₂ emissions released from burning wood for energy still takes decades to offset. Research from the Spatial Informatics Group on emissions from wood pellets assumed to be sourced mainly from thinnings from pine plantations, manufactured at Drax's pellet mills in the USA and burned at Drax Power Station, found that even after 40 years net CO₂ emissions will be 468g CO₂ per kWh.¹²² This same study found that even if it is assumed that 50% of the feedstock used is sawmill residues, emissions from wood pellets still exceed emissions from fossil fuels for over 40 years. Various EU policy documents also indicate that where whole trees are used as a bioenergy feedstock, cumulative CO₂ emissions exceed those from fossil fuels well beyond timeframes relevant for meeting emissions reduction goals, even taking assumed forest regrowth into account.¹²³

- 9.31 In addition, where biomass harvesting takes place in natural forests these are often replanted with monoculture plantations of non-native tree species. In addition to being biodiversity deserts, these plantations are less effective at sequestering carbon than the natural forest which they replace. In addition, these plantations are planted with the expectation of harvest in the future and so the carbon they sequester is more likely to be lost. The 2021 Chatham House report notes that the age of natural forests combined with earlier harvesting times for plantations means that carbon stored in natural forests may never be replaced when these forests are replaced by plantations, and that this is the case even if the number or density of trees following replanting remains the same.¹²⁴ Drax is also not responsible for replanting forests and forest regrowth is not necessarily guaranteed.
- 9.32 For these reasons, Drax's claim that forest regrowth will offset bioenergy emissions is a misleading and/or deceptive representation which breaches Chapter VIII, paragraph 4 of the Guidelines (do not mislead). The statement would mislead consumers into thinking that CO₂ emissions from burning wood biomass are instantaneously or rapidly offset by tree regrowth, which for the reasons given above is not true. Furthermore, readers of such statements are not made aware of any of the evidence discussed above. The claim is put forward by Drax as an established and accepted fact with

¹¹⁹ Stephenson and McKay (2014) *Life cycle impacts of biomass electricity in 2020: Scenarios for assessing the greenhouse gas impacts and energy input requirements of using North American woody biomass for electricity generation in the UK*. Department of Energy and Climate Change. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/349024/BEAC_Report_290814.pdf. Table 17 at p.86 [C/40/825].

¹²⁰ The 2020 Ember report [C/3/154].

¹²¹ The 2016 PFPI and Dogwood Alliance report [C/15/441].

¹²² Buchholz et al (2021). At p.42 [C/9/216]. The counterfactual used here was the position if thinning did not take place. This counterfactual was developed through surveys of foresters and other experts, which found that without demand for wood pellets the plantations would not have been thinned.

¹²³ European Commission (2016) *Commission staff working document impact assessment: sustainability of bioenergy* at pp.15-16. 30 November 2016. Available at: https://ec.europa.eu/energy/sites/ener/files/documents/1_en_impact_assessment_part4_v4_418.pdf [C/41/979]; European Academies Science Advisory Council (2018) *Letter from EASAC to the President of the European Commission*. 8 January 2018. Available at: https://easac.eu/fileadmin/user_upload/180108_Letter_to_President_Juncker.pdf [C/42/1109]; Agostini et al (2014) *Carbon accounting of forest bioenergy: conclusions and recommendations from a critical literature review*. JRC Scientific and Policy Reports. Ispra, Italy, Joint Research Center, Institute for Energy and Transport. Available at https://publications.jrc.ec.europa.eu/repository/bitstream/JRC70663/eur25354en_online.pdf. At p.16 [C/43/1111].

¹²⁴ The 2021 Chatham House report. At pp.5 and 12 [C/38/693].

no substantiation given to assist the reader's understanding. Rules 11.3 and 11.5 of the CAP Code¹²⁵ indicate that this approach is misleading for consumers.

9.33 The complainants draw the NCP's attention to the CMA Guidance, which states that:

*"Claims about a business's environmental ambitions must also be in proportion to its actual efforts. They are less likely to be misleading when they are based on specific, shorter term and measurable commitments the business is actively working towards. Where any benefits or impact would accrue over a longer period, that would need to be made clear, as there is more risk of consumers being misled if that benefit or impact is not immediate."*¹²⁶

9.34 Although this statement relates to claims about environmental ambitions, the Complainants contend that it is equally applicable to claims about environmental benefits of a product or service which will only accrue in the long term.

Drax's rationales are mutually inconsistent

9.35 Drax not only relies on fundamentally flawed and misleading rationales to justify its claims that woody biomass is carbon neutral, but it also relies on rationales which actually contradict each other. For example, it is inconsistent to argue that woody biomass is carbon neutral because burning wood releases CO₂ which was originally sequestered by trees *and* because a replacement tree will sequester the carbon released when wood is burned. Moreover, both of these rationales are inconsistent with Drax's false claim that the UNFCCC carbon reporting methodology considers *"the use of sustainable biomass to be CO₂ neutral at the point of combustion."* In fact the UNFCCC methodology recognises that harvesting forests does emit carbon and simply counts this carbon loss in the land sector in the country where the trees were grown. The incompatibility and incoherence of Drax's changing cast of rationales provides further evidence that consumers are likely to be misled by Drax's public statements on woody biomass and failure to provide accurate, adequate and verifiable information in breach of Chapter VIII paragraph 4 (do not mislead), Chapter VI paragraph (2)(a) (provide information on potential environmental impacts) and Chapter VIII paragraph 2 (provide information to enable consumers to make informed decisions) of the Guidelines.

9.36 Moreover, Drax is required to take steps to promote *"higher levels of awareness...of the environmental implications"* of using its products under Chapter VI paragraph 6(c) of the Guidelines (promote awareness of products' environmental implications), and similarly under Chapter VIII paragraph 5 to *"promote consumer education"* in order to allow consumers to (*inter alia*) *"better understand the...environmental...impact of their decisions"*. By presenting an incoherent assortment of mutually contradictory rationales for its woody biomass burning being "effectively" or "broadly based" carbon neutral, Drax is in breach of these provisions of the Guidelines. In this regard paragraph 11.1 of the CAP Code provides helpful guidance: this states that the basis of environmental claims must be clear, which Drax has failed to ensure.

Other rationales that Drax appears to employ

9.37 The Complainants have identified instances where Drax appears to be relying on other rationales to support an image of woody biomass energy having a net positive impact on atmospheric carbon. Although it is unclear whether Drax relies on these rationales specifically to justify claims that its woody biomass energy is effectively carbon neutral, the Complainants explain below why these

¹²⁵ Cap Code. At Rule 11.3: *"Absolute claims must be supported by a high level of substantiation"*; Cap Code. Rule 11.5: *"Marketers must not suggest that their claims are universally accepted if a significant division of informed or scientific opinion exists"* [A/3/68].

¹²⁶ CMA Guidance. At para.3.50 [A/1/1].

statements are misleading so as to assist the NCP's understanding should Drax raise these points in its response to this Complaint

- 9.38 Drax claims that sustainable forest management means that trees are growing faster than the rate at which woody biomass is harvested, and that this means that CO₂ levels in the atmosphere are decreasing. The following claim by Drax was reported in an article in the York Press on 25 April 2018:

"The Drax spokesperson claimed that, as a result of sustainable forest management, trees were growing faster than they are being harvested in the US, resulting in a net decrease of carbon in the atmosphere."¹²⁷

- 9.39 This statement gives the reader a very clear understanding that forest management techniques employed in the USA are accelerating forest growth, which in turn is reducing carbon in the atmosphere. Although it is not clear whether Drax specifically relies on this argument as a rationale for its claims that burning woody biomass is carbon neutral, the statement clearly gives the impression that sustainable forest management is in the very least helping to reduce the CO₂ emissions impacts of woody biomass energy.

- 9.40 It is true that there is more tree growth in the USA than wood being harvested, and by definition, this indicates "sustainable forest management" is occurring since the meaning of this term is that growth exceeds harvest. However, it is wrong to equate this with "a net decrease of carbon in the atmosphere," because CO₂ levels in the atmosphere are increasing. It would also be misleading to indicate that harvesting and burning trees, even "sustainably", reduces the concentration of CO₂ in the atmosphere.

- 9.41 Any argument that sustainable forest management means that wood biomass energy is carbon neutral would likely be underpinned by the idea that sustainable harvesting of trees is equivalent to instantaneous carbon neutrality on the basis that trees growing (and sequestering carbon) elsewhere within the supply base cancel out the CO₂ emissions from the trees harvested for energy. However, this is not an actual offset of CO₂ emissions from burning wood because these trees were already growing and sequestering carbon.¹²⁸ As the IPCC warns, "The combustion of biomass generates gross GHG emissions roughly equivalent to the combustion of fossil fuels. If bioenergy production is to generate a net reduction in emissions, it must do so by offsetting those emissions through increased net carbon uptake of biota and soils."¹²⁹ Ongoing carbon sequestration on the landscape does not represent "increased" or additional carbon uptake and thus fails to constitute an actual offset as would be required to justify a claim of carbon neutrality.

- 9.42 Drax also appears to separately claim that its woody biomass feedstocks used for energy generation do not have higher CO₂ emissions than fossil fuels because the feedstocks constitute wood left over from other industries or wood which is not of sufficient quality to be used for other purposes. For example, in response to a study which found that CO₂ emissions from woody biomass energy could be greater than those from coal, Drax Power then-CEO Andy Koss is quoted on the Renewables Now webpage on 22 January 2018 as saying:

"Commenting on the study, Drax Power's CEO Andy Koss stressed that the biomass used for wood pellets is the low grade material left after wood is harvested by other

¹²⁷ Thompson, V. (2018) *Former Green Party leader Natalie Bennett joins York Drax protest*. York Press. 25 April 2018. Available at: <https://www.yorkpress.co.uk/news/16183589.former-green-party-leader-natalie-bennett-joins-york-drax-protest/> [B/9/42].

¹²⁸ The Paper Tiger Report at pp.9 and 26-30 [C/35/586].

¹²⁹ IPCC (2014) *Climate Change 2014: Mitigation of Climate Change. Contribution of Working Group III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*. Edenhofer, O., et al (eds). Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. At page 877. Available at: https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_full.pdf [C/44/1199].

*industries, such as construction and furniture making. This includes tree tops, limbs, misshapen and diseased trees, as well as thinnings*¹³⁰.

- 9.43 It is not clear whether Drax are expressly relying on this rationale as a basis for claiming that woody biomass energy is carbon neutral. However, if they are, this is incorrect and misleading. There is a fundamental reason why this rationale would not justify treating woody biomass as “effectively” or “broadly based” carbon neutral. Burning any biomass emits CO₂. It is irrelevant what the wood looks like or what its origin is; what matters for determining the relative net carbon impact is what would have happened to the material if it were not burned, and the consequences of the choice to burn wood on factors that can offset or reduce the impact of emissions going forward, i.e., whether an increased or additional carbon sink materialises.
- 9.44 For forestry residues (tree tops and limbs left over from sawtimber harvesting), burning this material instead of leaving it onsite to decompose adds significant net carbon to the atmosphere because burning wood emits carbon immediately, while decomposition emits CO₂ over a much longer period.¹³¹ No additional carbon sink appears as a consequence of the decision to burn this material, so the emissions are not uniquely offset when the wood is used for energy. A recent report from the European Commission’s Joint Research Centre summarised multiple studies and concluded that the cumulative carbon impact from burning “coarse woody debris” for energy can increase emissions compared to a fossil fuel counterfactual for more than a century, and characterises this practice as being “high risk” for ecosystems and the climate.¹³²
- 9.45 In addition, as set out further below in Claim 5 (see section 13) a significant proportion of Drax’s feedstocks comes not from material left over from forestry such as branches, but from whole trees, for example thinnings, or trees that are considered too low quality for other wood products.
- 9.46 The final rationale that Drax may potentially invokes is that an increased demand for wood (including for woody biomass energy) has resulted in forest expansion and associated carbon absorption, thereby supporting its claim that its woody biomass energy is carbon neutral. For example, in response to a study referring to the high carbon emissions of woody biomass energy, Andy Koss (then-CEO of Drax Power) is reported on the Renewables Now webpage on 22 January 2018 to have stated that “*Since 1990 US forests have grown by 7.7 million ha and EU forests by 28 million ha thanks largely to sustainable demand for wood – as these forests grow they are absorbing carbon...*”¹³³.
- 9.47 Again, although it is not clear whether Drax expressly relies on this rationale to claim that woody biomass is effectively carbon neutral, Drax is clearly suggesting in this statement that demand for wood for woody biomass energy is helping to expand the forest carbon sink. This is misleading, because while forest carbon stocks (the absolute quantity of carbon stored) in US forests are still increasing, the US carbon sink (being the rate at which carbon is sequestered) is actually shrinking,

¹³⁰ Renewables Now (2018) *Drax defends coal-to-biomass transition*. 22 January 2018. Available at <https://renewablesnow.com/news/drax-defends-coal-to-biomass-transition-599073/> (“**Renewables Now January 2018**”) [B/10/44].

¹³¹ Booth, M.S. (2018) *Not carbon neutral: Assessing the net emissions impact of residues burned for bioenergy*. Environmental Research Letters 13(3): 035001. Available at: <https://iopscience.iop.org/article/10.1088/1748-9326/aaac88/pdf> [C/45/1201]. See also Stephenson and MacKay (2014) [C/40/825], referred to in the 2020 Ember report at pp.13-15 [C/3/154]. Note in particular Stephenson and Mackay (2014)’s scenario 4, one of a number of scenarios in the Biomass Emissions and Counterfactual (BEAC) model produced for the UK’s former Department for Energy and Climate Change (DECC). This scenario considered the emissions from burning pellets produced from coarse forest residues from the south of the USA. This study found that even after 40 years, the CO₂ emissions from burning this feedstock would equal 389g of CO₂ equivalent for each MWh of power generated (assuming a counterfactual where residues decay in the forest) (at p.67).

¹³² Camia, A. et al (2021) *The use of woody biomass for energy production in the EU*. JRC Science for Policy Report. Available at: <https://publications.jrc.ec.europa.eu/repository/handle/JRC122719>. At p.146 [C/46/1212]. See also overview and summary table at https://forestdefenders.eu/wp-content/uploads/2021/03/JRC-study-biomass-study-overview_final.pdf [C/47/1394].

¹³³ Renewables Now January 2018 [B/10/44].

in part due to the impact of harvesting.¹³⁴ This shrinkage is making it increasingly unlikely that the USA can achieve a balance of emissions sources and sinks after 2050 as called for in Article 4 of the Paris Agreement. As explained above, a study focusing on the carbon balance of Drax's pellet subsidiaries found a consistent reduction in forest carbon stocks over 40 years in a scenario where thinnings were harvested for biomass energy as opposed to the scenario where they were not.¹³⁵ This is the opposite to the implication given by the quote above, which suggests that demand for woody biomass is increasing carbon absorption by forests. The situation is analogous to someone spending down their bank account (forest harvesting in a region to make pellets) but taking credit as a master saver because the amount of money held by the bank overall (US forest carbon stocks) is increasing. If more account holders do the same and spend down their capital, the rate of interest growth for the bank overall will decline, which is what is happening to the US forest carbon sink. US forest stocks are still increasing (rebounding from massive land-clearing in the past), and there is a net annual carbon sink, but that sink is decreasing due to harvesting and climate-related factors including stress, drought, fire, and insect infestations. In 2019 US forests sequestered 94 million tonnes less carbon than they did in 1990, a 12% decrease in the annual sink.¹³⁶ This is the opposite of what is needed to achieve a balance of emissions and sinks as called for in the Paris Agreement, and accelerating forest harvesting for wood pellets is contributing to this trend.

The Complainants' Requests

- 9.48 The Complainants request that Drax ceases to describe its woody biomass energy as "effectively" or "broadly based" carbon neutral or similar. The Complainants further invite Drax to work with them to agree future messaging about the carbon impact of its woody biomass energy such that:
- 9.48.1 future statements should not describe biomass energy as "effectively" or "broadly based" carbon neutral and any statements as to the carbon impact of woody biomass energy should take into account all of the sources of emissions described in Claim 1;
 - 9.48.2 future statements should not rely on any of the flawed tree growth-related rationales described in Claim 1 and any revised statements must clearly set out for consumers the timeframes involved before any offsetting is achieved; and
 - 9.48.3 to the extent Drax continues to rely on the regulatory treatment of woody biomass energy to justify carbon-impact statements, this must be made explicitly clear in all such instances and it must be clear to the reader that this is simply a reporting mechanism and does not suggest that there are no biogenic carbon emissions associated with woody biomass energy.

¹³⁴ See the 2021 Chatham House Report at pp.16-17, referring to (1) 2014 report from the USDA Forest Service noting that increased demand for wood for energy could be expected to reduce the rate of growth of forest carbon stocks (despite forest hardwood inventories i.e. the number of trees being expected to increase) [C/38/693].

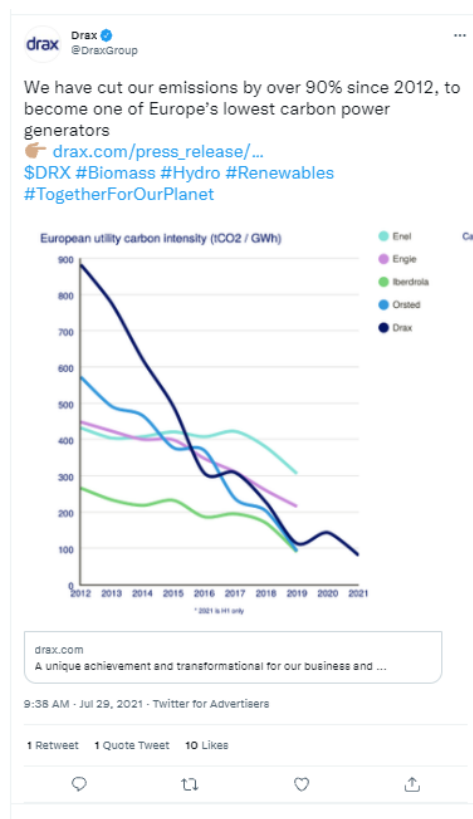
¹³⁵ Buchholz, T. et al (2021) [C/9/216].

¹³⁶ UNFCCC (undated) *Greenhouse Gas Inventory Data - Detailed data by Party*. Available at https://di.unfccc.int/detailed_data_by_party [C/48/1397].

10. CLAIM 2: WOODY BIOMASS ENERGY HAS RESULTED IN A CARBON EMISSIONS DROP OF 90% COMPARED TO THE USE OF FOSSIL FUELS

10.1 Drax claims that since switching the majority of generation at Drax Power Station from coal to woody biomass, a switch only fully completed in 2021, the firm has been able to deliver CO₂ emissions savings of over 90% (emphasis added):

- In a press release from 29 July 2021 available on Drax’s website, Drax states “Once the biggest coal fired power station in Western Europe, Drax has now **slashed its CO₂ emissions from power generation by over 90 percent since 2012**, radically transforming the company and securing its place as **one of Europe’s lowest carbon utilities.**”¹³⁷
- In the York Press on 29 July 2021, Will Gardiner stated: “Drax has **reduced its generation emissions by over 90 per cent**, and we are very proud to be **one of the lowest carbon intensity power generators in Europe** - a huge transformation for a business which less than a decade ago operated the largest coal power station in Western Europe.”¹³⁸
- On Twitter on 29 July 2021, Drax posted the following:¹³⁹



¹³⁷ Drax Group Plc (2021) *Drax cuts emissions by over 90% to become one of Europe’s lowest carbon power generators*. 29 July 2021. Available at: https://www.drax.com/press_release/drax-cuts-emissions-by-over-90-to-become-one-of-europes-lowest-carbon-power-generators/ [B/13/55].

¹³⁸ Jefferson-Brown, N. (2021) *Drax Power Station cuts CO₂ emissions by 90% in under a decade*. York Press. 29 July 2021. Available at: <https://www.yorkpress.co.uk/news/19476684.drax-power-station-cuts-co2-emissions-90-decade/> (“York Press July 2021”) [B/11/45].

¹³⁹ Drax Group Plc (2021) *We have cut our emissions by over 90% since 2021, to become one of Europe’s lowest carbon power generators*. 29 July 2021. Available at: <https://twitter.com/DraxGroup/status/1420665142707171330> [B/14/61].

- 10.2 Prior to making these recent claims, Drax claimed that by converting its power station to burn woody biomass it has reduced its emissions by over 80% and become the "*biggest decarbonization project in Europe*".¹⁴⁰
- 10.3 These claims are misleading and breach Chapter VI paragraph 2(a) (provide information on potential environmental impacts), Chapter VIII paragraph 2 (provide information to enable consumers to make informed decisions) and Chapter VIII, paragraph 4 of the Guidelines (do not mislead). Further examples of similar statements made by Drax are provided in Appendix C at rows 19, 21, 24-26 and 29.
- 10.4 In making these claims, Drax implicitly relies on the methodology described at paragraphs 9.4 to 9.6 above: it counts all smokestack emissions and upstream biogenic emissions as zero. In contrast, it does include the smokestack emissions from burning coal when it claims a "reduction" in emissions.
- 10.5 Drax's justifications for adopting this methodology and reaching such misleading conclusions are its publicly stated rationales as dealt with in paragraphs 9.14 to 9.36 above. Although the Complainants do not repeat them in relation to this Claim 2, their criticism of those underlying rationales and the arguments and conclusions as to the misleading nature of those rationales apply equally here.
- 10.6 Regardless of the flaws in Drax's rationales, the very fact of using different methodologies to calculate the comparative emissions of coal and woody biomass energy is misleading. Paragraphs 3.100 and 3.101 of the CMA Guidance provide the following insight into comparative environmental claims: "*Comparative claims should compare like with like. That means ... the comparison should be between important, verifiable and representative features or aspects of the relevant products; and the basis of the comparison, and the way it is presented, should allow consumers to make an informed decision about the relevant merits of one product over another ... A claim which compares two similar products' ... CO₂ emissions ... for instance, should calculate these measurements in the same way for each product.*" The comparison being made by Drax is not comparing like with like and does not allow consumers to evaluate the actual physical emissions from burning woody biomass as compared to coal.
- 10.7 Separately, Drax makes the type of statements quoted above without reference to its various rationales for its base assumption that its woody biomass energy produces zero smokestack CO₂ emissions. Even if its rationales were accurate and justified, such failure to explain the basis of the calculations sitting behind such statements is in itself misleading.¹⁴¹
- 10.8 In considering whether or not a claim is likely to mislead, it is the impression given to the consumer that is relevant.¹⁴² Consumers reading these statements would understand the comparison to reflect a simple calculation of the amount of carbon being released into the atmosphere at the point of energy production. This would lead consumers to understand the above statements to mean that Drax's woody biomass energy is helping to tackle climate change and is a 90% (or 80%) improvement when compared to coal. Since Drax does not disclose that it is not including stack emissions from burning woody biomass, this creates the impression for consumers that burning woody biomass simply emits much less carbon at the smokestack than burning coal. In fact, the opposite is true –

¹⁴⁰ Koss, A. (2018) *YP Letters: Be assured, our Drax power plant really is green*. Yorkshire Post. 29 October 2018. Available at: <https://www.yorkshirepost.co.uk/news/politics/yp-letters-be-assured-our-drax-power-plant-really-green-236515> ("*Yorkshire Post October 2018*") [B/15/62]; Baraniuk, C. (2018) *The giant coal plant converting to green energy*. BBC Future. 29 August 2018. Available at: <https://www.bbc.com/future/article/20180821-the-giant-coal-plant-converting-to-green-energy> [B/12/49]; Renewables Now January 2018 [B/10/44].

¹⁴¹ CMA Guidance. At para 3.74: "*Where it is necessary to include important qualifying information about a claim, that information should be easily identifiable and clear. It should also be sufficiently close to the main aspects of the claim for consumers to be able to see it easily and take account of it before they make any decision. The less prominent any qualifying information is, and the further away it is from any main claim being made, the more likely the claim will mislead consumers*" [A/1/1].

¹⁴² CMA Guidance. At para 3.41: "*The overall impression created by a claim must match the environmental impact of what is being marketed. Businesses should consider how a consumer is likely to interpret what they are told ...*" [A/1/1].

Drax's own figures from its Annual Report (see paragraph 9.8 above) show that burning wood pellets emits more CO₂ per megawatt-hour of electricity generated than burning coal.

- 10.9 The Complainant anticipates that Drax may refer to a decision by the ASA in 2021 not to uphold a complaint against Drax's subsidiary, Haven Power Ltd, relating to advertising claims including that Haven's biomass "*produces 86% less carbon than coal-generated electricity.*" Part of the ASA's rationale for rejecting the complaint was that the audience for the advertisement was likely to be Haven Power Ltd's customers, who the ASA determined would be energy-market specialists – business users, either energy managers, specialist energy brokers or energy analysts – with a specialist knowledge of the energy sector and thus "*likely to understand the methodology which underpinned the claim*". While the Complainants do not accept the reasoning behind this ASA decision, it is in any case not relevant to the NCP's consideration of the Complaint because as explained in section 4 above, the statements being made by Drax are being read and understood by consumers.

The Complainants' Requests

The Complainants request that Drax ceases claiming it has delivered a drop in carbon emissions of 90% (or 80%) and that any statements that compare Drax's current CO₂ emissions to emissions produced when Drax burned coal for power must be based on calculations that use the same methodology (i.e. accounting for all biogenic emissions including smokestack emissions) for both feedstocks.

11. CLAIM 3: USING BIOENERGY WITH CARBON CAPTURE AND STORAGE (BECCS) TECHNOLOGY, DRAX CAN BECOME "CARBON NEGATIVE" BY 2030.

11.1 Drax has made a range of claims about the efficacy of BECCS as a form of carbon-negative energy generation, and has widely touted its ambition across a range of media to be “carbon negative” by 2030 (emphasis added):

- An article in the York Press on 29 July 2021 quotes Will Gardiner as saying “**By 2030 Drax could be delivering millions of tonnes of negative emissions and leading the world in providing a critical technology needed to tackle the climate crisis**”.¹⁴³
- In a letter to the Sunday Times on 29 September 2019, Will Gardiner stated that “**If Drax uses the technology [BECCS] across all four of its biomass generating units, it could become the world's first negative-emissions power station...**”¹⁴⁴;
- In an article in the Financial Times on 7 February 2019, Will Gardiner is quoted as saying “**There are very few opportunities to create negative carbon, and this is one of them.**”¹⁴⁵
- An article on the Bioenergy Insight website on 17 December 2020 quotes Will Gardiner as saying “**By focusing on our on our flexible and renewable generation activities in the UK, we expect to deliver a further reduction in the group’s CO₂ emissions, which should accelerate our ambition to become not just carbon-neutral but carbon-negative by 2030.**”¹⁴⁶

11.2 These statements misleadingly claim that combining woody biomass burning with carbon capture and storage will achieve negative CO₂ emissions. As explained below, there are three key reasons why BECCS is unlikely to achieve negative emissions when used with woody biomass energy. Further examples of similar statements made by Drax are provided in Appendix C at rows 31-35, 37-38, 40-43, 45-47 and 49-50.

To be carbon negative relies on woody biomass energy being carbon neutral

11.3 Firstly, the claim that BECCS with woody biomass is carbon negative relies on the baseline assumption that woody biomass energy is carbon neutral at the smokestack so that when those stack emissions are captured and stored below ground, the carbon uptake associated with the offset now represents a net drawdown of atmospheric CO₂, hence ‘negative’ emissions. However, as set out above, woody biomass energy is not carbon neutral and the various rationales Drax uses to justify discounting these emissions are not supported by scientific analysis.¹⁴⁷

11.4 The use by Drax of the headline-grabbing statements above are therefore misleading and in breach of the Relevant OECD Guidelines for all of the reasons discussed in relation to Claim 1 above.

Limitations of BECCS technology

11.5 Secondly, CCS technology has not yet been proven to work efficiently at industrial scale¹⁴⁸ and the feasibility of Drax’s BECCS project is currently unproven. The carbon capture which does currently

¹⁴³ York Press July 2021 [B/11/45].

¹⁴⁴ Gardiner, W. (2019) *Letters: Drax is deserving and we could make a big difference*. The Sunday Times. 29 September 2019. Available at: <https://www.thetimes.co.uk/article/drax-is-deserving-and-we-could-make-a-big-difference-p3h85vl7s> (“**The Sunday Times September 2019**”) [B/16/64].

¹⁴⁵ Hook, L. (2019) *Drax becomes first wood-burning power plant to capture carbon*. Financial Times. 7 February 2019. Available at: <https://www.ft.com/content/92381aca-2ad6-11e9-88a4-c32129756dd8> [B/17/66].

¹⁴⁶ Bioenergy Insight (2020) *Drax sells four CCGT power stations to focus on renewables*. 17 December 2020. Available at: <https://www.bioenergy-news.com/news/drax-sells-four-ccgt-power-stations-to-focus-on-renewables/> [B/18/68].

¹⁴⁷ Art, H.W. et al (2021) *A Statement by Scientists and Economists on BECCS from Forest Biomass*. 26 February 2021

¹⁴⁸ *A Statement by Scientists on BECCS from Forest Bioenergy*. 26 February 2021 (“**Statement by Scientists on BECCS From Forest Biomass**”). Available at: <https://www.biofuelwatch.org.uk/wp-content/uploads/BECCS-letter-by-scientists-and-economists-1.pdf> [C/49/1399].

exist (for fossil fuels) is far from completely effective at removing CO₂ smokestack emissions. For example, an analysis of the Petra Nova carbon capture facility for coal burning in Texas, USA found that this only captured 55.4% of CO₂ smokestack emissions (despite the facility reporting that 92.4% of CO₂ emissions were captured).¹⁴⁹ Once the additional electricity required for the carbon capture process was considered, just 33.9% of total CO₂ emissions had been removed. This was reduced to 10.8% over 20 years once upstream emissions were taken into account.¹⁵⁰

- 11.6 Furthermore, as set out further above and below, woody biomass energy also has significant non-smokestack emissions and these cannot be captured using BECCS: these include fossil fuel emissions from manufacturing and transporting the wood pellets, wood burned during pellet manufacture, and soil and decomposition emissions at the logging site. These uncapturable lifecycle emissions are likely to significantly decrease the proportion of total carbon emissions from woody biomass that can be stored using CCS.¹⁵¹ BECCS is also likely to involve additional lifecycle emissions from transporting and storing captured CO₂.
- 11.7 Taken together, the factors above mean that storing smokestack emissions from woody biomass energy with CCS will at best likely only be carbon neutral (ironically, what Drax claims it already achieves without CCS) and may in fact have positive CO₂ emissions. Further discussion of the flaws in claims that BECCS with woody biomass will provide significant negative CO₂ emissions can be found in a statement signed by 87 scientists and economists in February 2021 on woody biomass energy produced in combination with CCS, a report from the think tank Chatham House the “**2017 Chatham House report**”) report and a 2020 report from the independent climate and energy think tank Ember.¹⁵²
- 11.8 In light of this reality, Drax’s statement that Drax Power Station could become a “*negative emissions power station*” once BECCS is fully operational across all its units paints an unrealistic picture of the efficiency, impact and viability of BECCS. The certainty conveyed that BECCS will have a positive impact on the climate means that they are effectively misleading consumers about the environmental benefit that BECCS offers and are therefore in breach of the Relevant OECD Guidelines.¹⁵³

Unrealistic timescales

- 11.9 Thirdly, despite Drax’s claims and its ambitions to become “carbon negative” by 2030, even if negative emissions through BECCS with woody biomass were possible, BECCS is still many years from a full-scale commercial roll-out. This is particularly with respect to planning permissions for converting woody biomass generators to include carbon capture technology, and for carbon storage sites in the North Sea.
- 11.10 Drax has only initiated the planning approval process for BECCS technology on a single unit at its Drax Power Station site, with the preparation of an initial scoping opinion. According to a note of a meeting between Drax and the UK Planning Inspectorate in December 2020, “*The Applicant’s target submission date [for a Development Consent Order] is end of Q1 2022. The Applicant aims to start*

¹⁴⁹ Statement by Scientists and Economists on BECCS from Forest Biomass (referring to Jacobson, M.Z. (2019) *The Health and Climate Impacts of Carbon Capture and Direct Air Capture, Energy and Environmental Science*, 12, 3567-3574) [C/49/1399].

¹⁵⁰ Statement by Scientists and Economists on BECCS from Forest Biomass (referring to Jacobson, M.Z. (2019)) [C/49/1399].

¹⁵¹ Statement by Scientists and Economists on BECCS from Forest Biomass [C/49/1399].

¹⁵² Statement by Scientists and Economists on BECCS from Forest Biomass [C/49/1399]; The 2017 Chatham House report. At pp.31-34 [C/2/82]; The 2020 Ember report. At p.3 [C/3/154].

¹⁵³ Cap Code. At Rule 11.7: “*Marketing communications must not mislead consumers about the environmental benefit that a product offers*” [A/3/68].

construction on BECCS Unit 2 in Q2 2024.”¹⁵⁴ The Complainants are not aware of equivalent planning processes having commenced for the other units.

- 11.11 There are also limits to the trials which Drax has carried out so far for BECCS. For example, in written responses to the government this year Drax indicated that its trials to date have not focused on BECCS’s energy performance, an important factor in whether BECCS will be economically feasible.¹⁵⁵
- 11.12 Furthermore, the Complainants understand that there is currently no storage site for captured CO₂, without which the BECCS unit will not be able to operate. According to Drax’s scoping opinion, CO₂ “would be transported via a proposed National Grid Ventures pipeline for compression at a site at Easington and storage in naturally occurring aquifers under the southern North Sea. The pipeline and the storage infrastructure will be the subject of separate DCO applications and do not form part of the Proposed Development.”¹⁵⁶ These separate Development Consent Order applications have not been initiated yet and the permission process can take over a year to complete.¹⁵⁷
- 11.13 Drax’s statements make no mention of these significant practical obstacles: consumers reading the statements will likely not be aware of them and will not be able to take into account these significant limitations in forming an opinion about BECCS. Paragraphs 3.64 and 3.74 of the CMA Guidance provide the NCP with useful interpretative guidance that indicates that failing to include relevant information can be misleading.¹⁵⁸ For all of these reasons, Drax’s claims that its BECCS project could provide carbon negative energy generation sufficient to make Drax the first negative emissions power station in the world by 2030 are misleading and deceptive representations in breach of Chapter VIII paragraph 4 of the OECD Guidelines (do not mislead). The ICC Marketing Code notes that it is misleading to overstate environmental attributes or exaggerate environmental benefits or features.¹⁵⁹ In presenting BECCS with woody biomass as having negative emissions, when the net impacts are still unknown and could even represent net emissions to the atmosphere, Drax has clearly exaggerated the carbon benefits of BECCS. Moreover, the CAP Code notes that communications must state significant limitations and qualifications.¹⁶⁰ In addition, the CMA Guidance provides that claims about a business’ environmental ambitions should be in proportion to its actual efforts, and that where any benefits would accrue over a longer period this should be made clear to consumers.¹⁶¹ In painting a picture of the capabilities and viability of BECCS with woody biomass that is deeply optimistic and exaggerated, both with respect to timescales and the viability of BECCS to decarbonise on an industrial scale, Drax has failed to make the considerable limitations of BECCS technology clear to consumers.

The Complainants’ Requests

¹⁵⁴ The Planning Inspectorate (2020) *Drax Bioenergy with Carbon Capture and Storage Project*. 1 December 2020. Available at: https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010120/EN010120-Advice-00001-1-EN010120_Drax_%20Meeting%20Notes_1.12.20_FINAL.pdf [C/50/1408].

¹⁵⁵ Biofuelwatch (2021) *Drax admits lack of any real-world evidence for capturing carbon from their biomass units*. Available at: <https://www.biofuelwatch.org.uk/2021/drax-beccs-response/> [C/51/1411].

¹⁵⁶ The Planning Inspectorate (2021) *Scoping Opinion: Proposed Drax Bioenergy with Carbon Capture and Storage Project*. February 2021. Available at: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010120/EN010120-000009-DBCC%20-%20Scoping%20Opinion.pdf>. At para 2.2.3 [C/52/1414].

¹⁵⁷ National Infrastructure Planning (undated) *The process*. Available at: <https://infrastructure.planninginspectorate.gov.uk/application-process/the-process/> [C/53/1593].

¹⁵⁸ CMA Guidance. At paragraph 3.64: “What claims don’t say can also influence the decisions consumers make. Claims made by businesses must not omit or hide information that consumers need to make informed choices”; Paragraph 3.74 CMA Guidance: “Where it is necessary to include important qualifying information about a claim, that information should be easily identifiable and clear. It should also be sufficiently close to the main aspects of the claim for consumers to be able to see it easily and take account of it before they make any decision. The less prominent any qualifying information is, and the further away it is from any main claim being made, the more likely the claim will mislead consumers” [A/1/1].

¹⁵⁹ ICC Marketing Code. At Article D1 [A/10/167]; ICC Environmental Communications Framework. At p.8 [A/11/173].

¹⁶⁰ CAP Code. At Rules 3.9, 11.1 and 11.2 [A/3/68].

¹⁶¹ CMA Guidance. At para. 3.50 [A/1/1].

- 11.14 The Complainants request that Drax stop describing BECCS technology based on Drax's current and planned supply chain as capable of delivering negative CO₂ emissions and issue a public clarification that its own BECCS technology is still some years from any form of scalable rollout and will likely not result in Drax being carbon negative by 2030. Drax is also asked to issue a full lifecycle assessment of CO₂ emissions from its BECCS project which includes all of the sources of CO₂ from woody biomass energy set out above so that consumers have a complete and accurate picture of the CO₂ emissions from BECCS.

12. CLAIM 4: DRAX ACCOUNTS FOR ALL OF THE SUPPLY CHAIN EMISSIONS OF WOODY BIOMASS

12.1 Drax claims that when calculating its carbon emissions, it has taken into account the emissions from its “entire supply chain”. For example:

- In its 2020 Annual Report and on its website, Drax states that “we...collect fuel and energy data for each step in the supply chain, enabling us to calculate lifecycle GHG emissions for our biomass and to demonstrate compliance with our regulatory requirements.”¹⁶²
- In an article in the York Press dated 25 April 2018, a Drax spokesperson stated that “Taking into account the entire supply chain, using biomass for power generation delivers carbon savings of more than 80 per cent compared with using coal.”¹⁶³

12.2 Supply chain emissions are likely to be understood by consumers to mean all emissions associated with the creation and transport of the wood pellets burnt by Drax, prior to them reaching the Drax Power Station in Selby.

12.3 It is not factually accurate to state that all supply chain emissions have been included in Drax’s emissions calculations as claimed. Accordingly, in making these statements, Drax has failed to provide adequate, measurable, verifiable and clear information on the environmental impacts of its supply chain activities that is sufficient to enable consumers to make informed decisions, in breach of Chapter VI paragraph (2)(a) (provide information on potential environmental impacts) and Chapter VIII paragraph (2) (provide information to enable consumers to make informed decisions) of the Guidelines. In omitting key sources of supply chain emissions, these statements are also deceptive and misleading representations which breach Chapter VIII paragraph 4 of the Guidelines (do not mislead).

12.4 Drax provides some detail on what kinds of supply chain emissions have been included in its overall emissions calculations in its Annual Report for 2020. At p.54, Drax provides a breakdown of the supply chain emissions it calculates, which includes fossil fuel-derived emissions associated with drying and processing feedstocks, both via Drax’s own pellet production business and via third party suppliers. Further detail of what supply chain emissions Drax includes in its emissions calculations can be found on its website, where it provides figures broken down into ‘Scope 1’ (direct emissions), ‘Scope 2’ (indirect emissions from electricity generation) and ‘Scope 3’ (Upstream and Downstream emissions).¹⁶⁴

12.5 However, despite its claims that it takes into account all supply chain emissions in calculating the carbon cost of its woody biomass energy, Drax in fact fails to account for important sources of carbon emissions in its supply chain.

12.6 Drax’s claims ignore the biogenic (i.e. non-fossil fuel) carbon emissions upstream of burning the wood pellets themselves. These emissions primarily include:

12.6.1 CO₂ produced from burning wood to generate heat for pellet drying;

12.6.2 CO₂ emitted by the decomposition of roots and forestry residues left behind after harvesting¹⁶⁵; and

12.6.3 Soil carbon loss from soil disturbance during harvesting.

¹⁶² Drax Annual Report and Accounts 2020. At p.53; Drax Group Plc (undated) *Sourcing sustainable biomass*. Available at: <https://www.drax.com/sustainability/sustainable-bioenergy/sourcing-sustainable-biomass/> [B/2/5].

¹⁶³ York Press April 2018 [B/9/42].

¹⁶⁴ Drax website: carbon emissions [B/1/1].

¹⁶⁵ The 2021 Chatham House report. At pp.30-35 [C/38/693].

- 12.7 A report focused on wood pellets exported from the Southern USA for burning by Drax found that in 2019, net emissions of CO₂ from the “*decay of logging residues*” left behind after harvesting those wood pellets was between 1,432,293 tonnes (if all harvest is assumed to be from commercial thinnings) and 1,740,945 tonnes (if all harvest is assumed to be from final clearcut).¹⁶⁶ These emissions are a direct part of the supply chain for wood pellets and are not taken into account by Drax when calculating its supply chain emissions.
- 12.8 Woody biomass harvesting results in carbon loss from the soil. The 2017 Chatham House report concludes that CO₂ emissions released from the soil during harvest can prevent a harvested forest from becoming a carbon sink again for 10-20 years, even if trees are replanted.¹⁶⁷ Another study suggests that intensive biomass harvests could constitute an important source of carbon transfer from forests to the atmosphere partly neutralising the role of a carbon sink played by forest soils.¹⁶⁸ Another study found that, over a period of 15 years following harvest for biomass fuel, two-thirds of the carbon sequestered in regrowing trees was offset by soil carbon released into the atmosphere, and net carbon accumulation was nearly zero when both CO₂ emissions from soil carbon loss and decomposition of logging debris were taken into account.¹⁶⁹ Carbon loss from the soil and logging residues is not mentioned in Drax’s Annual Report, where Drax asserts that it has counted all supply chain emissions. Drax’s information on emissions arising from soil carbon loss is therefore inadequate: Drax appears to have failed to take into account these emissions in its final supply chain emissions totals and does not acknowledge this source of emissions in its Annual Report or public-facing website literature, making it very difficult for consumers to develop a full understanding of the scope of Drax’s supply chain emissions.
- 12.9 Drax may argue that its references to “supply chain emissions” only refer to supply chain emissions from fossil fuels, rather than all upstream emissions including biogenic emissions. However, a consumer is unlikely to draw this technical distinction, instead relying on the ordinary meaning¹⁷⁰ of “supply chain emissions” and would likely assume that a reference to supply chain emissions covers all upstream emissions. The Applicable External Codes all indicate that when considering whether a claim is misleading, it is the impression and understanding of the consumer reading a claim that is relevant rather than any technical meaning or that intended by the business.¹⁷¹ In addition, the first statement referred to above appears to suggest that by counting the supply chain emissions of woody biomass, Drax is accounting for woody biomass’ lifecycle emissions, a term which would include biogenic as well as fossil fuel emissions.

The Complainants’ Requests

- 12.10 The Complainants request that Drax stops making claims about CO₂ emissions from woody biomass energy which suggest that the entire supply chain emissions from this energy source have been taken into account without acknowledging or accounting for the emissions sources described above.

¹⁶⁷ The 2017 Chatham House report. At p.4 [C/2/82].

¹⁶⁸ Achat, D. L. et al (2015) *Forest soil carbon is threatened by intensive biomass harvesting*. Scientific Reports 5:15991. Available at: <https://www.nature.com/articles/srep15991> [C/54/1597].

¹⁶⁹ Hamburg, S P. et al (2019) *Losses of mineral soil carbon largely offset biomass accumulation 15 years after whole-tree harvest in a northern hardwood forest*. Biogeochemistry 144 (1): 1-14. Available at: <https://link.springer.com/article/10.1007/s10533-019-00568-3> [C/55/1607].

¹⁷⁰ See CMA Guidance at para. 3.52: “Businesses should use words and phrases in line with their ordinary meaning and the way consumers are likely to understand them”; and CAP Code Rule 11.2: “The meaning of all terms used in marketing communications must be clear to consumers” [A/1/1].

¹⁷¹ See e.g. CMA Guidance at para. 3.41: “Businesses should consider how a consumer is likely to interpret what they are told ...” [A/1/1]; CAP Code at Background to Rule 3, p17: “The ASA will take into account the impression created by marketing communications as well as specific claims. It will rule on the basis of the likely effect on consumers, not the marketer’s intentions” [A/3/68].

13. **CLAIM 5: WHOLE TREES ARE NOT FELLED TO PRODUCE WOOD PELLETS BURNT BY DRAX AND DRAX'S WOODY BIOMASS ENERGY DOES NOT DAMAGE FORESTS.**

13.1 Drax claims that the wood pellets it burns do not originate from the felling of whole trees for bioenergy.

13.2 In an article published in Energy Live News on 2 July 2021, a Drax spokesperson said:

*“We have repeatedly stated that **Drax does not burn whole trees or trees harvested solely for bioenergy**. Our sustainable biomass pellets are produced from the material leftover from when forests are harvested for other sectors, such as construction and furniture”.*¹⁷²

13.3 Drax also made the following similar claim (although not publicly) in a letter addressed to various environmental: *“Drax does not cut down trees for its sustainable biomass...”*¹⁷³

13.4 These claims are deceptive and misleading and breach Chapter VI paragraph 2(a) (provide information on potential environmental impacts), Chapter VIII paragraph 2 (provide information to enable consumers to make informed decisions) and Chapter VIII paragraph 4 (do not mislead) of the OECD Guidelines because NGO investigations clearly evidence that whole trees are being delivered to pellet mills that supply Drax.

13.5 For example, Pinnacle Renewable Energy, the Canadian pellet manufacturer which was recently purchased by Drax, has been found in a report by NGO Stand.earth¹⁷⁴ and investigations by advocacy group Conservation North to source whole trees in order to manufacture its wood pellets. The Stand.earth report and Conservation North investigations used photos and satellite imagery to demonstrate their findings.



Photo 1: This photo was taken at Pinnacle's Burns Lake pellet manufacturing facility on 29 August 2021, showing whole trees stockpiled for pellet manufacture (photo credit: Kai Nagata)

¹⁷² Mavrokefalidis, D. (2020) *Government urged not to subsidise 'the world's biggest tree burner'*. Energy Live News. Available at: <https://www.energylivenews.com/2021/07/02/government-urged-not-to-subsidise-the-worlds-biggest-tree-burner/> [C/17/484].

¹⁷³ Drax Group Plc (2021) *Industrial scale biomass burning in the power sector threatens climate action and should not be subsidised letter*. 15 July 2021. At p.1 [B/21/86].

¹⁷⁴ Stand.earth (undated) *Investigation: Canada's growing wood pellet export industry threatens forests, wildlife and our climate*. Available at: <https://www.stand.earth/sites/stand/files/report-canada-wood-pellet-industry.pdf> (the "Stand.earth investigation") [C/56/1621].



Photo 2: This photo was taken at Pinnacle’s pellet manufacturing facility in Smithers in March 2021, showing whole trees stock-piled for pellet manufacture (photo credit: Stand.earth)

- 13.6 Furthermore, as evidenced below, these investigations demonstrate that extensive clearcutting is occurring in British Columbia in areas where felling is licensed to pellet manufacturers. “Clearcutting” is a forestry practice in which most or all trees in an area are uniformly cut down. The fact that wood pellet manufacturers source trees which have been obtained through such practices means that whole trees are in fact being cut down specifically for the purpose of manufacturing wood pellets.
- 13.7 Using publicly available data, Conservation North identified forest areas near Burns Lake, British Columbia for which logging permits had been issued to Pinnacle. These areas were then identified using satellite mapping images and photos of the logging undertaken in those areas were taken to evidence clearcutting practices:



Photo 3: Pinnacle cut-blocks near Burns Lake, British Columbia, 28 August 2021 (photo credit: Kai Nagata)



Photo 4: Pinnacle cut-blocks near Burns Lake, British Columbia, 28 August 2021
(photo credit: Kai Nagata)

- 13.8 In its own reporting, Pinnacle in fact acknowledges that in 2020 it sourced 27.86% of its feedstock from “primary fibre” which is defined as being “received directly from the forest in the form of roundwood or in-forest chipping.”¹⁷⁵ “Roundwood” means whole logs or trees. These photos directly contradict Drax’s statement at paragraph 13.2 above.
- 13.9 Similar evidence has emerged in relation to Enviva, one of the largest wood pellet manufacturers in the USA, which supplies wood pellets to Drax. A 2016 report submitted to the Securities and Exchange Commission by PFPI and Dogwood Alliance about Enviva’s wood pellet manufacturing practices found that Enviva sources a significant proportion of its feedstock from whole trees (including from biodiverse hardwood forests in North Carolina) and that “clearcutting and complete elimination of all standing trees is a common practice by [Enviva]”.¹⁷⁶
- 13.10 Investigations into Enviva’s practices by other NGOs¹⁷⁷ support this conclusion. The NGOs’ investigations, most recently in 2019,¹⁷⁸ have conclusively established the use of whole trees by following logging from clearcut sites in North Carolina back to Enviva’s pellet manufacturing facilities:

¹⁷⁵ Sustainable Biomass Program (2019) *Supply Base Report: Pinnacle Renewable Energy Inc (Smithers Pellet Limited Partnership) (Third Surveillance Audit)*. 22 October 2020. Available at: <https://sbp-cert.org/certificate-holders/#4414> [C/57/1642].

¹⁷⁶ The 2016 PFPI and Dogwood Alliance Report. At p.35. See also Dogwood Alliance, NRDC and Southern Environmental Law Center (2019) *Global Markets for Biomass Energy are devastating U.S. Forests..* Available at: <https://www.dogwoodalliance.org/wp-content/uploads/2019/07/Biomass-Investigation-Booklet-2019.pdf> (the “2019 Dogwood Alliance and others report”) [C/15/441].

¹⁷⁷ Dogwood Alliance, NRDC, and Southern Environmental Law Center (2017) *European Imports of Wood Pellets for “Green Energy” Devastating US Forests*. Available at https://www.dogwoodalliance.org/wp-content/uploads/2017/05/NRDC_2014-2017Booklet_DigitalVersion-resize.pdf [C/59/1807].

¹⁷⁸ The 2019 Dogwood Alliance and others report [C/15/441].



Photo 5: logging trucks carrying large diameter trees from a clear cut site in Sampson County, lined up waiting to enter Enviva's Sampson County pellet-manufacturing facility, February 2017 (photo credit: Dogwood Alliance)



Photo 6: logging truck carrying large diameter trees from a clear cut site in Sampson County, entering Enviva's Sampson County pellet-manufacturing facility, February 2017 (photo credit: Dogwood Alliance)



Photo 7: A clearcut site in Potocasi Creek, which is a wetland and bottomland forested area near Woodland, North Carolina, 2015. The logging trucks carrying whole hardwood trees from this site were tracked back to the Enviva pelleting manufacturing facilities in Southampton and Ahoskie. (Photo credit: Dogwood Alliance)

- 13.11 Drax also obtains wood pellets from Graanul Invest in Estonia. A report by Estonian NGOs Estonian Fund for Nature and Latvian Ornithological Society notes that there are “numerous examples of Valga Puu [a subsidiary of Graanul Invest] clearcutting forests on Natura 2000 sites, mostly in the Haanja and Otepää Nature Parks.”¹⁷⁹ This report includes a number of pictures evidencing what clearcutting looks like on the ground, including picture 8 below (see also picture 9):

¹⁷⁹

Estonian Fund for Nature and Latvian Ornithological Society (2020) *Hidden inside a wood pellet. Intensive logging impact in Estonian and Latvian forests*. December 2020. Available at: https://media.voog.com/0000/0037/1265/files/Biomass_report_ENG%20_2020.pdf (the “2020 EFN and LOS report”). At pp.18-19 [C/60/1816]. See also Kuepper, B. (2021) *Dutch Wood Pellet Imports. Is Dutch Biomass Burning Contributing to forest Loss in Baltic States?* June 2021. Available at: <https://www.greenpeace.org/static/planet4-netherlands-stateless/2021/06/7c0ec271-wood-pellets-nl-210603-final.pdf>. See especially Figure 10 on p.14 [C/61/1833].



Photo 8: Clearcut logging sites in state-owned forests in Estonia (photo credit: Estonian Fund for Nature)



Photo 9: Log yard and plant at Osula Graanul Invest pellet mill in Sõmerpalu, Võru County, Estonia, July 2019 showing whole trees ready for pellet manufacture (Photo credit: Peg Putt).

- 13.12 The factual evidence described in the preceding paragraphs demonstrates that at least three of Drax's major wood pellet suppliers use whole trees harvested using clearcutting techniques as part of their pellet feedstock, making Drax's statement recorded at paragraph 13.2 above clearly untrue and misleading, in clear breach of the Relevant OECD Guidelines.
- 13.13 The Complainants anticipate that Drax will seek to argue that whole trees are only used in pellet manufacture when they are "low grade" wood. Trees classified in this way are understood to be unsuitable for use in other forestry industries such as timber or furniture production. However, such trees serve vital carbon and biodiversity functions and would be understood by consumers to constitute "whole trees." In any case any such clarification by Drax is irrelevant as it is not included in the public statements quoted above. And secondly, even if it were included, it does not change the fact that whole trees are being cut down to fuel Drax's biomass energy production.
- 13.14 In addition to the statement at paragraph 13.2 above, Drax also claims that its woody biomass energy does not lead to forests being destroyed or cause deforestation. For example:
- In a video interview from 29 February 2019 available to watch on Youtube, Drax CEO Will Gardiner answered the question "*Are forests destroyed when Drax uses biomass and is biomass power a major source of carbon emissions?*" by responding "*No. Sustainable biomass from healthy managed forests is helping decarbonize the UK's energy system as well as helping to promote healthy forest growth. Biomass has been a critical element in the UK's decarbonization journey helping us get off coal much faster than anyone thought possible.*"¹⁸⁰
 - In a letter to the Sunday Times on 29 September 2019, Will Gardiner stated that: "*The sustainable biomass we use does not cause deforestation – quite the opposite. Sustainable demand for wood products leads to bigger forests, better growth and larger inventories of trees.*"¹⁸¹
 - In a letter to the Yorkshire Post on 29 October 2018, Andy Koss (former Generation CEO at Drax Power) stated that: "*We never cause deforestation or forest decline. In fact, the forests in the US South where we source the majority of our biomass are huge – they're three times the size of the UK and they're growing.*"¹⁸²
- 13.15 In addition, in the letter to NGOs referred to at paragraph 13.3 above Drax also stated "*we never source fibre from areas where there is deforestation or forest decline*".¹⁸³ A further example of a similar statement made by Drax is provided in Appendix C at row 54.
- 13.16 The UNFCCC defines "deforestation" as "*the direct human-induced conversion of forested land to non-forested land.*"¹⁸⁴ On a technical level, this means that clearcutting forests does not count as "deforestation" as long as the felled areas are not converted to a new land use (e.g. agriculture) and are instead left to regenerate or are replanted with new trees.
- 13.17 Compliance of a statement with a technical definition, however, does not mean that it is not misleading in circumstances where a consumer is given a misleading impression about how green and sustainable a product really is.¹⁸⁵ Furthermore, the CAP Code suggests that, in order to not be

¹⁸⁰ Drax Youtube 2019 [B/4].

¹⁸¹ The Sunday Times September 2019 [B/16/64].

¹⁸² Yorkshire Post October 2018 [B/15/62].

¹⁸³ Drax Group Plc (2021) *Industrial scale biomass burning in the power sector threatens climate action and should not be subsidised letter*. 15 July 2021 [B/21/86].

¹⁸⁴ UNFCCC (2001) *Decision 11/CP.7*. Available at:

https://unfccc.int/files/meetings/workshops/other_meetings/application/pdf/11cp7.pdf [A/13/206].

¹⁸⁵ CMA Guidance. At paragraph 3.4: "*For consumers to make informed choices about what they buy, environmental claims must be truthful and accurate. Claims must not mislead consumers by giving them an inaccurate impression, even if those claims are factually correct. They must only give consumers the impression that a product, service, process, brand or business is as green and sustainable as it really is*" [A/1/1].

misleading, the meaning of all terms used in communications must be clear to consumers.¹⁸⁶ The Complainants submit that if consumers were shown pictures of clearcut logging sites (e.g. photos 3, 4, 7 and 8 above), they would likely consider such activity to constitute deforestation and would therefore consider the statements quoted above to be misleading.

- 13.18 Furthermore, consumers would likely understand from Drax's statements that Drax's biomass energy does not harm forest habitats and ecosystems. This impression is given particularly strongly by statements such as "*we never cause deforestation or forest decline*" (emphasis added) and by the clear answer of "No." when asked "*Are forests destroyed when Drax uses biomass ...?*"
- 13.19 As set out above, there is clear evidence that pellet manufacturers supplying Drax obtain wood harvested from clearcutting in primary forests. Evidence suggests that the intensification of logging in Estonia and Latvia (which trebled from 2008 to 2018) is being reinforced by biomass demand from abroad.¹⁸⁷ In Estonia, logging is being conducted in protected forest areas without appropriate environmental risk assessments being undertaken. This includes logging in Natura 2000¹⁸⁸ sites which are part of "*a network of protected areas covering Europe's most valuable and threatened species and habitats*".¹⁸⁹ This activity has resulted in the European Commission initiating infringement proceedings against the Estonian government as such activity is in breach of requirements of European nature protection legislation.¹⁹⁰ Clearcutting in Natura 2000 sites inherently destroys vital habitats upon which numerous species depend, causing irreparable harm to forest habitats and ecosystems.
- 13.20 In the Southeastern USA, clearcutting of bottomland hardwood forests for use in the production of wood pellets by suppliers such as Enviva poses a threat to species of conservation concern in this global biodiversity hotspot area. Wood pellet harvesting combined with other pressures mean that these biodiverse forests are projected to decline by 5-12% between 2010 and 2060.¹⁹¹ Demand for wood pellets for woody biomass energy in the UK resulted in 303 square kilometres of biodiverse forests in the Southeastern USA being harvested in 2016 alone.¹⁹²
- 13.21 In British Columbia, evidence suggests that wood pellets are likely being made with wood from threatened species habitat.¹⁹³ For example, one third of the pellet industry's logging areas in British Columbia exist in the Inland Temperate Rainforest ecosystem. This globally rare ecosystem consists of ancient primary forests of international importance in terms of biodiversity and carbon storage.¹⁹⁴ These forests are home to Southern Mountain Caribou herds which in 2018 were declared by the federal government to be at imminent risk of extinction, a situation which is exacerbated by felling whole trees within their habitat.¹⁹⁵
- 13.22 Felling forests in rare ecosystems deserving of protection such as Estonia's Natura 2000 sites and Canada's Inland Temperate Rainforests, especially using clearcutting, destroys these vitally

¹⁸⁶ CAP Code. At Rule 11.2: "*The meaning of all terms used in marketing communications must be clear to consumers*" [A/3/68].

¹⁸⁷ The 2020 EFN and LOS report. At p. 5 and graph on p. 12 [C/60/1816].

¹⁸⁸ Foundation of Environmental Information (2021) *The Estonian Ministry of Environment spreads misinformation and allows logging in sites of nature conservation value* (English translation). Available at: [https://ktu.ee/Report%202021%20-%20Estonia%20Natura%202000%20forest%20logging%20\(ENG\).pdf](https://ktu.ee/Report%202021%20-%20Estonia%20Natura%202000%20forest%20logging%20(ENG).pdf) [C/62/1856].

¹⁸⁹ Definition provided by the European Environment Agency: European Environment Agency (2021) *The Natura 2000 protected areas network*. Available at: <https://www.eea.europa.eu/themes/biodiversity/natura-2000/the-natura-2000-protected-areas-network#:~:text=Natura%202000%20is%20a%20network,on%20land%20and%20at%20sea> [C/63/1865].

¹⁹⁰ European Commission (2021) *June infringements package: key decisions*. 9 June 2021. Available at: https://ec.europa.eu/commission/presscorner/detail/en/inf_21_2743 [A/14/216].

¹⁹¹ Carr, D. (2018) *Burning Trees for Power: The Truth about Woody Biomass, Energy and Wildlife*. Southern Environmental Law Centre. January 2018. Available at: https://www.southernenvironment.org/wp-content/uploads/legacy/words_docs/Biomass_Biodiversity_white_paper.pdf [C/64/1871].

¹⁹² Carr, D. (2018) [C/64/1871].

¹⁹³ The Stand.earth investigation [C/56/1621].

¹⁹⁴ The Stand.earth investigation. At p.8 [C/56/1621].

¹⁹⁵ The Stand.earth investigation. At p.8 [C/56/1621].

important and irreplaceable ecosystems. Such ecosystems have taken hundreds to thousands of years to develop and cannot be replaced by the expansion of commercial forests, which typically hold little biodiversity value. The number of breeding woodland birds is a good indicator of the quality and integrity of forest ecosystems. That Estonian forest bird populations are declining by 50,000 pairs each year¹⁹⁶ is a clear indication of the decline in the forest ecosystems in Estonia.

- 13.23 The CAP Code suggests that in determining whether or not a claim is misleading, it is necessary to take into account the impression created by the communications as well as the specific claim itself.¹⁹⁷ The Complainants submit that the impression given by Drax's statements recorded at paragraph 13.4 above is one of an overall positive impact on forests. With this in mind, consumers would be shocked to understand the detrimental impacts described above of producing wood pellets to fuel Drax's biomass energy and would consider this reality to be the apotheosis of forest decline and destruction. Drax's statements are therefore clearly misleading and in breach of the Relevant Guidelines.
- 13.24 The Complainants anticipate that Drax may argue that the fact that its woody biomass meets the UK's sustainability requirements and that it has a responsible sourcing policy means that its claims about not causing deforestation or destroying forests are accurate. However, this does not change the fact that there is evidence showing that Drax's suppliers use whole trees from clearcut sites in their wood pellets and this damages biodiverse forests.
- 13.25 These claims by Drax are therefore misleading and breach Chapter VI paragraph 2(a) (provide information on potential environmental impacts), Chapter VIII paragraph 2 (provide information to enable consumers to make informed decisions) and Chapter VIII paragraph 4 (do not mislead) of the OECD Guidelines.

The Complainants' Requests

- 13.26 The Complainants request that Drax acknowledge in its public statements that its pellet suppliers use whole trees and that harvesting wood for biomass energy can cause significant harm to forest ecosystems.

¹⁹⁶ The 2020 EFN and LOS report. At p. 7 [C/60/1816].

¹⁹⁷ CAP Code. At p 16 (Background on Misleading Advertising): "*The ASA will take into account the impression created by marketing communications as well as specific claims. It will rule on the basis of the likely effect on consumers, not the marketer's intention*" [A/3/68].

PART 3: CONCLUSION

14. CONCLUSION AND THE COMPLAINANTS' REQUESTS

14.1 In conclusion, the Relevant Statements detailed in this Complaint mislead the public and accordingly are in breach of the OECD Guidelines. The average person reading or hearing the Relevant Statements would be left with the overriding impression that woody biomass energy is essentially carbon neutral and has allowed Drax to reduce its carbon emissions by 90%, that CCS linked to the combustion of woody biomass can deliver negative emissions by 2030, and that the harvesting and combustion of forest wood does not harm forests and is even positive for the environment. For the reasons set out in this Complaint, these claims are misleading. Drax has therefore failed to provide accurate, clear and comprehensive communications as required by the OECD Guidelines, as well as by the Applicable External Codes. The Relevant Statements also do the opposite of promoting environmental awareness, instead undermining the public's ability to make informed decisions and to understand the true impact of woody biomass energy on the climate and biodiversity crises.

The Complainants' request to Drax

14.2 To remedy the persistent breaches of the Relevant OECD Guidelines identified in this Complaint, the Complainants request that Drax take the following steps:

14.2.1 Withdraw and/or correct each of the Relevant Statements described in this Complaint in a manner agreed with the Complainants and cease to rely on equivalent or similarly misleading statements in the future. In particular but not exclusively:

- (a) future statements should not describe biomass energy as “effectively” or “broadly based” carbon neutral and any statements as to the carbon impact of woody biomass energy should take into account all of the sources of emissions described in Claim 1 and Claim 4;
- (b) future statements should not rely on any of the flawed tree-growth related rationales described in Claim 1 and any revised statements must clearly set out the timeframes involved before net emissions are reduced to zero;
- (c) to the extent Drax continues to rely on the regulatory treatment of woody biomass energy to justify carbon-impact statements, this must be made explicitly clear to the reader that this is simply a reporting mechanism and does not suggest that there are no biogenic carbon emissions associated with woody biomass energy;
- (d) future statements should not suggest that Drax's carbon emissions have dropped by 90% (or 80%) compared to burning coal and any statements that compare Drax's current CO₂ emissions to emissions produced when Drax burnt coal for power must be based on calculations that take into account biogenic emissions from burning woody biomass;
- (e) future statements should not describe BECCS using woody biomass feedstocks as a “negative emissions” technology and should accurately portray the timescales and technological uncertainty associated with the project;
- (f) any claims about supply chain emissions must make clear that the categories of emissions discussed in Claim 4 are not accounted for and quantify those emissions accordingly; and

- (g) future statements should make clear that Drax's feedstocks do include whole trees and that harvesting wood for woody biomass energy can cause significant harm to forest ecosystems;
- 14.2.2 Conduct a full lifecycle assessment of CO₂ emissions from its BECCS project which includes all sources of CO₂ from woody biomass energy, as set out in this Complaint;
- 14.2.3 Make a public statement, to be agreed with the Complainants, which draws attention to these corrections and provides a full explanation of the reasons for them; and
- 14.2.4 Make a public commitment to ensure that its future communications about the carbon, biodiversity and wider environmental impacts of its woody biomass energy are consistent with the OECD Guidelines.

The Complainants' request of the NCP

- 14.3 The Complainants understand that before proceeding further, the NCP will undertake an initial assessment to determine whether the issues raised in this Complaint merit further examination. The Complainants submit that the issues identified in this Complaint are bona fide and of significant public importance given the urgency of the climate and biodiversity crises, not to mention the enormous amount of public funding (around £2 million per day) provided to Drax as it continues to make these misleading statements. The issues addressed in this Complaint relate directly to Drax and have been substantiated by reference to detailed scientific and factual evidence.
- 14.4 Further examination of this Complaint will support the OECD Guidelines' purpose of promoting sustainable development and ensuring that members of the public are provided with accurate and clear information on the environmental impact of businesses operating in their society.
- 14.5 The Complainants understand that in the first instance, the NCP will seek to facilitate conciliation or mediation between the parties and the Complainants hope that such an approach will prove productive. If it is not possible to resolve the dispute swiftly and effectively in this way, the Complainants invite the NCP to conclude in a final statement that Drax's public statements are in breach of the Relevant OECD Guidelines in the ways set out in this Complaint. Publication of the NCP's conclusions under the final statement process will ensure that there is a clear determination that Drax's current representations breach the Relevant OECD Guidelines and provide specific recommendations to Drax to ensure that its conduct is brought into line with the OECD Guidelines. The Complainants also invite the NCP in its final statements to provide opportunities for ongoing follow up and scrutiny of Drax's commitment to comply with any recommendations.
- 14.6 The Complainants understand that all information provided to the NCP will be shared with Drax. The Complainants have set out in this document the salient points of their concerns about the Relevant Statements and would be grateful for the opportunity to provide further information should that be of assistance to the NCP.

London, UK

21 October 2021

Updated 2 November 2021

APPENDIX A
SUMMARY OF BREACHES OF OECD GUIDELINES

Appendix A is designed to assist the reader by providing a brief summary of the five Drax claims which are examined in this Complaint. The relevant section of the Complaint should be read and relied upon in understanding the Complainants' arguments.

Category of statement / claim by Drax	Example statements	OECD Guidelines breached	Applicable External Codes	Summary
<p>Claim 1: Wood biomass energy is already effectively a carbon neutral energy generation technology and associated rationales</p> <p>See Chapter 9 for full analysis of this Claim</p>	<p><i>"Biomass is used to generate carbon neutral electricity".¹⁹⁸</i></p>	<p>Chap VI, para 2(a) Chap VIII, para 2 Chap VIII, para 4</p>	<p>Must give complete information and identify significant limitations: rule 3.9 CAP Code, para 3.64 CMA Guidance</p> <p>Any claims based on part of product's life cycle must not mislead about total environmental impact: rule 11.4 CAP Code, para 3.114 CMA Guidance</p> <p>Must not suggest claims universally accepted if significant division of opinion exists: rule 11.5 CAP Code</p>	<p>These statements give consumers an inaccurate and misleading understanding of the carbon impact of Drax's woody biomass energy. Rather than being carbon neutral, Drax is the largest single emitter of CO₂ in the UK.¹⁹⁹</p>
	<p>Rationale 1: <i>"The biogenic carbon emissions resulting from generation are counted as zero in official reporting to both UK authorities and under the European Union Emissions Trading System (EU ETS) as the use of sustainable biomass is considered to be CO₂ neutral at the point of combustion. This methodology originates from the United</i></p>	<p>Chap VI, para 2(a) Chap VIII, para 2 Chap VIII, para 4</p>	<p>Meaning of all terms must be clear to consumers: rule 11.2 CAP Code</p>	<p>The UNFCCC reporting convention aims to avoid double counting in carbon reporting. It does not characterise or support a characterisation of woody biomass energy in fact producing zero emissions. The IPCC explicitly warns against such conclusion: <i>"the approach of not including these [bioenergy]</i></p>

¹⁹⁸ Drax Group Plc (undated) *Sustainable bioenergy*. Available at: <https://www.drax.com/sustainability/sustainable-bioenergy/> [B/8/33].

¹⁹⁹ Harrison, T. (2021) *UK biomass emits more CO₂ than coal*. 8 October 2021. Available at: <https://ember-climate.org/commentary/2021/10/08/uk-biomass-emits-more-co2-than-coal/> [B/5/176].

Category of statement / claim by Drax	Example statements	OECD Guidelines breached	Applicable External Codes	Summary
	<i>Nations Framework Convention on Climate Change</i> ²⁰⁰			<i>emissions in the Energy Sector total should not be interpreted as a conclusion about the sustainability or carbon neutrality of bioenergy.</i> ²⁰¹ Drax's statement misleads consumers about how UNFCCC reporting works and the carbon impact of Drax's woody biomass energy.
	Rationale 2: <i>"Sustainable wood pellets are considered to be carbon neutral at the point of combustion. As they grow, forests absorb carbon from the atmosphere. When a biomass pellet is combusted, the same amount of atmospheric CO₂ is released. The overall amount of CO₂ in the atmosphere remains neutral, unlike with fossil fuels which release ancient carbon that has long fallen out of the natural carbon cycle"</i> ²⁰²	Chap VI, para 2(a) Chap VIII, para 2 Chap VIII, para 4	In considering whether a statement is misleading, businesses must consider likely impact on the reasonable consumer: ICC Environmental Communications Framework p.5	The fact that trees previously sequestered carbon is irrelevant to the impact of Drax's emissions on the climate today. These statements might mislead consumers to understand that Drax's emissions are "offset" prior to combustion which is absurd and misleading.
	Rationale 3: <i>"Biomass is considered a renewable fuel source because the forests where we get our wood pellets regrow. The recapture of the CO₂ in</i>	Chap VI, para 2(a) Chap VIII, para 2	Need to support absolute claims with high level of substantiation: rule 11.3 CAP Code	Suggests to reader that recapture of CO ₂ by tree regrowth is very quick or even instantaneous. In fact, net biomass emissions continue to exceed those

²⁰⁰ Drax website: carbon emissions [B/1/1].

²⁰¹ IPCC (2021) *Frequently Asked Questions* [C/6/185].

²⁰² Drax website: what is a biomass wood pellet? [B/6/22].

Category of statement / claim by Drax	Example statements	OECD Guidelines breached	Applicable External Codes	Summary
	<i>the forest offsets the emissions that still come from the power station.</i> ²⁰³	Chap VIII, para 4	Must not suggest claims universally accepted if significant division of opinion exists: rule 11.5 CAP Code Where benefits accrue over long period, this must be made clear: para 3.50 CMA Guidance	from a comparable fossil fuel plant for decades, well past the 2050 target for global carbon neutrality. Replanted monoculture plantations are also less effective at sequestering carbon than the natural forests they replace.
	Rationales are mutually inconsistent	Chap VI para 6(c) Chap VIII para 5	Environmental claims must be clear: para 1.11 CAP Code	Drax relies on multiple rationales which are inconsistent with each other, therefore causing confusion amongst consumers and doing the opposite to promoting “higher levels of awareness” and “promot[ing] consumer education” as required by these Guidelines.
Claim 2: Wood biomass energy has resulted in a carbon emissions reduction of 90% compared to fossil fuels	<i>“We have cut our emissions by over 90% since 2012, to become one of Europe’s lowest carbon power generators”</i> ²⁰⁴	Chap VI, para 2(a) Chap VIII, para 2 Chap VIII, para 4	Comparative environmental claims should compare like with like: paras 3.100 and 3.101 CMA Guidance Qualifying information should be easily identifiable and clear: para 3.74 CMA Guidance	Relies on claims made in Claim 1 – equivalent analysis applies to this claim. Misleading when Drax Annual Reports suggest that emissions have increased using woody biomass. ²⁰⁵ Misleading to count biogenic smokestack emissions for coal burning and ignore them for woody biomass burning.

²⁰³ McKinsey July 2020 [B/7/25].

²⁰⁴ Drax Group Plc (2021) *We have cut our emissions by over 90% since 2021, to become one of Europe’s lowest carbon power generators*. 29 July 2021. Available at: <https://twitter.com/DraxGroup/status/1420665142707171330>. [B/13/55].

²⁰⁵ As calculated for the 2020 Ember Report [B/3/154]. See also the underlying calculations, available at <https://ember-climate.org/project/the-burning-question/> [B/4].

Category of statement / claim by Drax	Example statements	OECD Guidelines breached	Applicable External Codes	Summary
See Chapter 10 for full analysis of this claim			In considering whether a statement is misleading, businesses must consider likely impact on the reasonable consumer: ICC Environmental Communications Framework p.5, para 3.41 CMA Guidance	
<p>Claim 3: Using bioenergy with carbon capture and storage (BECCS) technology, Drax can become "carbon negative" by 2030.</p> <p>See Chapter 11 for full analysis of this claim</p>	<p><i>"By focusing on our on our flexible and renewable generation activities in the UK, we expect to deliver a further reduction in the group's CO₂ emissions, which should accelerate our ambition to become not just carbon-neutral but carbon-negative by 2030."</i>²⁰⁶</p>	<p>Chap VI, para 2(a) Chap VIII, para 2 Chap VIII, para 4</p>	<p>Failure to include relevant information can be misleading: paras 3.64 and 3.74 CMA Guidance</p> <p>Misleading to overstate environmental attributes: Article D1 ICC Marketing Code, ICC Environmental Communications Framework p. 8</p> <p>Communications must state significant limitations and qualifications: rules 3.9, 11.1 and 11.2 CAP Code</p> <p>Where benefits accrue over long period, this must be made clear: para 3.50 CMA Guidance</p>	<p>Misleading to consumers because: it relies on baseline assumption that Drax's woody biomass energy is carbon neutral which is untrue and misleading; CCS technology is not yet proven to work efficiently at industrial scale and current example captures only 10.8% of smokestack emissions over 20 years once upstream emissions and additional electricity needs taken into account; and timeframe of 2030 appears unrealistic given practical hurdles that need to be overcome.</p>

²⁰⁶ Bioenergy Insight (2020) *Drax sells four CCGT power stations to focus on renewables*. 17 December 2020. Available at: <https://www.bioenergy-news.com/news/drax-sells-four-ccgt-power-stations-to-focus-on-renewables/> [B/18/68].

Category of statement / claim by Drax	Example statements	OECD Guidelines breached	Applicable External Codes	Summary
<p>Claim 4: Drax accounts for all of the supply chain emissions of woody biomass</p> <p>See Chapter 12 for full analysis of this claim</p>	<p><i>“Taking into account the entire supply chain, using biomass for power generation delivers carbon savings of more than 80 per cent compared with using coal.”²⁰⁷</i></p>	<p>Chap VI, para 2(a) Chap VIII, para 2 Chap VIII, para 4</p>	<p>Terms used should be given their ordinary meaning and meaning should be clear to consumers: para 3.52 CMA Guidance, rule 11.11 CAP Code</p> <p>Impression and understanding of consumer is relevant rather than technical meaning or intention of business: para 3.41 CMA Guidance, CAP Code Background to Rule 3, p. 17</p>	<p>The reasonable consumer would understand this to mean that Drax accounts for all carbon emitted in the production and transport of its wood pellets. Contrary to this statement, Drax does not account for the significant biogenic carbon emissions in its supply chain. Consumers would likely not make a distinction between fossil fuel and biogenic supply chain emissions.</p>
<p>Claim 5: Whole trees are not felled to produce wood pellets burnt by Drax and Drax’s woody biomass energy does not damage forests.</p> <p>See Chapter 13 for full analysis of this claim</p>	<p><i>“We have repeatedly stated that Drax does not burn whole trees or trees harvested solely for bioenergy ...”²⁰⁸</i></p> <p><i>“The sustainable biomass we use does not cause deforestation – quite the opposite. Sustainable demand for wood products leads to bigger forests, better growth and larger inventories of trees.”²⁰⁹</i></p>	<p>Chap VI, para 2(a) Chap VIII, para 2 Chap VIII, para 4</p>	<p>Even if they are factually correct, claims must not give a misleading impression: para 3.4 CMA Guidance</p> <p>Meaning of all terms must be clear to consumers: rule 11.2 CAP Code</p> <p>Necessary to take into account impression created by communication as well as specific claim itself: CAP Code Background p. 16</p>	<p>This statement is contradicted by repeated factual evidence that whole trees are in fact used to produce wood pellets burned by Drax. Consumers will likely not understand the technical meaning of “deforestation” and if they were shown pictures of clear-cutting would likely consider Drax’s statements to be misleading.</p>

²⁰⁷ York Press April 2018 [B/9/42].

²⁰⁸ Energy Live News 2021 [B/20/82].

²⁰⁹ The Sunday Times September 2019. [B/16/64].

APPENDIX B
PROTOCOL FOLLOWED TO IDENTIFY RELEVANT STATEMENTS

1. Introduction and Summary

This Appendix sets out the methodology adopted by the Complainants in compiling the Relevant Statements which are critiqued in this Complaint.

2. Search methods

2.1 Four main search methods were used to locate and identify statements by Drax about the impacts of burning woody biomass for energy on CO₂ emissions and the climate:

2.1.1 Relevant online searches were carried out (using the Google online search engine) using combinations of relevant search terms. For example, online searches were carried out for documents dated within the last five years using relevant key words such as referring to the phrase "wood biomass energy" combined with each of the following combination of words: "climate solutions", "carbon neutral", "carbon emissions", "zero carbon", "burning wood = no emission" and "cleaner than...". Relevant webpages were identified from these searches.

2.1.2 Social media channels were searched for relevant posts by Drax. The social media channels searched were Twitter, Youtube and Vimeo. Some of these were completely reviewed while others, due to the size of the content, were partially reviewed.

2.1.3 Relevant websites were reviewed. These websites were Drax Group's own website and the websites of Drax's energy supplier subsidiaries Haven Power and Opus Energy. Relevant documents available for download on these websites were also reviewed (such as Drax's Annual Report and Accounts for 2019 and 2020).

2.1.4 Online database LexisNexis was searched to identify media articles which refer to Drax and include claims about the status of woody biomass as "renewable", "carbon neutral", "zero carbon" or "sustainable" for the time period between 1 January 2018 and 6 March 2021. This search identified a total of 132 news articles, including articles in national and local newspapers and industry publications. A further search was carried out to identify relevant media articles published between 1 October 2020 and 5 October 2021 referring to the following terms: "Drax" combined with "carbon", "CO₂", "neutral", "negative emissions", "deforestation", "forest", "biodiversity", "biodiverse", "ecosystem", "clearcutting" (and variations of this spelling) or "BECCS" (a number of filters were also applied to this search to narrow down the results). This search identified 275 news articles.

3. Identification of statements which breach the OECD Guidelines

3.1 The material found through the searches described above was reviewed and the Relevant Statements falling within the following broad claims by Drax were extracted:

3.1.1 Claim 1: Woody biomass energy is already effectively a carbon neutral generation technology;

3.1.2 Claim 2: Wood biomass energy has resulted in a carbon emissions drop of 90% compared to the use of fossil fuels;

- 3.1.3 Claim 3: Using Bioenergy with Carbon Capture and Storage (BECCS) technology, Drax, can become “carbon negative” by 2030;
 - 3.1.4 Claim 4: Drax accounts for all of the supply chain emissions of woody biomass; and
 - 3.1.5 Claim 5: Whole trees are not felled to produce wood pellets burnt by Drax and Drax’s woody biomass energy does not damage forests
- 3.2 A list of further Relevant Statements not referred to in the complaint itself is provided in **Appendix C** of this Complaint.

**APPENDIX C
THE RELEVANT STATEMENTS**

No.	Relevant Statement	Date	Source	Page number in complaint (if applicable)
Claim 1: Woody biomass energy is already effectively a carbon neutral energy generation technology				
1	<i>"Biomass is used to generate carbon neutral electricity" [in a diagram titled: "How BECCS removes carbon from the atmosphere"]</i>	Undated	Sustainable Bioenergy, Drax's website https://www.drax.com/sustainability/sustainable-bioenergy/	25
2	<i>"We are, broadly based, neutral in terms of CO₂"</i>	9 July 2020	<i>"A power company's potent vision: From neutral to negative emissions"</i> , McKinsey & Company (Will Gardiner, Drax Group CEO) https://www.mckinsey.com/business-functions/sustainability/our-insights/a-power-companys-potent-vision-from-neutral-to-negative-emissions	25
3	<i>"We're using biomass at the power station to generate the electricity- and that's effectively, again, a neutral generation technology- if we capture the CO₂, then you end up with the negative emissions. And that's where BECCS is an exciting opportunity."</i>	9 July 2020	<i>"A power company's potent vision: From neutral to negative emissions"</i> , McKinsey & Company (Will Gardiner, Drax Group CEO) https://www.mckinsey.com/business-functions/sustainability/our-insights/a-power-companys-potent-vision-from-neutral-to-negative-emissions	25
4	<i>"Wind, solar, biomass and hydro can all provide sustainable, carbon-neutral and low carbon sources of electricity"</i>	18 September 2020	<i>"What is carbon dioxide"</i> , Drax's website https://www.drax.com/carbon-capture/what-is-carbon-dioxide/#:~:text=Carbon%20dioxide%20(or%20CO2,planet%20isn't%20uninhabitably%20cold.	N/A
5	<i>"By focusing on our on our flexible and renewable generation activities in the UK, we expect to deliver a further reduction in the group's CO₂ emissions, which should accelerate our ambition to become not just carbon-neutral but carbon-negative by 2030."</i>	17 December 2020	<i>"Drax sells four CCGT power stations to focus on renewables"</i> , Bioenergy news, (Will Gardiner, Drax Group CEO) https://www.bioenergy-news.com/news/drax-sells-four-ccgt-power-stations-to-focus-on-renewables/	N/A

No.	Relevant Statement	Date	Source	Page number in complaint (if applicable)
6	<i>"Bioenergy that uses woody biomass from sustainably managed forests to generate electricity is carbon neutral because forests absorb CO₂ from the atmosphere as they grow, meaning the amount of CO₂ in the atmosphere remains level...woody biomass is a low carbon fuel, when its whole lifecycle is considered"</i>	17 December 2020	<i>"What is renewable energy"</i> , Drax website https://www.drax.com/sustainable-bioenergy/what-is-renewable-energy/	N/A
7	<i>"Sustainable wood pellets are considered to be carbon neutral at the point of combustion. As they grow, forests absorb carbon from the atmosphere. When a biomass pellet is combusted, the same amount of atmospheric CO₂ is released. The overall amount of CO₂ in the atmosphere remains neutral, unlike with fossil fuels which release ancient carbon that has long fallen out of the natural carbon cycle"</i>	22 January 2021	<i>"What is a biomass wood pellet"</i> , Drax website https://www.drax.com/sustainable-bioenergy/what-is-a-biomass-wood-pellet/	25
8	<i>"Sustainably sourced biomass-generated energy (bioenergy) can be carbon neutral, as plants absorb CO₂ from the atmosphere as they grow. This, in turn, offsets CO₂ emissions released when the biomass is combusted as fuel."</i>	18 May 2021	What is bioenergy with carbon capture and storage (BECCS)?, Drax website https://www.drax.com/carbon-capture/what-is-bioenergy-with-carbon-capture-and-storage-beccs/	N/A
Rationale 1: The UNFCCC carbon accounting methodology				
9	<i>"The biogenic carbon emissions resulting from generation are counted as zero in official reporting to both UK authorities and under the European Union Emissions Trading System (EU ETS) as the use of sustainable biomass is considered to be CO₂ neutral at the point of combustion. This methodology originates from the United Nations Framework Convention on Climate Change."</i>	Undated	<i>"Carbon Emissions"</i> , Drax website https://www.drax.com/sustainability/carbon-emissions/	28

No.	Relevant Statement	Date	Source	Page number in complaint (if applicable)
Rationale 2: The CO₂ released from burning woody biomass was captured previously when the trees grew				
10	<i>"Sustainably managed working forests absorb carbon dioxide (CO₂) from the atmosphere as they grow." [In a diagram titled "How BECCS removes carbon from the atmosphere"]</i>	Undated	<i>"Sustainable Bioenergy"</i> , Drax website (from diagram titled "How BECCS removes carbon from the atmosphere") https://www.drax.com/sustainability/sustainable-bioenergy/	N/A
11	<i>"Sustainable wood pellets are considered to be carbon neutral at the point of combustion. As they grow, forests absorb carbon from the atmosphere. When a biomass pellet is combusted, the same amount of atmospheric CO₂ is released. The overall amount of CO₂ in the atmosphere remains neutral, unlike with fossil fuels which release ancient carbon that has long fallen out of the natural carbon cycle."</i>	9 July 2020	<i>"A power company's potent vision: From neutral to negative emissions"</i> , McKinsey & Company (Will Gardiner, Drax Group CEO) https://www.mckinsey.com/business-functions/sustainability/our-insights/a-power-companys-potent-vision-from-neutral-to-negative-emissions	29
12	<i>"Biomass grown through sustainable means is classified as a renewable source of energy because of the process of its growth. As biomass comes from organic, living matter, it grows naturally, absorbing carbon dioxide (CO₂) from the atmosphere in the process."</i>	21 August 2020	<i>"What is biomass?"</i> , Drax website https://www.drax.com/sustainable-bioenergy/what-is-biomass/	N/A
13	Drax argues that sustainably produced biomass is a renewable energy source as the forests from which the wood pellets are sourced absorb carbon dioxide while they are growing, which then offsets the CO ₂ produced when they are burned to generate electricity.	1 March 2021	<i>"Drax to seek approval for "negative emissions" energy project"</i> , Financial Times, (Will Gardiner, Drax Group CEO) https://www.ft.com/content/20cc119c-d4a9-4875-8fbd-8790dcc5dbed	N/A
14	<i>"Sustainably sourced biomass-generated energy (bioenergy) can be carbon neutral, as plants absorb CO₂ from the atmosphere as they grow. This, in turn,</i>	18 May 2021	<i>"What is bioenergy with carbon capture and storage (BECCS)?"</i> , Drax website	N/A

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	<i>offsets CO₂ emissions released when the biomass is combusted as fuel."</i>		https://www.drax.com/carbon-capture/what-is-bioenergy-with-carbon-capture-and-storage-beccs/	
Rationale 3: Tree regrowth recaptures the CO₂ released				
15	Echoing the main pro-biomass arguments, one boss at Drax tells me this [carbon emitted by burning biomass] is offset by replenishing the forests that supplied the biomass in the first place. Drax also says that, after accounting for replenished forests and supply chain emissions, using biomass means 80% less CO ₂ is ultimately emitted than it would be if coal had been used.	29 August 2018	"The giant coal plant converting to green energy", BBC Future https://www.bbc.com/future/article/20180821-the-giant-coal-plant-converting-to-green-energy	N/A
16	<i>"Biomass is considered a renewable fuel source because the forests where we get our wood pellets regrow. The recapture of the CO₂ in the forest offsets the emissions that still come from the power station."</i>	9 July 2020	"A power company's potent vision: From neutral to negative emissions", McKinsey & Company (Will Gardiner, Drax Group CEO) https://www.mckinsey.com/business-functions/sustainability/our-insights/a-power-companys-potent-vision-from-neutral-to-negative-emissions	29
Other rationales Drax may rely on				
17	Commenting on the study, Drax Power's CEO Andy Koss stressed that the biomass used for wood pellets is the low grade material left after wood is harvested by other industries, such as construction and furniture making. This includes tree tops, limbs, misshapen and diseased trees, as well as thinnings. <i>"Since 1990 US forests have grown by 7.7 million ha and EU forests by 28 million ha thanks largely to sustainable demand for wood – as these forests grow they are absorbing carbon,"</i> Koss said.	22 January 2018	"Drax defends coal-to-biomass transition", SeeNews Renewables (Andy Koss, former Drax Group CEO) https://renewablesnow.com/news/drax-defends-coal-to-biomass-transition-599073/	33, 34

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18	The Drax spokesperson claimed that, as a result of sustainable forest management, trees were growing faster than they are being harvested in the US, resulting in a net decrease of carbon in the atmosphere.	25 April 2018	"WATCH: Former Green Party leader Natalie Bennett joins Drax protest", York Press https://www.yorkpress.co.uk/news/16183589.former-green-party-leader-natalie-bennett-joins-york-drax-protest/	33
Claim 2: Woody biomass energy has resulted in a carbon emissions drop of 90% compared to the use of fossil fuels (Also includes statements relating to an emissions drop of 80%)				
19	<i>"In the first half of 2021, our CO₂ emissions per unit of electricity were just 9% of their 2012 amount (882 tCO₂/ GWh) – a decrease of 90.9%".</i>	Undated	<i>"Towards Carbon Negative"</i> , Drax website https://www.drax.com/sustainability/carbon-emissions/towards-carbon-negative/	N/A
20	Three units have been converted to biomass and are delivering carbon savings of more than 80% as compared to when they used coal, the company said today. This "independently audited figure" includes the supply chain, Drax pointed out.	22 January 2018	<i>"Drax defends coal-to-biomass transition"</i> , SeeNews Renewables, (Andy Koss, former Drax Group CEO) https://renewablesnow.com/news/drax-defends-coal-to-biomass-transition-599073/	37
21	The Drax spokesperson claimed that, as a result of sustainable forest management, trees were growing faster than they are being harvested in the US, resulting in a net decrease of carbon in the atmosphere. <i>"Taking into account the entire supply chain, using biomass for power generation delivers carbon savings of more than 80 per cent compared with using coal"</i> they said.	25 April 2018	<i>"WATCH: Former Green Party leader Natalie Bennett joins Drax protest"</i> , York Press https://www.yorkpress.co.uk/news/16183589.former-green-party-leader-natalie-bennett-joins-york-drax-protest/	N/A
22	Echoing the main pro-biomass arguments, one boss at Drax tells me this [carbon emitted by burning biomass] is offset by replenishing the forests that supplied the biomass in the first place. Drax also	29 August 2018	<i>"The giant coal plant converting to green energy"</i> , BBC Future https://www.bbc.com/future/article/20180821-the-giant-coal-plant-converting-to-green-energy	37

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	says that, after accounting for replenished forests and supply chain emissions, using biomass means 80% less CO ₂ is ultimately emitted than it would be if coal had been used.			
23	<p><i>"Since we converted two-thirds of the power station to use biomass instead of coal, we have become the biggest decarbonization project in Europe, delivering carbon savings of more than 80% per cent compared to when we used coal".</i></p> <p><i>"We will also be starting a Bioenergy Carbon Capture and Storage pilot project soon – technology which is critical to combat climate change. If successful, it could help to make the power we produce carbon negative"</i></p>	29 October 2018	<p><i>"YP Letters: Be assured, our Drax power plant really is green",</i> Yorkshire Post, (Andy Koss, former Drax Group CEO) https://www.yorkshirepost.co.uk/news/politics/yp-letters-be-assured-our-drax-power-plant-really-green-236515</p>	37
24	<p>A Drax spokesperson said since converting two thirds of the power station to use sustainable biomass instead of coal, the organization was <i>"delivering carbon savings of more than 80 per cent"</i>. They said: <i>"This has transformed the business, making Drax the biggest renewable power generator in the UK and the largest decarbonisation project in Europe. We play a vital role at the heart of the UK energy system producing flexible power to the grid at the times it is needed most, helping the UK to decarbonize faster than anywhere else in the world, whilst maintaining secure supplies"</i>.</p>	17 April 2019	<p><i>"Protesters target Drax Power Station"</i>, York Press https://www.yorkpress.co.uk/news/17580632.protesters-target-drax-power-station/</p>	N/A
25	<p><i>"Is Drax the largest carbon polluter in the UK? "No, Since 2012 we've reduced our CO₂ emissions by 84 %. In that time, we moved from being western</i></p>	29 July 2019	<p>Climate Change is the biggest challenge of our time (Will Gardiner, Drax Group CEO) https://www.youtube.com/watch?v=ukVbSKDjHK4</p>	N/A

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	<i>Europe's largest polluter to being the home of the largest decarbonization project in Europe."</i>			
26	<i>"Drax's biomass delivers carbon savings of more than 80% compared to coal – this includes emissions from our supply chain."</i>	1 May 2020	<i>"Drax launches new biomass carbon calculator that will enable industry to cut emissions from supply chain"</i> , Drax website https://www.drax.com/press_release/drax-launches-new-biomass-carbon-calculator-that-will-enable-industry-to-cut-emissions-from-supply-chain/	N/A
27	<i>"Once the biggest coal fired power station in Western Europe, Drax has now slashed its CO₂ emissions from power generation by over 90 percent since 2012, radically transforming the company and securing its place as one of Europe's lowest carbon utilities."</i>	29 July 2021	<i>"Drax cuts emissions by over 90% to become one of Europe's lowest carbon power generators"</i> , Drax's website https://www.drax.com/press_release/drax-cuts-emissions-by-over-90-to-become-one-of-europes-lowest-carbon-power-generators/	36
28	Drax has reduced its generation emissions by over 90 per cent, and we are very proud to be one of the lowest carbon intensity power generators in Europe - a huge transformation for a business which less than a decade ago operated the largest coal power station in Western Europe.	29 July 2021	<i>Drax Power Station cuts CO₂ emissions by 90% in under a decade</i> , York Press https://www.yorkpress.co.uk/news/19476684.drax-power-station-cuts-co2-emissions-90-decade/	36
29	<i>"Cutting Drax's carbon emissions by more than 90% in under a decade is a unique achievement and is transformational – both for our businesses and the environment."</i>	29 July 2021	<i>"Drax Group cuts carbon emissions by more than 90 per cent in under a decade"</i> , Yorkshire Post (Will Gardiner, Drax Group CEO) https://www.yorkshirepost.co.uk/business/drax-group-cuts-carbon-emissions-by-more-than-90-per-cent-in-under-a-decade-3327255	N/A
30	<i>"We have cut our emissions by over 90% since 2012, to become one of Europe's lowest carbon power generators"</i>	29 July 2021	<i>We have cut our emissions by over 90% since 2021, to become one of Europe's lowest carbon power generators</i> , Twitter (@DraxGroup) https://twitter.com/DraxGroup/status/1420665142707171330	36

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Claim 3: Using bioenergy with carbon capture and storage (BECCS) technology, Drax can become “carbon negative” by 2030				
31	<p><i>“Drax’s ambition is to become carbon negative by 2030, using technologies such as bioenergy with carbon capture and storage (BECCS) to remove more carbon from the atmosphere than we produce throughout our direct business operations. We are committed to the Science Based Targets initiative, to further assure that our target is aligned with climate science.”</i></p>	Undated	<p><i>“Carbon emissions”, Drax website</i> https://www.drax.com/sustainability/carbon-emissions/</p>	N/A
32	<p><i>“Drax was the first energy company in the world to announce an ambition to be carbon negative by 2030. We are confident we can achieve it – pioneering new technology is what we do best.”</i></p> <p><i>“Using bioenergy with carbon capture and storage (BECCS), we will remove more CO₂ from the atmosphere than is emitted during power generation, creating a negative carbon footprint for Drax by 2030.”</i></p>	Undated	<p><i>“Towards carbon negative”, Drax website</i> https://www.drax.com/sustainability/carbon-emissions/towards-carbon-negative/</p>	N/A
33	<p><i>“In December 2019, we announced a world-leading ambition to become a carbon negative company by 2030.”</i></p> <p><i>“With an effective negative emissions policy and investment framework from government we could deploy bioenergy with carbon capture use and storage (BECCS) on two of our biomass generating units by 2030.”</i></p>	Undated	<p><i>“BECCS and negative emissions, Drax website</i> https://www.drax.com/about-us/our-projects/bioenergy-carbon-capture-use-and-storage-beccs/</p>	N/A

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34	<i>"We will soon have four operational biomass units, which provide us with a great opportunity to test different technologies that could allow Drax, the country and the world, to deliver negative emissions and start to reduce the amount of carbon dioxide in the atmosphere"</i>	22 May 2018	"Drax to Use C-Capture Technology in Europe's First BECCS Project", Renewable Energy Magazine, (Will Gardiner, Drax Group CEO) https://www.renewableenergymagazine.com/panorama/drax-to-use-ccapture-technology-in-europea-20180522	N/A
35	<i>"Since we converted two-thirds of the power station to use biomass instead of coal, we have become the biggest decarbonization project in Europe, delivering carbon savings of more than 80% per cent compared to when we used coal". "We will also be starting a Bioenergy Carbon Capture and Storage pilot project soon – technology which is critical to combat climate change. If successful, it could help to make the power we produce carbon negative".</i>	29 October 2018	"YP Letters: Be assured, our Drax power plant really is green", Yorkshire Post, (Andy Koss, former Drax Group CEO) https://www.yorkshirepost.co.uk/news/politics/yp-letters-be-assured-our-drax-power-plant-really-green-236515	N/A
36	<i>"There are very few opportunities to create negative carbon, and this is one of them."</i>	7 February 2019	"Drax becomes first wood-burning power plant to capture carbon", Financial Times, (Will Gardiner, Drax Group CEO) https://www.ft.com/content/92381aca-2ad6-11e9-88a4-c32129756dd8	39
37	<i>"The IPCC and the Committee on Climate Change are both very clear that BECCS is a key technology in the fight against climate change...Being carbon negative means the power we produce would help to reduce the amount of CO₂ accumulating in the atmosphere- negative emissions are vital if we are to meet our climate targets"</i>	20 May 2019	"Drax's great biomass carbon capture experiment", Power Technology (Carl Clayton, Drax research and innovation engineer) https://www.power-technology.com/features/draxs-carbon-capture/	N/A

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38	<i>"If we can scale up our successful bioenergy with carbon capture and storage, Drax could become the world's first negative emissions power station in the mid-2020s, helping to achieve the government's net zero by 2050 carbon target"</i>	24 July 2019	"UK's power system is 'decarbonising faster than any other country'", Bioenergy Insight, (Will Gardiner, Drax Group CEO) https://www.bioenergy-news.com/news/uks-power-system-is-decarbonising-faster-than-any-other-country/	N/A
39	<i>"If Drax uses the technology [BECCS] across all four of its biomass generating units, it could become the world's first negative-emissions power station..."</i>	29 September 2019	"Letters: Drax is deserving and we could make a big difference", The Sunday Times, (Will Gardiner, Drax Group CEO) https://www.thetimes.co.uk/article/drax-is-deserving-and-we-could-make-a-big-difference-p3h85vl7s	39
40	<i>"the world's first carbon negative company"</i>	10 December 2019	"Drax aims to be world's first carbon negative company by 2030", City AM, (Will Gardiner, Drax Group CEO) https://www.cityam.com/drax-aims-to-be-worlds-first-carbon-negative-company-by-2030/	N/A
41	<i>"Drax has announced an ambition to become carbon negative by 2030 – removing more carbon from the atmosphere than produced in our operations, creating a negative carbon footprint. Track our progress at Towards Carbon Negative".</i>	21 January 2020	"What is net zero?", Drax website https://www.drax.com/carbon-capture/what-is-net-zero/	N/A
42	<i>"Because we're using biomass at the power station to generate the electricity-and that's effectively, again, a neutral generation technology-if we capture the CO₂, then you end up with the negative emissions. And that's where BECCS is an exciting opportunity."</i>	9 July 2020	"A power company's potent vision: From neutral to negative emissions", McKinsey & Company, (Will Gardiner, Drax Group CEO) https://www.mckinsey.com/business-functions/sustainability/our-insights/a-power-companys-potent-vision-from-neutral-to-negative-emissions	N/A
43	<i>"The IPCC has confirmed that bioenergy with carbon capture and storage (BECCS) is an essential technology in tackling the climate emergency the world is facing. By scaling up our successful BECCS pilot, Drax could become the world's first negative"</i>	17 August 2019	"Will Gardiner responds to IPCC report on land use", Drax website (Will Gardiner, Drax Group CEO) https://www.drax.com/press_release/will-gardiner-responds-to-ipcc-report-on-land-use/	N/A

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	<i>emissions power station, producing flexible, renewable power at the same time as reducing the carbon dioxide accumulating in the atmosphere"</i>			
44	<i>"By focusing on our flexible and renewable generation activities in the UK, we expect to deliver a further reduction in the group's CO₂ emissions, which should accelerate our ambition to become not just carbon-neutral but carbon-negative by 2030."</i>	17 December 2020	<i>"Drax sells four CCGT power stations to focus on renewables"</i> , Bioenergy news, (Will Gardiner, Drax Group CEO) https://www.bioenergy-news.com/news/drax-sells-four-ccgt-power-stations-to-focus-on-renewables/	39
45	A Drax spokesperson said: <i>"Drax power station plays a vital role in the UK's energy system, generating reliable electricity for millions of homes and businesses"</i> . He said the company aimed to be capturing more carbon dioxide than it emitted by 2030 by burning plants or wood in other power stations and burying the emissions	21 January 2021	<i>"Legal bid to stop UK building Europe's biggest gas power plant fails"</i> , The Guardian https://www.theguardian.com/environment/2021/jan/21/climate-crisis-uk-legal-bid-stop-biggest-gas-power-station-europe-fails	N/A
46	<i>"The exciting thing for us is we're making great progress on our ambition to become a carbon negative company by 2030 and helping the UK hit its climate change net zero targets."</i>	February 2021	<i>"Drax abandons plans to build 3.6GW of new gas generation"</i> , Utility Week (Andy Skelton, Drax CFO) https://utilityweek.co.uk/drax-abandons-plans-to-build-3-6gw-of-new-gas-generation/	N/A
47	<i>"But the scale of the climate crisis means that we cannot stop here. Which is why we have committed to a world-leading ambition to be carbon-negative by 2030. We will achieve this by making a transformational investment in bioenergy with CCS, or BECCS, which will enable us to permanently remove carbon emissions from the atmosphere while continuing to supply the renewable electricity that millions of British homes and businesses depend upon."</i>	21 March 2021	<i>"At the heart of the energy transition"</i> , Drax website (Will Gardiner, Drax Group CEO) https://www.drax.com/opinion/at-the-heart-of-the-energy-transition/	N/A

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48	<i>"By 2030 Drax could be delivering millions of tonnes of negative emissions and leading the world in providing a critical technology needed to tackle the climate crisis"</i>	29 July 2021	Drax Power Station cuts CO2 emissions by 90% in under a decade, York Press (Will Gardiner, Drax Group CEO) https://www.yorkpress.co.uk/news/19476684.drax-power-station-cuts-co2-emissions-90-decade/	39
49	<i>"Subject to the right regulatory support, the first BECCS unit could be operational in 2027, with the second commissioned in 2030, enabling Drax to achieve its world-leading ambition to be a carbon-negative company by 2030."</i>	23 September 2021	Drax announces 80% British supply chain ambition to support construction of world's largest carbon capture project, Drax website https://www.drax.com/press_release/drax-announces-80-british-supply-chain-ambition-to-support-construction-of-worlds-largest-carbon-capture-project/	N/A
50	Drax said by using BECCS, it could permanently remove 8m tonnes of carbon dioxide from the atmosphere each year by 2030, becoming a carbon negative company	25 September 2021	<i>"New partnership between renewable energy giant and NFU could lead to "huge opportunities" for Yorkshire farmers"</i> , Yorkshire Post https://www.yorkshirepost.co.uk/country-and-farming/new-partnership-between-renewable-energy-giant-and-nfu-could-lead-to-huge-opportunities-for-yorkshire-farmers-3396053	N/A
Claim 4: Drax accounts for all of the supply chain emissions of woody biomass				
51	<i>"we...collect fuel and energy data for each step in the supply chain, enabling us to calculate lifecycle GHG emissions for our biomass and to demonstrate compliance with our regulatory requirements."</i>	Undated	Sourcing sustainable biomass, Drax website https://www.drax.com/sustainability/sustainable-bioenergy/sourcing-sustainable-biomass/	43
52	<i>"Taking into account the entire supply chain, using biomass for power generation delivers carbon savings of more than 80 per cent compared with using coal"</i>	25 April 2018	<i>"Former Green Party leader Natalie Bennett joins York Drax protest"</i> , York Press (Drax spokesperson) https://www.yorkpress.co.uk/news/16183589.former-green-party-leader-natalie-bennett-joins-york-drax-protest/	43
53	<i>"we...collect fuel and energy data for each step in the supply chain, enabling us to calculate lifecycle GHG emissions for our biomass and to demonstrate compliance with our regulatory requirements."</i>	March 2021	Drax Annual Report and Accounts 2020 https://www.drax.com/wp-content/uploads/2021/03/Drax_AR2020.pdf	43

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Claim 5: Whole trees are not felled to produce wood pellets burnt by Drax and Drax's woody biomass energy does not damage forests				
54	<i>"Increased demand for wood has not depleted forests in the US South. Instead, it encouraged landowners to invest in productivity improvements that dramatically increased the amount of wood fibre, and therefore the amount of carbon, contained in the South's forests."</i>	Undated	<i>"Sustainable bioenergy"</i> , Drax website https://www.drax.com/sustainable-bioenergy/the-us-souths-biomass-sourcing-areas-analysed/#chapter-1	N/A
55	<i>"We never cause deforestation or forest decline. In fact, the forests in the US South where we source the majority of our biomass are huge – they're three times the size of the UK and they're growing."</i>	29 October 2018	<i>"YP Letters: Be assured, our Drax power plant really is green"</i> , Yorkshire Post (former Generation CEO at Drax Power) https://www.yorkshirepost.co.uk/news/politics/yp-letters-be-assured-our-drax-power-plant-really-green-236515	52
56	<i>"Are forests destroyed when Drax uses biomass and is biomass power a major source of carbon emissions? No. Sustainable biomass from healthy managed forests is helping decarbonize the UK's energy system as well as helping to promote healthy forest growth. Biomass has been a critical element in the UK's decarbonization journey helping us get off coal much faster than anyone thought possible."</i>	29 February 2019	<i>"Climate change is the biggest challenge of our time"</i> , Drax Group CEO Will Gardiner https://www.youtube.com/watch?v=ukVbSKDjHK4	51
57	<i>"The sustainable biomass we use does not cause deforestation – quite the opposite. Sustainable demand for wood products leads to bigger forests, better growth and larger inventories of trees."</i>	29 September 2019	<i>Letters: Drax is deserving and we could make a big difference</i> (Drax Group CEO Will Gardiner) https://www.thetimes.co.uk/article/drax-is-deserving-and-we-could-make-a-big-difference-p3h85vl7s	52
58	<i>"We have repeatedly stated that Drax does not burn whole trees or trees harvested solely for bioenergy. Our sustainable biomass pellets are produced from the material leftover from when forests are</i>	2 July 2021	<i>"Government urged not to subsidise 'the world's biggest tree burner'"</i> , Energy Live News (Drax spokesperson) https://www.energylivenews.com/2021/07/02/government-urged-not-to-subsidise-the-worlds-biggest-tree-burner/	45

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	<i>harvested for other sectors, such as construction and furniture</i>			
59	<i>“Drax does not cut down trees for its sustainable biomass...” “we never source fibre from areas where there is deforestation or forest decline”</i>	15 July 2021	<i>“Industrial scale biomass burning in the power sector threatens climate action and should not be subsidised letter”, letter to RSPB</i>	45