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Ms Susie Black
Director – Coordination and Strategy
Merger & Adjudication Review Division
Level 17 Casselden Place
2 Lonsdale Street, Melbourne 3000

NEW ENERGY TECH CONSUMER CODE - ACCC DRAFT DETERMINATION

Energy Consumers Australia is the national voice for residential and small business energy consumers.

We appreciate the opportunity to make a submission to the Australian Competition and Consumer Commission (ACCC) process and support the ACCC draft determination that the Consumer Code will result in public benefits by improving the business practices of signatory retailers and the level of consumer protection provided.

We would like to emphasise the importance of the Consumer Code as an initiative to give consumers the confidence to engage in an evolving energy market. Consumers are telling us affordability is their major concern and they are taking whatever steps they can to manage their energy use.¹ This ‘cost and control’ imperative is why so many consumers are investing in new energy technologies, such as solar panels and batteries. It is critical that consumers can engage in the market for these services and technologies with confidence. In this context, the strengthened consumer protections that would apply under this Code, which are equal to, or better than the legislative requirements, are key.

We welcome the response from the Applicants to the specific issues that were raised in submissions on the Draft Determination and do not intend to cover the same concerns in detail in this submission. However, we note there has been some debate on the inclusion or exclusion of “buy now, pay later” finance providers. While we do not intend to comment on this issue in detail, we note that in either case, the outcome for consumers should be the key consideration and this Consumer Code provides an opportunity to improve this outcome.

In August 2017, the Council of Australian Governments (COAG) Energy Council recognised the need for a more consistent approach to customer protections for new and emerging energy products. The COAG Energy Council requested industry and Energy Consumers Australia to collaboratively develop an industry-wide code of conduct.

A working group was formed, consisting of industry, Energy Consumers Australia and other consumer representatives, to progress this important work. The working group undertook broad stakeholder consultation on the draft Code, including forums in Adelaide, Brisbane, Sydney and Melbourne, technical workshops in Brisbane and Melbourne, and providing an opportunity to comment on the drafting. The proposed Consumer Code is the result of that important work and can achieve better consumer outcomes through a flexible, industry-led framework.

To ensure that consumers and industry can have confidence in the Code, it will be supported by clear and robust governance, accountability and administration arrangements. These arrangements include

¹ For example, see UMR, *Usage of solar electricity in the national energy market* at <https://energyconsumersaustralia.com.au/wp-content/uploads/UMR-Usage-of-solar-electricity-in-the-national-energy-market.pdf>; ECA, *Energy Consumer Sentiment Survey* at <https://energyconsumersaustralia.com.au/wp-content/uploads/Energy-Consumer-Sentiment-Survey-Report-June-2019.pdf>



a Council, Steward, Administrator, and the Code Monitoring and Compliance Panel. The Council will be made up of industry and consumer representatives who will be responsible for making the other appointments. We consider this approach provides appropriate checks and balances and will ensure the administration is effective.

We consider that there are clear benefits to consumers and industry which would be gained by authorising the proposed Code. Some examples of these benefits are that:

- consumers will be able to make confident and better-informed decisions about adopting and using new energy technology with clearer information provision and the avoidance of high-pressure sales tactics;
- products will be fit for purpose and the installation process will be simpler for consumers; and
- the process for making complaints and resolving disputes will be clearer for consumers.

The Consumer Code is written in plain English and uses accessible language, so that commitments are easily understood by consumers and industry. Most importantly, the Consumer Code balances better consumer protections with market efficiency and promotes innovation.

The structure of the Consumer Code has also been developed to be flexible. Taking a high-level principles-based approach means the Consumer Code can be technologically neutral. New products, systems and services can be accommodated as they enter the market. Should a need arise for more detailed guidance for industry, then this can be accommodated through the development of standards, guidelines or training. Any supplementary materials would be developed in consultation with stakeholders.

A significant focus of Energy Consumers Australia's contribution to the Consumer Code has been the development of supporting communications materials. These materials are intended to inform consumers about new energy technology products and services and about their rights and protections so that they are informed decision-makers and know where to get help if something goes wrong.

Energy Consumers Australia considers that the Consumer Code provides an agile, industry-led and customer-focused approach to delivering customer protections for new energy technologies. This flexible approach means that as issues arise in the market, they can be quickly and easily resolved for consumers. We anticipate that this approach will give consumers the information and tools they need to make informed decisions and will help to improve consumer trust in the energy market, while avoiding unnecessary costs on industry or stifling innovation.

If you would like to discuss this submission or require any further information, please contact Jacqueline Crawshaw, Associate Director, by email at

[REDACTED] or by phone on [REDACTED]

Yours sincerely,

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Rosemary Sinclair AM
Chief Executive Officer