



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: C2013/298  
Contact Officer: Anna Giannakos  
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9 August 2013

23 Marcus Clarke Street  
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Ms Kate Allsopp  
Accreditation Manager  
Clean Energy Council Ltd

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**By email: [KTeperman@cleanenergycouncil.org.au](mailto:KTeperman@cleanenergycouncil.org.au)  
[KAllsopp@cleanenergycouncil.org.au](mailto:KAllsopp@cleanenergycouncil.org.au)**

Dear Ms Allsopp

### **Clean Energy Council Limited application for authorisation A91365 & A91366**

I refer to the application for authorisation lodged by Clean Energy Council Ltd (CEC) on 4 April 2013, and the revised CEC voluntary code of conduct for solar photovoltaic (PV) retail businesses (the Code) lodged with the Australian Competition and Consumer Commission (ACCC) on 29 May 2013. As you are aware the ACCC issued a draft determination in respect of the application for authorisation on 4 July 2013.

I am writing to seek the CEC's views on the development of a reporting protocol (the Protocol) to notify the ACCC of Australian Consumer Law (ACL) breaches under the Competition and Consumer Act, pursuant to the Code.

The ACCC is aware that the Code includes provisions that are consistent with existing state and federal consumer protection legislation. The Code also includes monitoring and enforcement provisions to encourage compliance with the Code. Specifically, section 3.6 of the Code states that all breaches of the Code, including those which may also be breaches of the ACL, will be investigated by the Code Administrator and/or Code Review Panel and that the sanctions imposed in the event of non-compliance will vary depending on the severity of the breach.

In addition to these requirements, section 3.6.2 of the Code states that "the relevant regulator and ombudsman will be notified of any breach of ACL".<sup>1</sup> Section 3.8.6 also states that "systemic concerns identified during Code reviews will be referred to the relevant regulators, as will any breach of laws and regulations".

To reduce the administrative burden for CEC in complying with the reporting process to the relevant regulator or ombudsman as noted above, and to assist the ACCC in its intelligence gathering for breaches for which the ACCC is the "relevant regulator" the ACCC is proposing the following Protocol for notifying the ACCC of potential ACL related breaches:

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<sup>1</sup> In the previous version of the Code, ACL breaches would only be notified to the relevant regulator/ombudsman if they were classified as "severe".

Where the Code Administrator and/or Code Review Panel has confirmed a breach of the Code by a signatory has occurred, which may also be a potential breach of the ACL, such breaches will be reported to the ACCC on a six monthly basis. This report should be addressed to the Infocentre Public Mailbox at [info.centre@acc.gov.au](mailto:info.centre@acc.gov.au).

In addition, if there are any matters that you consider should be brought to the ACCC's attention more quickly, please feel free to bring them to the ACCC's attention as soon as practicable. These matters should also be addressed to the Infocentre Public Mailbox at [info.centre@acc.gov.au](mailto:info.centre@acc.gov.au).

The ACCC's consideration of all potential breaches of the ACL will be processed in accordance with the ACCC's Compliance and Enforcement Policy, which can be viewed on the ACCC's website at: <http://transition.acc.gov.au/content/index.phtml/tag/cepolicy>.

We are interested to hear the CEC's views with respect to the proposed Protocol and would appreciate your written response to this proposal by **16 August 2013**. Otherwise, please call Anna Giannakos to organise an appropriate time to discuss.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Anna Giannakos on (03) 9290 6920 or by email to [anna.giannakos@acc.gov.au](mailto:anna.giannakos@acc.gov.au).

Yours sincerely

A handwritten signature in blue ink, appearing to be 'Richard Chadwick', with a long horizontal line extending to the right.

Dr Richard Chadwick  
General Manager  
Adjudication Branch