

Friday, 26 June 2020

By email: adjudication@acc.gov.au

Miriam Kolacz
Australian Competition & Consumer Commission
23 Marcus Clarke Street
CANBERRA ACT 2601

Dear Miriam Kolacz,

Clean Energy Council Solar Retailer Code of Conduct – application of authorisation

We write in support of the Clean Energy Council's (CEC) application for re-authorisation of the Solar Retailer Code of Conduct (the **Solar Code**). Principally, we support the application to avoid a gap in protections between the expiry of the current Solar Code and the commencement of the New Energy Tech Consumer Code (**NETCC**).

Consumer Action intervened in the review of the ACCC's authorisation of the NETCC before the Australian Competition Tribunal (**ACT**), and we confirm our view that the NETCC can improve on the Solar Code in two key ways:

- by prohibiting unsolicited offers of unregulated finance for the purchase of new energy technology (clause 3(d) - in November 2019 authorised version of the NETCC);ⁱ
- by providing that signatories must only offer finance that is regulated by the *National Consumer Credit Protection Act 2009* (Cth) (clause 24 - in April 2019 draft version of the NETCC).ⁱⁱ

Consumer Action considers these to be very important improvements that will produce strong public benefits. The consumer harm caused by unsolicited selling and unregulated finance is set out in our reports, *Sunny Side Up*ⁱⁱⁱ and *Knock it Off*^{iv}, and in our submissions both to the ACCC during the NETCC authorisation process and to the ACT.^v

We also made submissions to the previous authorisations of the Solar Code encouraging it to also address these issues, to ensure more effective consumer protection. While we await the decision of the ACT, we recommend that the above requirements be included in the Solar Code as a condition of its re-authorisation to avoid consumer harm and embody best practice conduct in the Solar Code.

Despite the absence of these requirements, we acknowledge that that the Solar Code has contributed to improved standards in other areas such as advertising and promotions, sales and quoting practices and in responsibilities for connecting the grid. We have made complaints on behalf of vulnerable consumers to the

Solar Code Administrator who has been proactive in investigation and informing us of its compliance activities. While it is a voluntary code, it is a useful tool for governments to utilise where they seek to ensure public benefits in their solar programs.

Nonetheless, it remains our view that voluntary industry codes are not a replacement for proper regulation. We continue to advocate for law reform that would ensure buy now pay later arrangements are regulated under the *National Consumer Credit Protection Act 2009* (Cth), and for a ban on unsolicited selling.

Please contact me on [REDACTED] or at [REDACTED] if you would like to discuss this with me directly or to arrange a meeting.

Yours faithfully,

CONSUMER ACTION LAW CENTRE



Katherine Temple
Director Policy & Campaigns

ⁱ See: <https://www.accc.gov.au/system/files/public-registers/documents/AA1000439%20%E2%80%93%20New%20Energy%20Tech%20Consumer%20Code%20-%20Application%20to%20ACCC%20re%20Further%20Amendments%20to%20Code%20-%2011.19%20-%20PR.pdf>

ⁱⁱ See: <https://www.accc.gov.au/system/files/public-registers/documents/AA1000439%20-%20New%20Energy%20Tech%20Consumer%20Code%20-%20Application%20Received%20-%2029.04.19%20-%20PR.pdf>

ⁱⁱⁱ See: https://consumeraction.org.au/wp-content/uploads/2019/06/1904_Sunny-Side-Up-Report_FINAL_WEB_NEW-1.pdf

^{iv} See: <https://policy.consumeraction.org.au/wp-content/uploads/sites/13/2017/11/Knock-it-off-Consumer-Action-Law-Centre-November-2017.pdf>

^v See: https://www.competitiontribunal.gov.au/_data/assets/pdf_file/0011/76871/200601-CALC-Outline-of-Submissions.pdf

