



22 May 2015

By email: adjudication@accc.gov.au

Australian Competition and Consumer Commission
GPO Box 3131
Canberra 2601

Dear Ms Kent,

Clean Energy Council application for revocation and substitution A91495 – A91496

Consumer Action Law Centre (Consumer Action) welcomes the opportunity to provide you with comment on the Clean Energy Council's application of revocation and substitution of the voluntary PV Code of Conduct (the Code).

Consumer Action Law Centre is an independent, not-for profit consumer organisation based in Melbourne. We work to advance fairness in consumer markets, particularly for disadvantaged and vulnerable consumers, through financial counselling, legal advice and representation, and policy work and campaigns. Delivering assistance services to Victorian consumers, we have a national reach through our deep expertise in consumer law and policy and direct knowledge of the consumer experience of modern markets.

Consumer Action strongly supports the Code. It provides a level of assurance to consumers that they will receive good service and trusted outcomes in an area of the energy retail sector which is usually exempted from the normal protections that apply to energy consumers. It also drives good practice amongst its signatories. As a result, we frequently advocate to State and Federal energy departments and regulators, that energy sellers that are exempted from full retailer authorisations should be required to become a signatory to the Code as a condition of their exemption.

The energy market is, however, changing rapidly, and the solar market is no exception. With new technologies and services entering the market, and rapidly declining costs, the energy market is becoming both more interactive and more complex for consumers. While many more consumers will have the opportunity to install solar panels and manage their energy bills as a result of new solar financing models, as the Clean Energy Council points out in their application, these models are not well suited to all circumstances or all consumers.

Consumer Action is particularly concerned about the complexity of financing arrangements. Complexity, combined with the natural attraction of people to arrangements that require little or no upfront capital, will mean that consumers have little incentive to look for (or chance of finding)

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the detailed information required to understand whether or not new financing arrangements suit their requirements or means. This will be exacerbated by high pressure sales tactics (ie. door to door) that may market solar leasing or PPA arrangements as 'free'.

We therefore strongly support the proposed amendment to the Code to include conduct in relation to new financing arrangements. We are especially supportive of a requirement for signatories to explain to the consumer the comparative cost of the same product if it was purchased outright on the day—this piece of information will go furthest to ensure that consumers understand the financial impact of their decision to sign up to a 'free upfront' product.

The Code might also require solar retailers to provide some simple warnings to encourage consumers to think through finance offers, and not immediately take the offer being proposed. For example, signatories could be required to inform customers about other finance arrangements, including using mortgage extensions which may be available at a much cheaper interest rate than bundled finance offers.

To ensure that the Code remains relevant as financing arrangements evolve, we believe that the inclusion of the Consumer Finance section in the revised Code should be supported by a clear definition of 'financing arrangements' in Appendix 5.1: Glossary and Definitions. The definition should clearly state that 'financing arrangements' means both regulated and unregulated financing (ie. provided by a credit provider regulated by the *National Consumer Credit Protection Act 2009* (Cth), some other finance provider (such as providers that purport to offer 'no interest' finance, or financed by the solar business itself).

We are also very supportive of including privacy requirements in the revised Code. With the energy market moving towards smart metering for all consumers, and the rise of energy services companies that may provide 'add-on' services, the privacy of energy consumption data has become very important. Consumer Action conducted a survey of over 300 energy consumers in 2013, in which 85% of respondents expressed concern about the privacy and security of their data. If consumers are to have confidence in the energy market, and the provision of their solar service, and build trust to engage more broadly in a competitive energy market, it is important to ensure that poor conduct with respect to the storage and use of energy consumption data is prevented.

In reiterating best-practice privacy standards to signatories, the Code of Conduct will help to establish a strong benchmark among industry leaders. However, while the proposed amendments to the Code suggest opt-out provisions for marketing materials, we believe that opt-in provisions provide better outcomes for consumers and represent the best-practice behaviour that the Code is intended to incentivise. We therefore call on the ACCC to accept the privacy amendments to the Code with a change to an opt-in, rather than an opt-out, provision for use of data for marketing.

Finally, we believe there is scope for the ACCC to consider requesting the Code to be further amended to extend to battery storage technologies during this consultation process. Battery technology is predicted to undergo a similarly swift penetration and cost decrease as was seen in the PV industry, and it is highly likely that early residential installations will be retrofitted to existing PV systems, or sold as a bundled package with new PV cells. New financing arrangements in the PV market are just as likely to be applied to battery storage or bundled

options, and the privacy issues raised by the Clean Energy Council are equally applicable to battery storage as PV. We believe there is merit in expanding the Code in order to ensure adequate consumer protection and ensure good market conduct.

If you would like to discuss any of these matters further, please do not hesitate to contact me directly on 03 8554 6907 or at claire@consumeraction.org.au.

Yours sincerely,

CONSUMER ACTION LAW CENTRE

A handwritten signature in black ink, appearing to read 'Claire Maries', with a long horizontal flourish extending to the right.

Claire Maries
Senior Energy Policy Officer