

24 June 2026

Ms Naomi Menon
Director, Competition Exemptions
Australian Competition and Consumer Commission
By web submission

Dear Ms Menon,

**Re: New Energy Tech Consumer Code application for revocation of
authorisation AA1000439 and substitution of AA1000702 – Draft determination**

The Justice and Equity Centre (JEC) support the Australian Competition and Consumer Commission's (ACCC) Draft Determination to authorise the continuing operation of the New Energy Tech Consumer Code (NETCC). We also agree with the ACCC's assessment of the qualified benefit of the Code to consumers and recommend further action be taken to address the issues identified.

The NETCC provides crucial, if imperfect consumer protection in a highly complex market which delivers, or materially impacts household energy services which are often essential. As the Draft Determination notes, there are parallel processes underway examining consumer protection and the regulation of Consumer Energy Resources (CER). It is intended that, in concert, these processes should enact comprehensive reform of the regulation of energy products and services, and ensure robust protections deliver good outcomes for consumers.

However, the progress and outcomes of these processes – particularly those relating to reform and expansion of the National Energy Consumer Framework (NECF) - are uncertain. They may not progress as intended, and at best seem likely to take significant time to implement. In the intervening period there is growing risk of material impacts on consumers.

The JEC sees the NETCC as a platform for improved regulation and protection of new energy services, at least during this 'interim' period. As such, we encourage the ACCC to support further review and reform of the NETCC to deliver more robust and consistent protections for consumers.

The final Determination should be aligned to the greatest possible extent with the wider intent for consumer protection reforms to deliver improved consumer outcomes. It should not assume the progress or completion of all parallel reform processes.

Consumer protections must be commensurate to risk

The JEC supports regulation and consumer protections commensurate with the potential harm consumers face should something go wrong. The more significant the potential harm, the

stronger the protections. Buyers of 'new energy tech' and services can be exposed to material risks, with substantial evidence of these risks eventuating.¹ While many aspects of new energy services involve relative low risk, at the furthest end of the spectrum, a failure in energy technology poses risks to a consumer's access to essential energy services. The NETCC has a critical role to play in appropriately addressing these risks, regardless of the progress of other reforms.

There are also risks to the broader community trust in the energy sector and 'social license' for the energy transition. Again, the NETCC has a vital role to play in building and retaining trust through ensuring better outcomes. But, as the Draft details, its voluntary nature undermines effectiveness and risks creating a fragmented regulatory framework where the 'good' providers are those who choose to be covered, and the 'bad' providers retain a space to profit from poorly provided services.

We recommend the ACCC prioritise action to address this issue and use this Determination to consider the broader role of the NETCC – or similar instruments - in the regulatory framework. The Final Determination should seek to progress any necessary reform of the code required to ensure it can fulfil this role.

The Draft Determination has specifically identified limitations in the operation of the code (for example, see paragraphs 4.49 and 4.75) as well as mitigating amendments to the code. These should be progressed. But there are more substantive opportunities, and we support the ACCC recommending further potential changes to the scope, structure and operation of the code to ensure it better addresses risks to consumers. Where risks to consumers cannot be mitigated through the code, this should explicitly be highlighted as a priority for action elsewhere.

The value of the NETCC is enhanced by independent dispute resolution

We support efforts to expand Ombudsman's scheme jurisdiction to ensure new energy products and services have consistent coverage from independent dispute resolution (IDR).

We agree with the joint Energy and Water Ombudsmen's submission's observation on the inadequacy of dispute resolution and redress pathways in many aspects of energy services. The changes proposed in the Draft Determination go some small way in addressing this but leave unacceptable gaps which present significant risks to consumers.

Accordingly, the Final Determination should implement the Energy and Water Ombudsmen's recommendations on dispute resolution pathways in full. Ombuds schemes have established resources and relevant experience and are well placed to provide the effective independent dispute resolution coverage required for NETCC signatories and their customers.

While an approach to IDR based on jurisdictional ombuds schemes may be seen as less preferable than a single national framework, we strongly caution against letting a preference

¹ Consumer Action Law Centre, 2025, [Designated Complaint: Unsolicited Selling](#); Clean Energy Regulator, 2026, [Solar battery inspection results report](#); Essential Services Commission, 2025, [Watchdog denies \\$16 million in claims for ineligible upgrades](#)

for a hypothetical 'perfect' prevent the progress of an otherwise effective alternative. Expanding jurisdictional ombuds IDR coverage to new energy services would build on existing, well-regarded pathways for consumer energy disputes, reflect consumer expectations for a single point of contact, and provide scope for an effective streamlined function for disputes about energy services.

We welcome the opportunity to meet with the ACCC and other stakeholders to discuss these issues in more depth. Please contact Kira van Os, Policy Officer, at kvanos@jec.org.au regarding any further follow up.

Yours sincerely

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