

COMMONWEALTH OF AUSTRALIA  
*Competition and Consumer Act 2010 (Cth)*



**IN THE AUSTRALIAN COMPETITION TRIBUNAL**

File No: ACT 1 of 2019

Re: Re Application for authorisation AA1000439 lodged by Australian Energy Council, Clean Energy Council, Smart Energy Council and Energy Consumers Australia in respect of the New Energy Tech Consumer Code

Applicant: Flexigroup Limited (ACN 122 574 583)

**NOTICE UNDER THE COMPETITION AND CONSUMER ACT 2010 (CTH)**

To: BRIGHTHE CAPITAL PTY LTD (ACN 609 165 906)  
Level 15, 1 Margaret Street  
SYDNEY NSW 2000

**THE TRIBUNAL DIRECTS THAT:**

1. Pursuant to sections 90(6)(c) and 101(2) of the *Competition and Consumer Act 2010 (Cth)* and regulation 22(1)(a) of the *Competition and Consumer Regulations 2010*, BRIGHTHE CAPITAL PTY LTD provide the information in the Schedule to the Australian Competition Tribunal on or before 27 May 2020.

DEPUTY REGISTRAR  
Australian Competition Tribunal

## SCHEDULE

### Definitions

In this Schedule:

‘**BNPL**’ means buy now pay later finance products;

‘**regulated credit products**’ means finance or credit products that are subject to regulation under the *National Consumer Credit Protection Act 2009* (Cth) and/or the National Credit Code;

‘**New Energy Tech**’ and ‘**NET**’ means products, systems and services that:

- (a) are small-scale (in-home or small business) products and systems that generate, store or trade energy away from Australia’s main transmission and distribution energy networks or as distributed energy resources connected to an energy network;
- (b) are services that support or are closely related to the products or systems referred to in paragraph (a); and
- (c) monitor or manage a customer’s usage of energy whether on or off an energy network,

but excluding simple, low cost or off-the-shelf products such as might be purchased from a whitegoods or hardware store for self-installation.

### Information to be provided

1. For each of the past two years prior to 30 April 2020 and for each of the following categories of financial products supplied by Brighte Capital Pty Ltd:
  - 1.1. BNPL finance products supplied in relation to NET products;
  - 1.2. BNPL finance products supplied in relation to non-NET products;
  - 1.3. regulated finance products supplied in relation to NET products; and
  - 1.4. regulated finance products supplied in relation to non-NET products,the following information:
  - 1.5. the total number of transactions;
  - 1.6. the total amounts financed;
  - 1.7. the total amounts written-off, annually;
  - 1.8. the average amounts financed;

- 1.9. the number of complaints received;
  - 1.10. the number of financial hardship applications received;
  - 1.11. the number of internal dispute resolution cases opened and the number of internal dispute resolution cases completed to resolution;
  - 1.12. the total number of customer defaults (meaning customers in 30+ days of payment arrears) recorded each month, identifying the number of those customers either 60+ or 90+ days in arrears; and
  - 1.13. the rate of customer defaults (where the rate is calculated as the number of products supplied in each of the categories referred to above in respect of which there has been a customer default divided by the total number of products supplied in each of those categories).
2. For each of the past two years prior to 30 April 2020 and for each of the following categories of financial products supplied by Brighte Capital Pty Ltd:
    - 2.1. BNPL finance products supplied in relation to NET products; and
    - 2.2. regulated finance products supplied in relation to NET products,the best estimate of the proportion and amount of Brighte Capital Pty Ltd's financing which is provided to finance unsolicited sales of NET products.
  3. For each of the past two years prior to 30 April 2020 and for BNPL finance products supplied by Brighte Capital Pty Ltd in relation to NET products:
    - 3.1. the fees and costs charged by Brighte Capital Pty Ltd to NET merchants;
    - 3.2. how those fees and costs are calculated;
    - 3.3. details of the safeguards, including but not limited to policies, guidelines, instructions, compliance procedures or contractual arrangements, in place to ensure those fees and charges are not passed on to consumers, such details to include a description of the purpose, operation and application of the safeguards;
    - 3.4. the number of complaints, queries and disputes concerning price inflation as a result of fees and charges being passed on;
    - 3.5. the number of disputes between Brighte Capital Pty Ltd and NET merchants concerning price inflation as a result of fees and charges being passed on and details of any actions taken by Brighte Capital Pty Ltd against NET merchants in respect of such disputes; and

- 3.6. details of any instructions and/or guidance, if any, provided or made available to NET retailers by Brighte Capital Pty Ltd regarding the calculation or review of upfront or base price of NET products in light of applicable merchant fees relating to finance, including a description of the instructions and/or guidance, how they should be used and/or applied, and their the purpose.