

NOTICE OF LODGMENT

AUSTRALIAN COMPETITION TRIBUNAL

This document was lodged electronically in the AUSTRALIAN COMPETITION TRIBUNAL and has been accepted for lodgment pursuant to the Practice Direction dated 3 April 2019. Filing details follow and important additional information about these are set out below.

Lodgment and Details

Document Lodged: Submissions

File Number: ACT1 of 2019

File Title: 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 and the determination made by the ACCC on 5 December 2019

Registry: VICTORIA – AUSTRALIAN COMPETITION TRIBUNAL



A handwritten signature in blue ink, consisting of a stylized 'A' followed by a 'U'.

DEPUTY REGISTRAR

Dated: 2/03/2020 6:08 PM

Important information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Tribunal and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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]

**THE ACCC'S OUTLINE OF SUBMISSIONS RESPONDING TO
RATESETTER'S APPLICATION FOR LEAVE TO INTERVENE**

PART I RATESETTER'S APPLICATION

1. Relying on the legal principles set out in the ACCC's submissions dated 28 February 2020, the ACCC supports RateSetter Australia RE Limited's (**RateSetter**) amended application for leave to intervene.
2. First, RateSetter is not just an officious bystander in respect of these proceedings. RateSetter states it is Australia's largest provider of regulated consumer credit for the purpose of funding solar and other renewable energy products.¹ It also states that it intends to be a signatory of the NETCC² and will be significantly impacted by any variation to the NETCC in respect of the BNPL conditions.³ The ACCC agrees that RateSetter has a real and substantial interest in the outcome of the review.
3. Secondly, RateSetter can relevantly add to, or supplement, evidence and submissions led by other participants in the proceeding. RateSetter has indicated that it can provide considerable information to the Tribunal.⁴ Importantly, as a large industry participant holding very different views to the Applicant in respect of the NETCC,⁵ RateSetter is likely to provide evidence and submissions substantially different from those provided by any other party or potential intervenor. This will assist the Tribunal in its assessment of likely public benefits and detriments of the proposed conduct and conditions.

¹ RateSetter amended application at [2].


² RateSetter amended application at [10].

³ RateSetter amended application at [13]-[14]. The BNPL conditions are the conditions referred to at 5.12 to 5.14 of the ACCC's Determination.

⁴ RateSetter amended application at [18].

⁵ RateSetter amended application at [5].

Date: 2 March 2020



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Matthew Blunn

AGS lawyer

for and on behalf of the Australian Government Solicitor

Lawyer for the Australian Competition and Consumer Commission