



**Our ref: PRJ1006250**

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6 October 2023

Committee Secretary  
Senate Standing Committee on Economics

*Submitted online*

Dear Committee Secretary

**Re: ACCC submission to the Senate Standing Committee on Economics inquiry into residential electrification**

The ACCC welcomes the opportunity to make this submission to the Senate Standing Committee on Economics (the Committee) inquiry into residential electrification.

The ACCC is an independent Commonwealth statutory agency that promotes competition, fair trading and product safety for the benefit of consumers, businesses and the Australian community. The primary responsibilities of the ACCC are to enforce compliance with the competition, consumer protection, fair trading and product safety provisions of the *Competition and Consumer Act 2010*, regulate national infrastructure and undertake market studies.

The Committee is considering a broad range of matters in relation to Australia's residential electrification efforts, as set out in the Terms of Reference for the inquiry. Having regard to the ACCC's responsibilities, this submission is limited to issues that go to matters of competition and consumer protection, including with respect to fair trading and the safety of products. We acknowledge that issues outside our remit may more directly impact the matters within the Committee's Terms of Reference, however we consider the matters we outline below are also important considerations.

Consumer behaviour in markets is a key factor in an effective transition, as the Terms of Reference acknowledges. The presence or absence of trust is a key driver of behaviour and participation. We address three areas where there is a risk that trust will be undermined if policy does not respond effectively to emerging challenges:

- Safety of new and emerging products entering the market, including electrical consumer products that will support the transition to a lower-emissions economy.
- Ensuring consumers have the capacity to make informed purchasing decisions – where consumers can afford to invest in more environmentally friendly products and services, it is critical that they are able to trust that claims made by suppliers are truthful and accurate. Consumers should have access to accurate and truthful information about the cost and sustainability credentials of energy products in the marketplace and barriers to access should be addressed.
- As governments implement policies to facilitate the transition, it is critical that these policies preserve conditions for competition into the future such that markets remain competitive to drive innovation, access and choice.

Each of these issues is discussed further below. We conclude with discussion of our role monitoring the electricity market.

### **Consumers are helping drive the transition to a lower-emissions economy**

Consumers are becoming increasingly conscious and concerned about climate change and other environmental concerns and want to make more sustainable purchasing decisions. Research conducted by the Consumer Policy Research Centre in 2022 suggested that 45% of Australians surveyed always or often consider sustainability as part of their purchasing decision-making.<sup>1</sup> This includes decisions to purchase more energy efficient products and appliances, decisions to install renewable energy systems such as rooftop solar, and decisions about which energy source to use to reduce their environmental footprint.

At the same time, businesses are looking to capitalise on a growing market for sustainable products by innovating and trading in new technologies and products needed to facilitate decarbonisation, as well as reducing the environmental impact of their operations.

#### **Case study: Lithium-ion products**

Manufacturers and businesses are producing and making available an increasing number of products designed to support electrification. This includes products containing lithium-ion batteries, such as renewable energy storage systems, electric vehicles, bikes and scooters, as well as a number of household appliances and personal devices such as mobile phones. As a result, the number of consumer products containing lithium-ion batteries is expected to increase over the next decade as the Australian economy decarbonises.

As lithium-ion products have proliferated the market, there have been a small but increasing number of significant safety incidents. Some lithium-ion incidents have caused house fires resulting in serious injuries and property damage. Other incidents include burns, chemical exposure and smoke inhalation. Obtaining national data relating to incidents is challenging due to limitations in national data collection and analysis. Between 1 April 2017 and 31 March 2023, the ACCC received 231 product safety reports relating to lithium-ion batteries. Further, there have been 23 recalls between 1 January 2017 and 31 December 2022 involving lithium-ion products. These recalls affect an estimated 89,000 products in the market. The ACCC has been conducting a market study on lithium-ion batteries and consumer product safety and published a report in October 2023.<sup>2</sup>

### **Electrical safety reform will improve the safety of electrical consumer products and support the transition to a lower-emissions economy**

To promote a successful transition to a lower-emissions economy, consumers and businesses must have confidence in the safety of electrical consumer products in the market. Consumer group CHOICE reported that 79% of Australians surveyed believe businesses are legally required to ensure the products they sell are safe.<sup>3</sup> However, there is no law prohibiting the sale of unsafe goods in Australia.

The transition to a lower-emissions economy and uptake of residential electrification is changing the risk landscape for consumer electrical products. Without robust safety frameworks in place, we risk undermining consumer confidence in the safety of electrical consumer products needed to decarbonise the economy.

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<sup>1</sup> Consumer Policy Research Centre, [‘The consumer experience of green claims in Australia’](#), 2022, accessed 20 September 2023.

<sup>2</sup> ACCC, Product Safety Australia, [‘Lithium-ion batteries’](#) webpage.

<sup>3</sup> CHOICE, [‘Australia’s weak product safety laws’](#) website, 29 March 2023, accessed 20 September 2023.

The current regulatory framework for electrical safety is made up of a mix of regimes at the Commonwealth and state and territory levels and does not provide sufficiently for consistent standards, testing and information provision in relation to electrical products key to the transition.

The ACCC and the state and territory consumer protection agencies are jointly responsible for regulating the safety of general consumer products under the Australian Consumer Law. Certain products, including electrical products, are regulated by specialist safety regulators.<sup>4</sup> Electrical safety regulators possess in-depth technical expertise and infrastructure to administer pre-market approval, registration and certification for electrical products, as well as an ongoing focus in electrical safety.

While there are many similarities across the state and territory electrical safety regimes, there are differences in regulatory scope and powers which produce regulatory gaps and inconsistencies that have the potential to undermine consumer confidence in new technologies. For example, only four jurisdictions have formally signed up to the Electrical Equipment Safety System – a registration and certification scheme for household electrical equipment. Additionally, not all jurisdictions have the power to conduct compulsory recalls making the regulators reliant on suppliers to take voluntary action when there is an unsafe product in the market, such as agreeing to a voluntary recall.

There is a critical gap in the current framework for extra-low voltage products (e.g. laptops, power tools and mobile phones) which are increasingly prevalent in Australian households. The lack of regulation by most state and territory regimes makes it more difficult to ensure safety which in turn may undermine consumer confidence in adopting new technologies and products.

The fragmentation of the current framework also creates unnecessary compliance costs for businesses supplying to and through Australia. Businesses supplying electrical products across national and international borders must currently navigate a complex framework of different laws, regulations and safety standards. These costs can be passed onto consumers in the form of higher prices. Further, it risks stifling innovation and trade, for example by limiting the consistent adoption of international safety standards where appropriate, which would assist consumers to have access to a wider range of affordable, safer and environmentally-friendly electrical products.

The ACCC considers that state and territory governments should build a fit-for-purpose, nationally consistent regulatory framework for electrical consumer products, and the Australian Government should work closely with jurisdictions to support this work. A harmonised electrical safety regulatory framework for electrical consumer products should include the following:

- adoption of the Electrical Equipment Safety System in all jurisdictions to provide consistent pre-market controls
- increased adoption of international safety standards where they are equivalent or safer than Australian safety standards
- uniform compulsory recall powers for all jurisdictions
- comprehensive regulatory coverage for extra-low voltage products (such as lithium-ion batteries)
- consistent post-market controls that enable effective surveillance
- national ministerial oversight and decision making involving all jurisdictions to ensure the regulatory framework is fit for purpose and can adapt to emerging challenges
- a single point of contact for consumers and industry to report issues and seek safety information
- a central repository for incident and injury data collection and capability
- greater clarity of the roles and responsibilities for the Commonwealth and the states and territories in relation to electrical safety regulation.

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<sup>4</sup> This includes chemicals (Australian Industrial Chemicals Introduction Scheme), food (Food Standards Australia New Zealand) and therapeutic goods (Therapeutic Goods Administration).

The ACCC encourages the Commonwealth and states and territories to work together to harness opportunities to progress towards a harmonised electrical safety regulatory framework. The ACCC has been working with other Commonwealth agencies, and with the states and territories, with a view to progressing this aim as, reform requires commitment from Governments at all levels.

### **Incomplete and misleading information hinders the ability of consumers to make informed decisions about electrification**

Consumers make decisions based on a variety of factors including price, need and convenience. In order for consumer demand to promote the development and uptake of more sustainable products, consumers need to be able to trust that the products they are buying are genuinely sustainable. If businesses choose to make representations about the environmental impacts of their products and services, it is critical that those representations are truthful and accurate. Legitimate claims about environmental impacts as a point of differentiation between businesses will drive innovation and competition in the market which will assist in the response to climate change. The ACCC is concerned that incomplete and misleading information in the market about energy sources and products, may be a barrier to consumers making informed decisions about electrification and may undermine genuine investments made by businesses.

The ACCC, together with the state and territory consumer protection agencies, enforce prohibitions on businesses engaging in misleading or deceptive conduct or making false or misleading representations about goods or services under the Australian Consumer Law. The Australian Securities Investment Commission (ASIC) is responsible for enforcing prohibitions on misleading or deceptive conduct in relation to financial services. False and misleading environmental claims (often referred to as 'greenwashing') can harm the competitive process and lead to consumer harm. Greenwashing can:

- limit a consumer's ability to make informed choices between different products or services in the market and undermine consumer trust
- lead consumers to pay more for the value of an environmental impact that does not exist, including missing out on cost savings over the long term
- disadvantage businesses that provide a product or service which is genuinely more sustainable
- create a disincentive for businesses to genuinely reduce their environmental footprint and develop and invest in new goods and services which are more sustainable and may have other benefits.

Environmental claims were a compliance and enforcement priority for the ACCC in 2022–23 and this has continued into 2023–24.<sup>5</sup> The ACCC is currently investigating a range of consumer, product safety, fair trading and competition concerns in relation to environmental claims and sustainability. This activity follows on from the ACCC's 2022 sweep of online environmental claims, which found that 57% of 247 businesses were making potentially misleading green claims.<sup>6</sup> To assist business in understanding their obligations, the ACCC has released draft guidance about making environmental and sustainability claims.<sup>7</sup>

Of particular relevance to the take up of residential electrification, the ACCC is considering issues in connection with the supply and advertising of gas and electricity products, in particular representations about the environmental impacts of these products.

This includes advertisements that represent natural gas as a form of 'clean' and/or 'renewable' energy. While natural gas has been recognised as an important transitional energy source, it is still a high emissions fossil fuel product and has harmful impacts on the environment.

These representations are being promoted in an environment where many consumers are making decisions about which energy retailer to support, and which energy source to use in their homes

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<sup>5</sup> ACCC, ['Compliance and enforcement policy and priorities'](#) webpage.

<sup>6</sup> ACCC, ['Greenwashing by businesses in Australia – findings of ACCC's internet sweep'](#), 2 March 2023.

<sup>7</sup> ACCC, ['Environmental and sustainability claims: Draft guidance for business'](#), July 2023.

including deciding whether to electrify by replacing existing gas fuelled appliances such as heaters and cooktops. Investments in new appliances and infrastructure can be substantial and can lock consumers into one energy source for several years due to the long life span of these products.<sup>8</sup>

The ACCC is also considering issues associated with representations by energy retailers about electricity products being 'renewable', 'carbon neutral' or promoting sustainable consumption. Where businesses choose to promote the environmental benefit or impact of their product, or to seek to compete on a products sustainability credentials, they should make clear to consumers what actions they have taken to reduce or mitigate their environmental impact to ensure consumers can make informed decisions about which energy retailer to choose for their home.

It is critical that consumers have complete and accurate information about both the environmental impact of different energy sources and products, as well as the potential cost implications over both the short and medium term. In addition to the ACCC's environmental and sustainability enforcement priority, the sale and supply of essential services such as energy and telecommunication is an ongoing enforcement priority for the ACCC, especially in relation to the pricing and selling of these services.<sup>9</sup> Accordingly, the ACCC will continue to prioritise enforcement matters in relation to these sectors in addition to environmental and sustainability claims.

### **Transitioning and emerging markets should continue to operate competitively**

The transition to a lower-emissions economy will fundamentally change industries and create demand for new infrastructure. This disruption will change market dynamics and may impact the provision of products and services. In this context, the ACCC will continue to focus on protecting consumers and ensuring that transitioning and emerging markets are operating competitively. For example, the assessment of mergers in transitioning industries, including energy, will be critical. Governments are also implementing policies to support the transition and enable them to meet net zero targets, and governments should be mindful that these policies foster competitive markets into the future.

Market disruption also creates the potential for collusive or exclusionary behaviour from participants.<sup>10</sup> The ACCC will be closely monitoring for anti-competitive behaviour, including illegal collusion.

In some cases, collaboration between competitors to achieve better environmental outcomes may be necessary to address first mover disadvantage or other market failures. In Australia our competition law includes an authorisation framework which enables businesses to seek an exemption from the ACCC for proposed agreements between competitors where the likely public benefit outweighs the likely public harm. This framework allows the ACCC to take into account environmental benefits when assessing exemption applications.<sup>11</sup> It is also important that a perceived fear of competition law does not prevent businesses from implementing arrangements that are legitimate and would not require authorisation.

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<sup>8</sup> The Victorian Government estimates that going all-electric can save households around \$1,000 per year, or over \$2,200 if solar is installed; Victorian Government, '[Victoria's gas substitution roadmap](#)' webpage.

<sup>9</sup> ACCC, '[Compliance and enforcement policy and priorities](#)' webpage.

<sup>10</sup> For example, in 2021 the UK Competition and Markets Authority (CMA) investigated suppliers of electric vehicle charging stations for alleged breaches of competition law in respect of the long-term exclusionary arrangements for the supply of electric vehicle chargepoints. In 2022 the CMA accepted commitments offered by the suppliers that address the CMA's concerns; CMA, '[Investigation into the supply of electric vehicle chargepoints on or near motorways](#)', 2 March 2022.

<sup>11</sup> For example, the ACCC granted authorisation with conditions to allow the major supermarkets to collaborate on a short-term solution to manage the soft plastics stockpile, and facilitate the resumption of in-store collections for recycling, following the collapse of the REDcycle program; ACCC, '[Cooperation proposed to continue on soft plastics recycling after REDcycle liquidation](#)' [media release], 30 March 2023.

## The ACCC's role monitoring the electricity market

The ACCC is monitoring prices, profits and margins in the supply of electricity in the National Energy Market.<sup>12</sup> We examine and report on consumers' electricity bills, including the impact of solar feed-in tariffs. In our latest report we found that:<sup>13</sup>

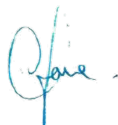
- Retailers largely have discretion to set negotiated solar feed-in tariff rates, except in Victoria where the minimum feed-in tariff is set by the Essential Services Commission. State regulators monitor solar feed-in tariffs in other regions.
- Customers on market retail contracts still benefit from negotiated feed-in tariffs which are paid by retailers and are not subsidised.
- Effective solar feed-in tariff rates declined between 2021 and 2022 in all regions.

We will continue to use our inquiry function to examine solar feed-in tariffs as an important component of end-prices paid by consumers, and as part of our broader assessment of retail competition, until the conclusion of the inquiry in August 2025.

### Next steps

If you would like to discuss the ACCC's submission, please contact Timothy Grimwade, Executive General Manager, Consumer Product Safety Division and Sustainability Taskforce, on [REDACTED] or at [REDACTED].

Yours sincerely



Catriona Lowe  
Deputy Chair

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<sup>12</sup> Following direction from the Treasurer in August 2018 to undertake a public inquiry, and report every 6 months until August 2025; ACCC, '[Electricity market monitoring inquiry 2018–25](#)' webpage.

<sup>13</sup> ACCC, '[Inquiry into the National Electricity Market: June 2023 report](#)'. See section 3.5 for discussion of solar feed-in tariffs.