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adjudication@accc.gov.au

New Energy Tech Consumer Code – Tesla feedback

Tesla Australia, Pty Ltd (Tesla) welcomes the opportunity to provide the Australian Competition and Consumer Commission (ACCC) with feedback on the New Energy Tech Consumer Code (the Code). Tesla has been engaged throughout the development of the Code and provided the Clean Energy Council (CEC) and other developing members with feedback on the previous draft that was released for consultation in February 2019.

Tesla is a current signatory to the CEC Solar Retailer Code of Conduct, and we are supportive of this work. This Code plays an important role in ensuring service integrity and protecting customers looking to install their own behind the meter (BTM) technologies, and accessing a suite of new energy services. In order to do so, it will be important that the Code is extremely clear in respect of what it requires of Code signatories.

Our feedback below relates to both general points on additional clarity, and specific clauses included in the Code (as per Attachment B of the ACCC Application).

Application of the Code

As per section 7 on page 5 of the ACCC Application, we note that the Code is intended to apply to the following:

- 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
- services that support or are closely related to those products and systems products, systems and services that monitor or manage a Customer's usage of energy
- whether on or off an Energy Network and permitting future flexibility and innovation, any other product, system and service that the Consumer Code Administrator is satisfied sits appropriately within this Code.

At a high level additional clarity is needed within the Code to address the following:

- How electric vehicle (EV) charging equipment is captured under the Code? The Code notes that consumer products such as white goods are out of scope, and EV should fall into the consumer product category as the majority of the requirements outlined in Part B of the Code (Attachment B of the ACCC Application) are not applicable to EVs. EV charging equipment should only be captured to the extent that they are used to support energy services captured under section 7 of the ACCC Application.
- Part B of the Code needs to provide greater clarity in respect of which requirements apply to small-scale energy products and systems; which apply to energy services and which apply to both. In the event that the customer uses different provider for energy products and energy services, signatories to the code need to understand their compliance requirements.
 - As an example, where a customer buys a solar PV system and battery energy storage system (BESS) from a retailer who is a signatory to the Code; and subsequently

engages the services of a third party virtual power plant (VPP) provider, Part B of the Code should provide greater delineation of responsibilities.

Comments on Code requirements

Tesla has the following comments on specific section of Part B of the Code:

- **Clause 6.a)** as per the general comment above, the Code needs to provide greater clarification in respect of how the requirements of “energy service” providers and the requirements of “energy product providers” are split. In the event that VPP arrangements are managed through customer electricity retailer relationships, the obligation should be on the electricity retailer to clearly articulate how VPP benefits are passed through.
- **Clause 8.m)** this requirement is too ambiguous “any provisions that may impact on your existing relationship with an Energy Supplier” requires greater clarification or should be removed.
- **Clause 36.c) i. Physical or video demo of operation of product** – it is preferable to provide instructional photos rather than videos. This would be simpler for suppliers to implement and should be included as an option.
- **Clause 36.c.iii) a commitment to provide you with regular reports.** Tesla assumes that this requirement applies only to services provided (as opposed to products). The Code should make this clear, and note the period that the Code signatory is expected to provide these ongoing reports (for instance, over the duration of an energy service contract in place). If this requirement also applies to products, the Code should specify whether live monitoring (such as through a web or phone application) satisfies this requirement.
- **Clause 42.** This clause applies to Code signatories who provide products from one or more original equipment manufacturers (OEMs). It is unclear how this section should be interpreted by vertically integrated organisations. The Code needs to specify the expectation here.

Governance

In addition to the comments above in respect of the proposed content of the Code, Tesla would also like to ensure that there is a clear and transparent approach in place for governance of the Code and management of compliance against the Code requirements. Tesla provided the following feedback on the draft of the Code (in a previous iteration).

For consistency across product and supplier integrity the following requirements need to be met:

- The Code is accepted by all participating industry bodies as the single best practice Code. That there are not multiple iterations of this Code adopted by different industry bodies.
- That the processes associated with accreditation to the Code, and ongoing compliance against its requirements are clearly outlined.
- It is our preference for a single entity to accept and manage applications for accreditation. In the event that there are multiple bodies, accredited providers should be well aware of the industry body/ies that accept applications.
- Compliance against the Code requirements should be managed by a single governance framework and single entity to ensure consistency for all accredited providers and customers.
- The timelines for compliance need to be clear and appropriate, particularly where the Code is adopted in support of state incentive schemes or otherwise.
- Fees and fee structures need to be clearly articulated in the Code. The Code currently does not provide details in respect of how fees will be structured.