

Friday 30 January 2026

Department of Climate Change, Energy, the Environment and Water
Via email: PEMMReview@dcceew.gov.au

RE: Phase 2 consultation on the *Prohibiting Energy Market Misconduct Act 2019* (PEMM Act) provisions in the *Competition and Consumer Act 2010*

Thank you for meeting with Financial Counselling Victoria (FCVic) earlier this week to discuss the Phase 2 consultation on the PEMM Act. We appreciate the opportunity to engage online and provide feedback through constructive discussion. This written submission is intended to supplement the matters raised during that meeting.

We reiterate the importance of principles-based consumer-focused regulation.

Implementing a positive consumer duty, such as that outlined in [Energy Consumers Australia's 'Exploring a consumer duty for Australia's energy market' reports](#), has the potential to improve consumer outcomes without the need for overly prescriptive and costly regulatory intervention, by placing greater responsibility on retailers.

We consider that there is a cohort of energy consumers for whom participation in the current competitive energy market will remain unaffordable, driven by the growing disconnect between wage growth, social security payments, and rising living costs. For these consumers, alternative and innovative approaches should be explored to ensure access to affordable energy, including mechanisms such as a social tariff as discussed in [a presentation at the 2025 FCVic Annual Conference](#) and described in [this video](#) by the Consumer Action Law Centre.

We note the distinction between competition monitoring and energy market regulation.

While the Australian Energy Regulator (AER) plays a critical role in consumer protections and retailer conduct, alongside the Essential Services Commission (ESC) in Victoria, the Australian Competition and Consumer Commission (ACCC) brings distinct expertise in assessing market competition across multiple sectors. This national oversight is particularly valuable, noting its broader jurisdiction across states and territories (excepting Western Australia in the energy context).

We believe that proposed implementation across jurisdictions should involve deeper consultation with state-based regulators and government agencies. From a Victorian

perspective, several options canvassed in the consultation paper have already been partially implemented, including the introduction of a 'reasonable price' concept through recent updates to the Victorian Energy Retail Code of Practice. To promote consistency and best-practice consumer protections, we recommend that any changes to the PEMM be considered alongside existing code reviews and regulatory reform processes.

For further reference, the following FCVic reports and submissions may be of assistance:

- Rank the Energy Retailer 2025: <https://fcvic.org.au/rank-the-energy-retailer-2025/>
- Submission to the ESC's consultation on the Energy Consumer Reforms Regulatory Impact Statement: <https://fcvic.org.au/wp-content/uploads/202506-FCVic-submission-to-Energy-Consumer-Reforms-RIS.pdf>
- Submission to the ESC's Energy Retail Code of Practice Review: <https://fcvic.org.au/wp-content/uploads/202407-FCVic-submission-to-ERCOP-Review-1.pdf>

Thank you for your consideration of the above feedback.