SUITABILITY ANALYSIS FOR AN ENERGY CONSUMER DUTY

REPORT #3.1

CONSUMER ENERGY RESOURCES AND NEW ENERGY SERVICES

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A. INTRODUCTION

a. Background

There is considerable interest in introducing a Consumer Duty into the Australian Energy Market. The reasons for this proposal and the way in which a Consumer Duty may operate as a form of performance-based regulation are considered in Research Report #1. This report – Research Report #3 – considers the limitations of existing consumer law protections and the opportunities for an Energy Consumer Duty. In other words, it performs a 'gap', or more accurately a 'suitability', analysis of the regime currently in place to protect the interests of consumers and small businesses, and the scope for reform through the introduction of an Energy Consumer Duty.

This report is part of a series:

> Research Report #1 – considers the reasons for introducing an Energy Consumer Duty (Rationale Report)
>
> Research Report #2 – discusses the form of the Consumer Duty (Models for an Energy Consumer Duty Report)
>
> Research Report #3 – considers the limits of existing consumer protection regimes that might be addressed by an Energy Consumer Duty in two key areas (Gap Analysis Report)
>
> Research Report #4 – considers the 'on the ground operation' of an Energy Consumer Duty (Measures for Demonstrating Good Outcomes under an Energy Consumer Duty Report)
>
> Research Report #5 – considers protections for people in situations of vulnerability (Vulnerability Report)
>
> Research Report #6 – considers enforcement and dispute resolution (Enforcement and Dispute Resolution for a Consumer Duty Report)

b. The Energy Consumer Duty

By way of reminder:

> A consumer duty is a duty to 'act to deliver good outcomes for retail customers'.

An outcomes-based 'Energy Consumer Duty' would require regulated energy firms to affirmatively develop sales, billing and service processes calculated to promote good consumer outcomes, to perform regular consumer testing and data analysis to see if those processes are working, and to revise those processes where the desired outcomes are not being achieved.

The Energy Consumer Duty should promote four outcomes:

1. Suitable products and services: consumers are sold products and services that are designed to meet their needs, characteristics and objectives;
2. Fair price and value: consumers receive products and services which offer fair value;
3. Understanding: consumers understand the information they are given and are confident in making timely and informed decisions;
4. Accessible consumer support: consumers are provided with access to support and dispute resolution that meets their needs.

Key principles for introducing an Energy Consumer Duty include:

- The focus should be on retailers' performance in achieving good outcomes for consumers, not compliance checks with prescriptive rules.
- Firms report on their compliance with the Consumer Duty.
- The Australian Energy Regulator ('AER') may provide guidance on the measures it expects for demonstrating compliance as well as enforcing expectations under the duty.

c. *Focus area for analysis*

In conducting a suitability analysis, we have chosen to focus on two categories of issue that are highly significant to consumers, and that have been the subject of consideration by regulators and consumer advocates. These are:

- Sustainable energy transition: Consumer energy resources and new energy services; and
- Pricing: Consumer price confusion and loyalty penalties.

Our findings, in general terms, are that the Australian Consumer Law ('ACL') has a useful and potentially impactful application to those aspects of the retail energy market that involve the supply of goods or services through the consumer guarantee regime. The ACL will also apply to misleading or predatory sales practices, including remote selling.

Where the ACL is less effective is in demanding the kinds of positive obligations that ensure good outcomes for consumers. For example, information that is not misleading, in the sense prohibited by s 18 of the ACL, may still fail to promote consumer understanding. Energy services may be provided with due care and skill, as required under the consumer guarantees, but may still fall short of being suitable for consumers' needs or consistent with their expectations.

B. CONSUMERS AND THE SUSTAINABLE ENERGY TRANSITION

Part of the impetus for an Energy Consumer Duty came from the Australian Energy Regulator's Review of the National Energy Customer Framework (2022-23).[1] More recently, the Australian Competition and Consumer Commission ('ACCC') carried out an Inquiry into the National Electricity Market.[2] These reviews, as well as another inquiry by the Victorian Government, identified multiple challenges for consumers arising from new energy products and services 'located at consumers' premises that are used to generate, store, consume, manage, convert or sell energy.[3]

This case for a consumer energy duty arises from concerns about a variety of risks for consumers seeking to transition to more sustainable energy sources. These are discussed in the following two sections. More details on the impact of an Energy Consumer Duty in this context are provided in Report #4.

a. *Consumer Energy Resources*

New and emerging energy products are sometimes collectively described as distributed energy resources ('DER'), or, alternately, consumer energy resources ('CER').

i. *Kinds of CER*

Consumer energy resources include:

- solar photovoltaic ('PV') systems;
- home batteries;
- thermal energy storage (e.g. water heaters);
- electric vehicles (EVs) and chargers;

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1 AER, *Retailer Authorisation and Exemption Review* (Issues Paper, April 2022) 21 ('*Issues Paper*').

2 Australian Competition and Consumer Commission ('ACCC'), *Inquiry into the National Electricity Market* (Report, 10 July 2025) ('*National Electricity Market Inquiry Report*').

3 Department of Energy, Environment and Climate Action (Vic), Consumer Energy Resources Consumer Protections Review (Directions Paper, December 2024) 9 https://engage.vic.gov.au/CER-consumer-protections-review ('CER Review Directions Paper'). This paper includes a discussion of proposals to introduce a general consumer duty: see 32.

- smart energy devices (e.g. controllable air conditioners).[4]

ii. CER risks and existing responses

The risks of harm associated with consumer energy resources primarily lie in the products not working reliably or as expected. The other key identified issues concern poor sales practices in energy markets (for example, with products such as solar panels and batteries).[5] These include high pressure sales, mis-selling and misrepresentations about the products and their likely benefits for the consumer.[6] As stated by the ACCC, 'certain selling models may incentivise poor or inadequate information provision to consumers. In the context of unsolicited selling, marketing companies are more likely to use independent contractors and remunerate them based on each successful sale, thus incentivising 'high-pressure sales techniques' and conduct that does not comply with the ACL.[7]

These issues are further considered in CALC's designated complaint to the ACCC, discussed below.

iii. Energy Consumer Duty Obligations?

As Table 1 below shows, issues associated with mis-selling are likely addressed under existing provisions of the ACL, primarily the prohibition on misleading conduct, consumer guarantees and the regime regulating distance sales. The issue here may involve a need for better education of retailers/suppliers. However, the ACCC has no direct enforcement powers in respect to the consumer guarantees, which leave consumers to pursue their claims themselves. Thus, there is a case for providing consumers with protections through upfront obligations that ensure the suitability of CER/NES for their circumstances. This might be achieved through 'gatekeeper'-like obligations on retail energy providers and new energy service providers, as discussed in Report 2. This would give the Energy Regulator oversight of the supply of these products and make opportunities for IDR/EDR available to consumers.

b. New Energy Services

As noted by the ACCC in its recent inquiry into the National Electricity Market, in accessing CER/NES, consumers may be motivated by a range of financial and non-financial reasons.[8] Their primary interests may include reducing their overall energy costs, using more sustainable energy, and/or having a backup source of energy in times of blackouts.[9]

The upfront cost of CER can be considerable,[10] although in some cases it can be offset by government incentives and subsidies.[11] Another way for consumers to gain access to these products is through entering into financial or subscription arrangements with providers of new energy services ('NES').[12] In particular, consumers may participate in 'virtual power plant' arrangements where energy sources from different locations – for example, a solar and battery system at the consumer's premises – are aggregated and controlled by an operator that subsidises or defers some of the cost in return for control

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4 Ibid.

5 CALC. Also, EWOV, *Victorian Energy and Water Ombudsman's Investigation of Consumer Experiences (VOICES)*; Consumer Action Law Centre, *Sunny side up: strengthening the consumer protection regime for solar panels in Victoria* (Report, 2019); Consumer Action Law Centre submission to DEECA consultation, *Protections for consumers of DER*.

6 See ACCC, *National Electricity Market Inquiry Report*, 111.

7 ACCC, *National Electricity Market Inquiry Report*, 102.

8 ACCC, *National Electricity Market Inquiry Report*, 15.

9 ACCC, *National Electricity Market Inquiry Report*, 15-16, 42, 73, 107.

10 ACCC, *National Electricity Market Inquiry Report*, 8, 78-9.

11 ACCC, *National Electricity Market Inquiry Report*, 42, 66, 145-67.

12 ACCC, *National Electricity Market Inquiry Report*, 96-8.

over the consumer's assets or their outputs.[13] Providers of new energy services offer a variety of options for accessing CER and the market is highly complex.[14]

These services should at minimum not make consumers worse off, or in other words, should provide energy at the same or lower cost than if the consumer did not have the service.[15] The ACCC and consumer advocates have expressed concern that consumers' expectations for the promised financial benefits of signing up for CER/NES may not materialise for some consumers in their individual circumstances, while the complexity of such services makes it difficult for consumers to understand the basis on which they are being charged.[16] Moreover, the consumer's other objectives in entering into these arrangements may not be met if batteries are drained so as not to cover blackouts, or if their lifespan is so reduced due to heavy usage that the battery is not usable at the conclusion of the contract.[17]

i. Types of new energy services

Recent years have seen significant growth in new energy services, with the ACCC describing such services as providing 'broader benefits to the energy system' and 'an important part of Australia's energy transition'.[18]

New energy services include:

- Single-premises energy management services: these work 'by using software to manage a consumer's energy consumption. This can include turning devices – for example, smart appliances, air conditioning, pool pumps, batteries, whitegoods – 'on and off remotely, and/or setting devices to operate within certain rules or conditions'.[19]
- Aggregation services: these 'utilise behind the meter [distributed] energy resources, smart devices, or a combination of both to manage energy usage at a premises and export of energy to the grid'.
- Embedded networks and microgrids: embedded networks 'may contain DER assets that are controlled and operated by the embedded network operator… Some embedded networks may take the form of microgrids'.
- Virtual power plants: these arrangements allow individual energy sources based at multiple consumers' premises – for example, 'solar photovoltaic system, battery storage, air conditioners, storage water heaters, or pool pumps'[20] – to be aggregated and controlled by a 'central operator',[21] typically in exchange for a benefit to consumers that participate, such as credit or a reduced electricity tariff.
- Microgrids: are 'a local energy grid with control capability, meaning they can disconnect from the traditional grid and operate autonomously'.[22]

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13 ACCC, *National Electricity Market Inquiry Report*, 61-73, 75-6, 105-7.

14 ACCC, *National Electricity Market Inquiry Report*, 101-3.

15 See ACCC, *National Electricity Market Inquiry Report*, 114.

16 ACCC, *National Electricity Market Inquiry Report*, 101-3.

17 ACCC, *National Electricity Market Inquiry Report*, 98, 106-7.

18 ACCC, *National Electricity Market Inquiry Report*, 3.

19 AER, *Issues Paper*, 21.

20 ACCC, *National Electricity Market Inquiry Report*, 15.

21 ACCC, *National Electricity Market Inquiry Report*, 61.

22 AER, *Issues Paper*, 19.

Unlike the traditional model, where consumers interacted with only a single firm with respect to energy usage, today many consumers need to manage relationships with both a retail energy provider from which the consumer might buy energy and to which a consumer might sell energy produced or stored on the consumer's premises, but also an energy services provider.[23]

C. Risks and Existing Responses to New Energy Services

There have been ongoing concerns expressed about the sales practices for and operation of both CER and NES. The key harms and proposed responses are set out below, drawing on reports from the AER, ACCC.

a. Harms

The key risks of consumer harm currently associated with new energy services identified by the AER[24] and the ACCC[25] fall into the following categories:[26]

- **Consumer understanding:** There is a risk of consumers not understanding energy products, services, and pricing well enough 'to make decisions about energy services that will best suit their needs and wants.' This includes understanding 'the value a service can offer to a customer, its fit/appropriateness to the customer's circumstances and how it interacts with other services the customer may already have at their premise.'[27]

The complexity of many new and emerging products and service models is a key impediment to knowledgeable decision-making for consumers. Aggregation and energy management devices and services in particular have been described as 'too complex for consumers to understand'.[28] As noted by the AER, '[s]ocial and financial barriers may prevent consumer access and make it difficult for them to understand what they are signing up to'.[29] While consumers want to understand whether and how soon their initial investment in CER will be recouped through savings on their bills, this is a complex assessment that requires consideration of the consumers' individual circumstances (including household consumption profile, solar intensity and availability of subsidies in their geographic location).[30] Further complexity lies in how tariffs may differ depending on charging schedules; for example, consumers may not understand the risk of incurring higher usage rates if they charge an electric vehicle outside automated scheduled periods.[31]

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23 AER, *Issues Paper*, 21.

24 AER, *Review of Consumer Protections for Future Energy Services* (Final Advice Report, November 2023) 16-18 ('*Final Advice Report*').

25 See generally, ACCC, *National Electricity Market Inquiry Report*.

26 AER's Final Advice Report Attachment 1.1 sets out a more detailed risk analysis including a list of the benefits and risks associated with each of the above business models (Table A.1.1); a mapping of how these risks might emerge at various stages of the 'consumer journey' (section A1.4); a probability and materiality analysis (section A1.5); and case studies (section A1.6).

27 AER, *Final Advice Report*, 16.

28 AER, *Final Advice Report*, 37. Although the AER Report phrases this risk in terms of a lack of information, the real concern is lack of understanding; it is likely that most information exists in the find print of documents available to consumers, but information needs to be understood to be useful.

29 AER, *Final Advice Report*, 36; AER, *Issues Paper*, 36.

30 ACCC, *National Electricity Market Inquiry Report*, 46, 76, 103.

31 ACCC, *National Electricity Market Inquiry Report*, 92.

Complexity may also 'enable energy services and products to be marketed in ways that take advantage and mislead consumers'.[32] This risk is particularly apparent with certain sales models (e.g. unsolicited selling through independent contractors who are remunerated per sale).[33] Consumers may not be able to fully assess the implications of signing up to such products.[34]

- **Contracts:** 'There is a risk of consumers entering into contracts that are not suitable for their circumstances or that specify financial commitments and/or lock-in terms that the consumer does not fully understand'.[35]

Virtual power plant agreements may promise affordable access to CER, but may not in fact deliver meaningful cost savings while the assets remain controlled by the retailer.[36] Consumers may also face unforeseen costs if they enter such agreements with expectations of being able to draw down on their battery for free.[37] During the duration of a contract, changes to pricing structure and price terms (e.g. solar feed in tariffs) may substantially affect what consumers pay for electricity.[38] While time of use pricing has potential to result in lower bills, consumers may experience bill shock if they lack the knowledge or flexibility required to make use of the lower-priced periods.[39]

Virtual power plant agreements typically have a lengthy duration of 7 years or longer. When exiting such an agreement, consumers risk incurring large exit fees correlating with the remaining value of the system.[40] Consumers may also have separate financing agreements in place with retailers' third-party finance partners. These arrangements may mean the consumer terminates the service agreement but remains liable for making payments to the finance provider.[41]

- **Performance of services:** A service may not perform to a consumer's expectations, and this may impact their overall supply of energy.[42]

For example, while some consumers are motivated by the expectation of being protected from blackouts when entering virtual power plant agreements, some of these agreements expressly restrict consumers from operating the battery during a blackout, or fail to provide for the operator to leave sufficient battery capacity in reserve for the consumer's use.[43] By way of another example, consumers may need to stick to automated scheduled charging times for electric vehicles if they are to benefit from cheaper usage – but in order to fully charge their vehicle during those times, they may also need to incur the cost of investing in fast charging equipment.[44]

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32 AER, *Final Advice Report*, 39.

33 ACCC, *National Electricity Market Inquiry Report*, 102.

34 AER, *Final Advice Report*, 36. See also ACCC, *National Electricity Market Inquiry Report*, 106.

35 AER, *Final Advice Report*, 16.

36 ACCC, *National Electricity Market Inquiry Report*, 103.

37 ACCC, *National Electricity Market Inquiry Report*, 73.

38 ACCC, *National Electricity Market Inquiry Report*, 114.

39 ACCC, *National Electricity Market Inquiry Report*, 38, 94.

40 ACCC, *National Electricity Market Inquiry Report*, 95.

41 ACCC, *National Electricity Market Inquiry Report*, 95.

42 AER, *Final Advice Report*, 16.

43 ACCC, *National Electricity Market Inquiry Report*, 107.

44 ACCC, *National Electricity Market Inquiry Report*, 92.

- **Control of assets:** 'There is a risk of some services being remotely controlled by a provider in a way that causes consumer detriment'.[45]

For example, virtual power plant agreements that allow the provider to make heavy use of a battery can significantly run down its life expectancy, preventing the consumer from realising their expectation of owning the battery at the end of the contract.[46]

- **Payment difficulty**: 'There is a risk that consumers are unable to pay the costs of their energy service which has implications for their access to electricity or debt being accumulated'.[47]
- **Dispute resolution**: 'There is a risk that consumers may be unable to resolve disputes because of barriers to access to dispute resolution, including cost and complexity barriers. There is also a risk that matters are not resolved fairly and in a timely manner'.[48]

Many of these issues sit outside the existing scope of the ACL and similar law. Indeed, the issues they raise arise from the complexity of making decisions about financial investment for future uncertain returns, that largely depend on the conduct of the service provider. In this sense the risks to consumers from NES are similar to the risks facing consumers in financial services. This similarity underlines the case for an Energy Consumer Duty.

b. ACCC Designated Complaints: Unsolicited Solar Sales

The ACCC's designated complaints process is designed to ensure that 'significant and systemic market issues' affecting Australian consumers and small businesses are addressed efficiently and effectively.[49] Two designated complaints relevant to energy retailers have been lodged.

In March 2025, the Consumer Action Law Centre ('CALC') lodged a designated complaint alleging that unsolicited sales are causing significant financial and personal harm to consumers.[50] Unsolicited selling occurs where a salesperson approaches a consumer without invitation and attempts to secure a contract for goods or services.[51] Relatedly, lead generation refers to the identification of potential sales targets.[52] The complaint acknowledges that unsolicited sales of many products pose risks to consumers, but identifies unsolicited sales of solar products as a particular concern due to their complexity and the difficulty consumers face in assessing their suitability.[53]

CALC alleges that unsolicited sales practices are likely to be in breach of the ACL's provisions relating to misleading and deceptive conduct, unconscionable conduct and unsolicited consumer agreements.[54] It provides a detailed account of the sales tactics that underpin these breaches, including false or misleading representations, the omission of key pricing information and the exertion of undue pressure

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45 AER, *Final Advice Report*, 16. See also, *National Electricity Market Inquiry Report*, 98, 105-7.

46 ACCC, *National Electricity Market Inquiry Report*, 105-6.

47 AER, *Final Advice Report*, 17.

48 AER, *Final Advice Report*, 17. See also, *National Electricity Market Inquiry Report*, 99, 103.

49 'Designated complaints', *ACCC* (Web Page) <https://www.accc.gov.au/about-us/designated-complaints#:~:text=A%20designated%20complaint%20to%20the,or%20our%20functions%20or%20powers.>.

50 Consumer Action Law Centre Ltd, *Designated Complaint: Unsolicited Selling* (Report March 2025) 7.

51 Ibid 10.

52 Ibid.

53 Ibid 16, 19.

54 Ibid 8-11.

on vulnerable consumers.[55] CALC further identifies problematic post-contractual conduct, such as refusing to accept valid terminations and supplying goods during the mandatory cooling-off period.[56] Additionally, CALC notes that salespeople frequently exploit Buy Now, Pay Later finance options and government subsidies to facilitate sales.[57] These practices not only impose financial and personal hardship on individual consumers, but also erode trust in the energy market and potentially undermine Australia's transition to clean energy sources.[58]

Vulnerable Australians, such as older people, people living in remote and regional areas, people on low incomes, and people with disabilities or with mental health issues are disproportionately affected as they are 'more vulnerable to pressure selling and more harshly impacted by the outcomes'.[59]

As such, CALC recommends that the ACCC issue a proposal to government for a legislative ban on unsolicited selling, alongside regulatory reforms targeting lead generation practices.[60] CALC also calls for a comprehensive market study to obtain 'a clear picture of the drivers behind harmful selling' and for enforcement action to be taken where appropriate.[61]

In June 2025, the ACCC released a consultation paper in response to CALC's complaint, agreeing that market changes such as the emergence of social media, renewable energy and modern financing options necessitate a review of unsolicited selling and lead generation.[62] The ACCC has committed to assessing the benefits and risks of unsolicited selling and lead generation practices, as well as any limitations of the ACL that leave harmful conduct unaddressed.[63]

c. Suggested ACCC reforms

The ACCC has recently suggested changes to the way NES are regulated that come close to aspects of an Energy Consumer Duty.

For example, the ACCC has also suggested that a design and distribution style obligation may be effective in this context.[64] Such an obligation is similar to the expectations of the *products and services* outcome under the UK Consumer Duty.

The ACCC has recommended reforms to address such conflicts between the needs of consumers and operators, including:

- A requirement that a customer's foreseeable household consumption needs are taken into account as part of the sign-up process.[65]
- A 'guarantee that a minimum battery level will always be preserved so that: the battery is operated in accordance with the warranty specifications (thus protecting the consumer's asset); and the consumer's own household consumption needs can be met, so they are not forced to

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55 Ibid 11.

56 Ibid 10-11.

57 Ibid 7.

58 Ibid 15.

59 Ibid 18-19.

60 Ibid 24.

61 Ibid.

62 ACCC, *Unsolicited selling and lead generation* (Consultation Paper, June 2025) 3.

63 Ibid.

64 ACCC, *National Electricity Market Inquiry Report*, 113-115.

65 ACCC, *National Electricity Market Inquiry Report*, 100.

draw energy from the grid at peak times for example (or, where this cannot be prevented, that the cost is reimbursed to the consumer). This ensures that the consumer is left no worse off as a result of giving up control'.[66]

These types of requirements might be seen as components of a Consumer Duty. However, as with other prescriptive rules, they may prove too rigid over time as technology develops.

D. Impact of an Energy Consumer Duty

We discuss payment difficulties and dispute resolution in subsequent reports. With regard to issues of information, contracts, performance and control, we suggest that these scenarios demonstrate the benefits of introducing an Energy Consumer Duty. New energy services are already subject to the consumer guarantee obligations, as well as obligations relating to due care and skill, fitness for purpose and acceptable quality.

However, these obligations do not go as far as would an Energy Consumer Duty, which is a proactive obligation to ensure good outcomes. In the context of NES this would mean ensuring the suitability of the service, mediating conflicts between the interests of the provider and the consumer in relation to the control of energy assets, and ensuring the information provided to the consumer is able to be understood and acted on. Providers must demonstrate their compliance by testing and recalibrating the measures taken to give effect to the Consumer Duty (for example, by evaluating whether consumers actually understand the content of the information provided and whether it is useful to them).

Table 2: CER and NES: risks and comparing protections

Consumer harm	ACL protections	Consumer Duty (UK)
Sales strategies		
High pressure sales and mis-selling of CER and NES.	Misleading advertising and sales practices are addressed under the ACL, specifically the broad prohibitions on misleading and deceptive conduct. Aggressive or exploitative sales practices may fall under ACL ss 21 and 50. Door to door sales obligations in the ACL. Note that the ACCC is reviewing these provisions in the light of the designated complaint from CALC.	Energy retailers might be subject to more demanding duties of fair value and suitability (discussed below). DEECA has suggested an Energy Consumer Duty would encompass a duty to avoid unfair marketing practices.[67]
Contract pricing		
Contracts may not provide value to the consumer, e.g.	Financing arrangements for CER may not be covered by the ACL, or energy-specific consumer protection	CER contracts would be subject to the overriding obligation to 'deliver good

66 ACCC, *National Electricity Market Inquiry Report*, 101.

67 Victoria Department of Energy, Environment and Climate Action, *Consumer Energy Resources (CER) Consumer Protections Review Directions Paper* (Dec 2024) 32.

because of the pricing arrangements.	frameworks, or financial services frameworks.[68]	outcomes for retail customers'.[69] This duty is supplemented by more specific obligations surrounding the 'customer *outcome on price and value*', which states that a manufacturer must '(1) ensure that its *products* provide fair value to *retail customers* in the *target markets* for those *products*' (Principle 2A.4.2(1)). Principle 2A.4.8 states that: A *manufacturer's* assessment of whether or not a *product* provides fair value must include (but is not limited to) consideration of the following: (1) the nature of the *product*, including the benefits that will be provided or may be reasonably expected and its quality; (2) any limitations that are part of the *product*; (3) the expected total price to be paid by the *retail customer* or that may become due from the *retail customer*. (4) any characteristics of vulnerability that *retail customers* in the *target market* display and the impact these characteristics have on the likelihood that *retail customers* may not receive fair value from its *products*. Principle 2A.4.9: In its value assessment, a firm must consider: (1) the costs incurred by the *firm* in *manufacturing* or *di stributing* the *product*;

68 ACCC, *National Electricity Market Inquiry Report*, 98.

69 FCA, *Financial Conduct Authority (FCA) Handbook* (2023) principle 2A.1.10 <https://www.handbook.fca.org.uk/handbook/PRIN/2A/?view=chapter> (FCA Handbook).

		(2) the market rate and charges for a comparable *product*; (3) any accrued costs and/or benefits for *existing* or *closed products*; and (4) whether there are any *products* that are priced significantly lower for a similar or better benefit. See also DEECA recommendations for clear and accurate information.[70]
Unsuitable services		
Services may be unsuitable for the consumer's energy requirements or may not provide the expected benefits.	The consumer guarantees in Pt 3-2 of the ACL require products to be of acceptable quality and fit for purpose. They do not go to the more specific question of suitability in the context of the energy market.	The UK consumer duty is accompanied by the specific outcomes on *products and services*, including obligations on manufacturers to (Principle 21.3.4): (4) ensure that the design of the *product:* (i) meets the needs, characteristics and objectives of the *target market*; (ii) does not adversely affect groups of *retail customers* in the *target market*, including groups of *retail customers* with characteristics of vulnerability; and (iii) avoids causing foreseeable harm in the *target market.* See also duties of installation, servicing and suitability proposed by Department of Energy, Environment and Climate Action (VIC).[71]
Control of assets		

70 Victoria Department of Energy, Environment and Climate Action, *Consumer Energy Resources (CER) Consumer Protections Review Directions Paper* (Dec 2024) p 33.

71 Victoria Department of Energy, Environment and Climate Action, *Consumer Energy Resources (CER) Consumer Protections Review Directions Paper* (Dec 2024) pp34-5.

New energy service providers' control of assets may operate against the interests of the consumer.	Under the consumer guarantees in the ACL, suppliers of services must use reasonable care and skill. Yet this obligation does not align or manage conflicts between the interests of service providers and customers with regard to the control of assets subject to a virtual power plant agreement.	Obligations of fair value and suitable design would be relevant.