

Australia: Proposed ACL Unfair Trading Reforms

New regulation of unfair trading, subscriptions and drip pricing

In brief

On 9 February 2026, the Exposure Draft of the Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026 (“**Exposure Draft**”) was released by Treasury, detailing proposed amendments to the Australian Consumer Law (ACL) which aim to enhance consumer protections from unfair trading practices. If passed, the changes are proposed to take effect from 1 July 2027.

The Exposure Draft proposes a general prohibition on unfair trading practices, protections against unfair subscription practices, and improved protections against drip pricing. These reforms are mostly targeted at dealings with consumers. If passed, the reforms will introduce new concepts into the ACL as set out below and businesses will be at risk of incurring civil penalties for some forms of conduct that may currently fall outside the scope of the ACL.

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Background

While the ACL contains broad protections for consumers, including for specific types of unfair trading practices, the ACCC’s position is that there are gaps and so it has for some time advocated for a broader prohibition on unfair trading practices to supplement the existing provisions.

In November 2024, Treasury released a consultation paper seeking feedback on both a general prohibition of unfair trading practices and specific prohibitions, including targeting unfair subscription practices and drip pricing.

The key issue identified by Treasury in its review was a concern that Australian businesses are engaging in increasingly harmful practices, both in an online and offline context, which do not necessarily contravene existing ACL provisions despite potentially causing harm to consumers.

The proposed reforms set out in the Exposure Draft aim to close the gap that Treasury is concerned about by introducing increased protections from unfair trading practices, including emerging forms of alleged misconduct in an online context.

The proposed reforms

The Exposure Draft proposes three key amendments to the ACL:

1. The introduction of a general prohibition on unfair trading practices
2. New protections against unfair subscription practices
3. Enhanced protections against drip pricing

A contravention of any of the new provisions may result in a civil penalty being ordered up to the maximums as currently set out in the ACL.

Unfair trading practices – general prohibition

The proposed general prohibition on unfair trading practices will apply to conduct in trade or commerce, in connection with a supply or offer to supply goods to a consumer, that:

- Does or is likely to (either or both):
 - unreasonably manipulate the consumer; or
 - unreasonably distort the environment in which the consumer makes a decision, or is likely to make a decision; and
- Causes, or is likely to cause, detriment (whether financial or otherwise) to the consumer.

The general prohibition will apply to the supply of goods or services that are of a kind ordinarily acquired for personal, domestic or household use and that currently do not exceed AUD 100,000. However as currently drafted it will not apply where the consumer is a body corporate or where the supply occurs in the course of the consumer carrying on a business. The intention is to address unfair trading practices directed at individual consumers, rather than conduct arising in business-to-business contexts. Further consultation is proposed with the objective of considering whether small businesses are adequately protected from unfair trading practices.

Unreasonable manipulation or distortion of environment

The Exposure Draft explanatory materials state that "unreasonable manipulation" is intended to capture conduct that exploits common cognitive or behavioural biases, leading a consumer to alter their behaviour or make a decision that is not in their best interests. It is aimed at behaviour that goes beyond what is considered reasonable and generally accepted market practice.

In contrast, "unreasonable distortion of the environment" is stated to be directed at conduct that encourages a consumer to make economic decisions about proceeding with a transaction when they otherwise would have been unlikely to do so. Examples provided include presenting a consumer with excessive or confusing information in a way that obscures key details, resulting in the consumer choosing the path of least resistance (such as not cancelling a membership despite attempts to do so).

Although the first limb applies to both online and offline conduct, the explanatory materials state that it is particularly intended to address 'dark patterns' online which may favour businesses over consumers or which may be used to exert unreasonable pressure on consumers during a transaction, for example countdown timers which may create an artificial sense of urgency or scarcity.

These are new concepts for the ACL – and the Exposure Draft does not define what will constitute "unreasonable" conduct. It will likely take some time for a body of caselaw to develop to provide business with more certainty as to how these provisions will be interpreted and the precise forms of conduct that will be caught.

Detriment to the consumer

It will be necessary for the conduct to cause, or be likely to cause, detriment to the consumer for a contravention to occur.

Consistent with the existing approach under the ACL, detriment is not confined to financial loss and may include wasted time or other negative impacts on a consumer.

Examples of contravening conduct

Various examples of conduct that may contravene the general prohibition are provided in the explanatory materials including:

- Obstructing or dissuading consumers from exercising their rights (e.g., consumer guarantee rights) by failing to provide customer service support by which to do so
- Providing information in such a way that the consumer is overwhelmed or unable to make an informed decision (e.g., if it is unclear, unintelligible or ambiguous)
- The use of design elements online that unduly pressure, obstruct or undermine a consumer's decision making (e.g. failing to provide guidance on how to cancel a transaction)

Subscription contracts

If passed, certain types of subscription contracts will be regulated by requiring:

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- Key and prescriptive information to be prominently disclosed to consumers when a person offers to supply goods or services under a subscription contract - the information will include the nature of the subscription contract, the price, fees and charges, the period of the contract, details regarding the renewal of the contract, how to end the contract and the notice period required.
- Notification of key information to subscribers during particular points throughout a subscription contract - the contents of these notifications will vary depending on the type of subscription contract but will primarily focus on informing subscribers about how they can end the contract. This is intended to ensure that subscribers receive adequate notice before a subscription is automatically renewed or continues.
- Easy and straightforward methods for subscribers to terminate a subscription contract and only require a subscriber to take steps that are reasonably necessary to end a subscription contract. This is intended to prevent practices that unreasonably hinder a subscriber's ability to exercise their contractual right to end a subscription contract. For example, a gym operator requiring a subscriber to attend in person to end a subscription contract despite the person having moved interstate or overseas is likely to be considered unreasonable hindrance.
- Where a subscription is entered into online, the supplier must offer an online method to end the contract.

The stated objective of the proposed changes is for subscribers to make more informed decisions about whether to enter and remain under a subscription contract and to make it easier to terminate a subscription contract.

The provision will apply to fixed-term subscription contracts, indefinite term subscription contracts, a free-trial subscription contract and promotional period subscription contracts. However, it will not extend to certain types of agreements including leases, licenses, hire-purchase agreements or instalment payment contracts, or for childcare, school fees or utilities.

The provision will only apply where the subscription contract is either for:

- **A consumer:** supply of goods or services to an individual whose acquisition of the goods or services is wholly or predominantly for personal, domestic or household use or consumption; or
- **A small business:** supply of goods or services under a standard form contract:
 - Who makes the contract in the course of carrying on a business that employs fewer than 100 persons; or
 - Whose turnover for the last income year that ended before the time the contract is made, is less than AUD 10 million.

Drip pricing

“Drip pricing” is a term used to describe a practice where a low headline price is advertised or stated but where extra unavoidable taxes, fees or charges are added during the course of a transaction. The stated objective of the proposed changes is to ensure that consumers are made aware of mandatory transaction-based charges to enable them to make informed decisions at every stage of a transaction.

New disclosure obligations are proposed to apply whenever a base price for goods or services is displayed and a transaction based charge applies. The obligation will be triggered regardless of whether the goods or services are actually supplied and will apply to offers made through any kind of advertising including online platforms, television or posters. However, it will not apply to verbal offers to supply, as a base price is not displayed.

The obligations will apply to goods or services of a kind ordinarily acquired for personal, domestic or household use. Business to business transactions are not the target of this reform but will be caught by it if they fall within the definition.

Where the disclosure obligations are triggered, businesses must inform consumers of:

- The amount of a transaction-based charge (if it can be calculated at the point in time at which the base price is displayed) or the method for calculating the transaction-based charge

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- Information making it clear that the charge is a per transaction charge
- Information on whether the transaction-based charge will or may apply, including situations where not all methods of purchase attract a transaction-based charge
- Information on whether or not the base price displayed includes the transaction-based charge

These disclosures must appear in close proximity to the base price and be presented in a legible, prominent and unambiguous manner. It will therefore not be sufficient for the information to be included in fine print or in a pop-up or "click through" to another webpage.

Transaction based charges do not include optional charges, a payment surcharge charged for using one payment method rather than another, delivery charges or taxes, duties, fees, levies or charges imposed on the supplier.

Next steps and key takeaways

Treasury has invited stakeholder views on the Exposure Draft, and submissions can be made up to 23 February 2026. The reforms are proposed to take effect from 1 July 2027.

If passed in the current form, the reforms will significantly increase the risks for businesses offering or supplying goods and services to consumers, particularly where base prices or subscription contracts are used, given the substantial penalties that may apply in the event of a contravention. Suppliers of goods and services to consumers, particularly in an online context, will need to thoroughly and carefully review marketing and sales practices to assess whether those practices risk contravening the new provisions and consider what changes may be necessary to ensure compliance.

Please contact us if you require advice regarding your current practices and the potential implications of the reforms for your business.

Related content

- [Exposure Draft: Competition and Consumer Amendment \(Unfair Trading Practices\) Bill 2026](#)
- [Exposure Draft explanatory materials: Competition and Consumer Amendment \(Unfair Trading Practices\) Bill 2026](#)
- [Unfair trading practices – Exposure Draft - Consult hub](#)

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