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27 May 2026

To the Senate Economics Legislation Committee
By submission: Parliamentary Business Submission

RE: Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026

The Internet Association of Australia Ltd (**IAA**) thanks the Senate Economics Legislation Committee (**Committee**) for the opportunity to respond to the inquiry on the *Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026* (**Bill**), and accompanying Explanatory Memorandum.

IAA is a member-based association representing Australia's Internet community. Our membership is largely comprised of small to medium sized Internet service providers (**ISPs**) in the telecommunications industry that would be captured by the changes proposed under the Exposure Draft. We submit our response in representation of these members, as well as for the greater public good of the Internet industry which underpins much of today's digital economy. We have also been actively involved in the development of these proposed unfair trading practices (**UTP**) laws, responding to the Treasury's consultation on the supplementary consultation paper held in late 2024 (**2024 Consultation**), and the exposure draft in February 2026 (**2026 Consultation**). Our responses are annexed to this response for reference.

As expressed in our submissions to the Treasury, we reiterate both IAA and our members' commitment to addressing gaps in consumer protection regulation. In addition to the UTP laws, we have been actively engaged in regulatory reform concerning consumer safeguards, including regulation specifically affecting the telecommunications sector, as well as under broader economy-wide laws. We recognise that robust consumer safeguard laws are crucial to a thriving economy. Thus, from the outset, we express our overall support for the intentions behind the proposed introduction of UTP laws into the *Australian Consumer Law* (**ACL**).

Simultaneously, we also stress that such laws must be proportionate and measured. Importantly, the cost of regulatory burden must be given due consideration, particularly in relation to small businesses who are disproportionately affected by regulatory reform.

We further reiterate that the telecommunications sector is already heavily regulated. We are therefore concerned about the regulatory overlap between the proposed UTP laws and existing telecommunications regulations. Thus imposing regulations relating to UTP laws, and particularly the subscriptions contracts laws on the telecommunications sector is likely to adversely affect the industry, especially smaller telecommunications providers within the industry, who are themselves small businesses.

These concerns, along with our recommendations, are detailed below.

Part 2-4 – General Prohibition

We understand that since the 2026 Consultation, the Bill has been amended to explicitly emphasise the application of the proposed Part 2-4 of the ACL on the telecommunications sector by the proposed section 6(3B) of the *Competition and Consumer Act 2010*.

We acknowledge that as a general prohibition under the ACL, this proposed Part 2-4 should also apply to the telecommunications sector. However, we consider the proposed definition of UTP under section 28B(2) as broad and vague, and concerningly, could give rise to regulatory conflict.

We note that since the 2026 Consultation, the Bill has been amended so that conduct that which "manipulate(s) the consumer" now constitutes UTP under section 28B(2)(a)(i). Previously, the provision required that the conduct must "***unreasonably*** manipulate the consumer" (emphasis added). We oppose this amendment as "manipulation" is overly broad and could be interpreted to include legitimate and reasonable marketing or sales practices. We note that the Explanatory Memorandum indeed states that is not the intention of this general protection.

We therefore recommend that the provision be reverted to require conduct that 'unreasonably manipulates the consumer' so that this intention is clearly reflected in the legislation itself.

Furthermore, conduct that may constitute UTP under section 28B(6) includes "*disclosing material information to the consumer in a complex, ineffective, unclear, unintelligible, ambiguous, untimely or overwhelming way*". However, we note that under telecommunications-specific regulation, providers are required to disclose an extensive list of information to consumers, particularly at sale. The amount of information providers are required to disclose, in addition to the technical nature of the information due to the nature of the service, may be considered complex or overwhelming, through no fault or actual misconduct of the provider.

We recommend that the Committee recommends an amendment to the Bill to include a safe harbour provision for conduct that is compliant with other regulation. We consider this would be most appropriately achieved through an amendment to Division 6 of Chapter 5 of the ACL which currently deals with defences to include defences in relation to the proposed new general prohibition on UTP.

Part 2 – Drip Pricing

We note that drip pricing is a not a common practice causing concern in the telecommunications industry.

Part 3 – Subscription Contracts

Exemption of Telecommunications Contracts

We understand that since the 2026 Consultation, 'a contract for the supply of public utility' has been removed from the list of 'excluded subscription contract'. We further understand that this is instead to be prescribed as an excluded contract under proposed section 48C(1)(g). As expressed in our responses to the Treasury, telecommunications contracts should be treated similar to a public utility contract, and should be excluded, whether explicitly by amendment of the current list of

excluded contracts, or by subordinate legislation that prescribes the exclusion of telecommunications contracts.

Importantly, we stress the importance of the existing safeguards that apply to the telecommunications industry. The telecommunications industry is subject to further consumer protections regulation in addition to the ACL, including (but not limited to) regulation in providing financial hardship assistance, telecommunications-related support in relation to consumers affected by domestic, family and sexual violence, and importantly, the industry code, *C628: Telecommunications Consumer Protections Code* (**TCP Code**) which already deals with material information that must be disclosed to consumers, including where a service contract will automatically roll over, or information relating to free trials or promotional periods. We consider these gaps identified by government in relation to subscription contracts are already addressed by existing telecommunications regulation.

The existing and extensive rules under the telecommunications regulation are similarly intended to ensure transparency so that consumers are well-informed and are not misled regarding the terms of their service. However, sector-specific regulation has the benefit of being indeed specific to the telecommunications sector, and its billing, contractual and other operational practices.

We further note that the TCP Code has been undergoing significant review which the Australian Competition and Consumer Commission (**ACCC**) been engaged in and since the 2026 Consultation, the telecommunications' regulator, the Australian Communications and Media Authority (**ACMA**) has rejected the TCP Code and will be consulting to introduce a new replacement industry Standard. We expect that the replacement Standard will introduce further significant uplifts to the existing consumer safeguard regulation, indeed aimed at improving transparency and responsible selling.

We consider the likely regulatory overlap, and potential conflicts between the proposed UTP laws relating to subscription contracts, and telecommunications-specific regulation – both existing, and those to be soon introduced – will cause undue regulatory burdens on the telecommunications industry.

In addition, we understand that a key focus of the proposed subscription contract laws is to make it easier for consumers to cancel their subscription contracts. We note that the telecommunications sector already experiences a high level of churn, with consumers routinely cancelling services and switching providers – a process that industry has made exceptionally straightforward, evidenced by the high level of churn in the sector.

However, processes that do exist which may delay cancellation are critical for the security of consumers, or due to the technical nature of telecommunications services. Importantly, one example of existing telecommunications regulation which may cause confusion with the proposed legislation is the *Mobile Number Portability Code (C570:2024)*. The Code was introduced due to egregious cases of fraud committed on consumers, and sets out stringent requirements before a mobile phone number can be moved to another provider. It is crucial that any amendments to the ACL that seeks to make it easier for consumers to cancel their services does not conflict with existing regulation that is equally important in ensuring the protection of consumers. As mobile phones and associated services like SMS are being increasingly used as part of multi-factor authentication systems by other critical services such as banking and other financial service providers, any weakening of these security systems would create vulnerabilities that would be quickly exploited

by bad actors. This Code is but one example of several obligations specifically imposed on the telecommunications sector to prevent fraud.

We are thus gravely concerned that the proposed subscription contract laws risk duplicating existing obligations within the telecommunications sector, which would create confusion for providers navigating multiple regulatory frameworks and importantly, potentially giving rise to serious security concerns. We stress the importance of sector-specific regulation that is intended to address the same or similar consumer protections contemplated in the UTP laws, but have been, or are being drafted, in a way that is appropriate to the technical and complex operational realities of the telecommunications sector. **We strongly recommend the continuation of this approach and therefore respectfully request the Committee recommends that telecommunications contracts be excluded from the scope of subscription contract laws.**

Notwithstanding this position, we provide further recommendations in the event that the telecommunications sector is not exempted from the scope of the regime to ensure the subscription laws operate proportionately and in a manner that reflects the technical and commercial realities of the telecommunications sector.

Safe Harbour Provisions

Firstly, where there is any overlap and inconsistency between the proposed laws and existing telecommunications regulation, a clear safe harbour provision should apply.

As noted above, there is a high risk of duplicative regulation, and even conflicting regulation. We note that these inconsistencies are disproportionately felt by smaller providers who lack the resources to navigate complex regulatory landscapes.

As such, we recommend a clear safe harbour provision that ensures where a telecommunications provider has complied with applicable telecommunications regulation dealing with the same subject matter, compliance with the telecommunication regulation is taken to satisfy the obligation under the proposed subscription contract laws. Additionally, compliance with a telecommunication regulation should be a defence for any potential breaches of the proposed subscription contract laws.

Furthermore, compliance with the telecommunications regulation should be taken into consideration as a mitigating factor when assessing a providers' non-compliance with the new subscription laws.

Cancellation

In addition to the example stated above in relation to the potential conflict between the *Mobile Number Portability Code (C570:2024)* and the proposed section 48E(1)(c) in relation to providing a method to end a contract online, we raise the technical impracticalities in relation to telecommunications services.

The cancellation provision, while well-intended, does not consider the technical complexity of telecommunications services. This is particularly the case in business-to-business contexts, which would still be captured due to the breadth of the 'small business requirement' – an issue discussed further below. Telecommunications services comprise much more than the standard landline, mobile, and internet services most commonly thought of, and rely on technical interdependencies

and complex network engineering. As such, cancellation may not always be straightforward, nor will it be always possible to complete a cancellation process online.

There may be legitimate reasons where a provider should be contacted during the cancellation process, such as to ensure correct porting, or where there are bundled or interdependent services requiring reconfiguration. We reiterate the security concerns regarding service cancellations that require careful scrutiny to ensure correct porting in accordance with established industry regulations in order to protect consumers against fraud.

Thus, we propose a new section 48E(2A) as follows:

> (2) This subsection applies if:
>
> > (a) the subscriber enters the contract online; or
> >
> > (b) the supplier provides an online way of entering into a contract that, if entered, would be a subscription contract for the same kind of goods or services; and
>
> (2A) subsection (2) does not apply where the supplier is unable to provide an online cancellation method due to circumstances beyond the supplier's reasonable control.

A further provision or guidance material may then specify that technical constraints, dependencies with other services, any regulatory, security or identity verification requirements may be considered circumstances beyond the supplier's reasonable control.

Similarly, what is considered 'straightforward' for the purposes of section 48E(1)(b)(ii) should be clarified and the proposed laws should explicitly state that requiring subscribers to undertake technical steps to enable the cessation of a service or contact the provider to complete the cancellation process does not mean the cancellation process is in contravention of subsection 48E(1)(b)(ii), so long as the steps are reasonably necessary and in the subscriber's interest, in accordance with 48E(1)(b)(iii).

Small Businesses

We consider the definition of 'small business' too broad, particularly in the telecommunications context. As an increasingly vital service to conduct business, telecommunications services and products are supplied to almost all businesses across Australia, including to enterprise customers. Indeed, there are telecommunications providers whose sole business model is the SME market.

Simultaneously, there is a long tail of small telecommunications service providers in Australia, who would be considered a 'small business' as defined by the proposed laws. However, ironically, the threshold set in the proposed 'small business requirement' to constitute a 'subscriber' would mean there are cases where the 'subscriber' business is actually larger in size and of greater revenue than many of the small to medium sized providers in the telecommunications sector. We are concerned this will cause various unintended consequences, including but not limited to:

- further entrenching the dominant telecommunications providers in the market who are better equipped to absorb costs associated with the new laws;
- causing or entrenching power asymmetry between the smaller ISPs and enterprise customers;
- introducing new regulatory burdens for smaller ISPs having to segment their customers in order to comply with the new laws, and;

- thereby causing ISPs to change their contract models, such as withdrawing flexible contracts or creating new, bespoke contracts for certain customers which causes operational costs to rise as well as increased complexity in their contract management.

Importantly, we strongly disagree with the regulatory burden estimate provided in Appendix B of the Explanatory Memorandum. In particular, we consider the labour costs to have been under-estimated for small and medium businesses who often lack dedicated regulatory expertise in comparison to larger businesses, and are therefore likely to spend more time on navigating legislation, and undertaking compliance activities.

As it pertains to the telecommunications sector, we recommend that the small business requirement is harmonised with existing thresholds often used in telecommunications consumer safeguard regulation, provided below:[1]

> *a business which acquires or may acquire one or more telecommunications products which are not for resale and which, at the time it enters into the consumer contract:*
>
> > *(i) does not have a genuine and reasonable opportunity to negotiate the terms of the consumer contract; and*
> >
> > *(ii) has or will have an annual spend with the provider which is or is estimated on reasonable grounds by the provider to be, no greater than $40,000.*

Implementation Timeframe and Approach

We understand that the Government proposes for the new laws to commence on 1 July 2027. We do not consider this enough time to ensure compliance, particularly for smaller telecommunications providers who again, have limited resources. Compliance with the new laws will require systems redesign to ensure notification and cancellation workflows, and customer portals or websites are compliant. This will particularly cause issues for smaller telecommunications providers who may use white-label billing platforms or customer relationship management systems that are not so easily modified to accommodate the changes in accordance with the proposed laws.

In addition, as outlined above, the telecommunications sector is anticipating new consumer safeguards regulation under an industry standard to replace the TCP Code, which will set out various obligations that deal with the similar subject matters, including information that must be disclosed to consumers.

We therefore recommend a tiered commencement approach. For the telecommunications sector specifically, commencement should be deferred until after the replacement industry standard is introduced, to ensure regulatory duplication can be identified and thoroughly considered and addressed before the proposed UTP laws take effect.

More generally, we recommend the proposed commencement date of 1 July 2027 should only apply to large companies who are not deemed small businesses first, with a subsequent commencement date for smaller businesses. We consider a reasonable commencement date for smaller businesses to be 1 March 2028.

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[1] This definition is from the *Telecommunications (Financial Hardship) Industry Standard 2024*, but is similar to the threshold used in various other regulation, including the TCP Code and *Telecommunications (Domestic, Family and Sexual Violence Consumer Protections) Industry Standard 2025.*

As it pertains to telecommunications providers, these dates should then be adjusted in line with the sector-specific commencement timeframe outlined above, with smaller telecommunications providers being afforded a further 8 months beyond the commencement date for the telecommunications sector.

Additionally, given this is a broad and wide-reaching amendment, the compliance approach should be educative and collaborative. Specifically, for the first 12 months from the respective commencement dates, the ACCC should commit to taking enforcement action only in egregious cases of non-compliance or serious negligence.

We also urge the ACCC, and sector-specific regulators, such as the ACMA in relation to the telecommunications sector, to work proactively with the smaller businesses to assist with compliance in ahead of commencement. For example, the ACCC should work with the sectors to provide guidance material that is sector-specific, noting the likely incompatibility between the proposed UTP laws and sector-specific regulation. Specifically for the telecommunications sector, the ACCC and/or ACMA should publish guidance material that compares the application of the subscription contract laws and the existing consumer safeguard regulations in the telecommunications sector, explicitly setting out differences in timing, content and form where the obligation relates to the same subject matter.

Once again, IAA appreciates the opportunity to respond to the Committee's Inquiry into the *Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026.* We reiterate IAA's and member's commitment to ensuring consumers are protected from unfair trading practices, and therefore support the work of the Government in addressing gaps in the economy. However, we are equally interested in ensuring any new unfair trading practices laws are proportionate and fit-for-purpose. Importantly, providers should not be impeded in their efforts to provide a fairer and smoother consumer experience due to complex and potential inconsistent regulatory frameworks. Moreover, these laws should not serve as a barrier to conducting business between enterprises where the risk of unfairness for 'consumers' is not apparent due to the nature of the commercial relationship. To that end, we look forward to continue working with the Government, regulators, industry and other stakeholders in the development of a fit-for-purpose unfair trading practices regime.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia Ltd (**IAA**) is a not-for-profit member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (**WAIA**), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations, and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IAA regularly engages with government and regulatory bodies on policy matters affecting the Internet industry. In particular, our advocacy efforts represent the small to medium sized internet service providers in Australia who are often disproportionately disadvantaged by law reform affecting the telecommunications sector. Our public policy work is guided by the following principles:

We stand for an internet for the common good

We stand for an open internet platform

We stand for measured, effective and practical regulation

IAA is also a licenced telecommunications carrier and provides the IX-Australia service to Corporate and Affiliate members on a not-for-profit basis. It is the longest running carrier neutral Internet Exchange in Australia. Spanning seven states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.

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12 December 2024

To: Director
Consumer Policy and Product Safety Unit
Market Conduct and Digital Division
The Treasury

By email: consumerlaw@treasury.gov.au

RE: Protecting consumers from unfair trading practices

The Internet Association of Australia (**IAA**) thanks the of Treasury for the opportunity to respond to its *Unfair trading practices – Supplementary consultation paper* (**Consultation Paper**).

IAA is a member-based association representing Australia's Internet community. Our membership is largely comprised of small to medium sized Internet Service Providers (**ISPs**). We understand that although many of the issues outlined in the Consultation Paper have been raised in relation to digital platforms, any legislative reform that will be introduced to combat unfair trading practices will apply more broadly. Thus, our response is in representation of our members, most of which are small businesses, as well as to comment on the impact of the proposed policy options for the telecommunications sector and Australian industry more broadly. In addition, as a not-for-profit association, we are also greatly interested in the public good of the Internet, including its users and operators, and believe strongly in measured regulation that balances competing interests.

To that end, we are interested in the development of regulation that will provide greater protections for consumers and businesses, particularly small businesses from unfair trading practices. In general, we support the Treasury's efforts and acknowledge that as Australia's economy evolves, especially with increased digital activity, legislation needs to reflect such changes. However, we are simultaneously concerned about policy options that will impose too great a regulatory burden on industry that will stifle innovation and adversely affect industry's ability to operate in a competitive market. We especially note the disproportionate burdens placed on small businesses by new legislation due to entities' limited resources to navigate complex regulatory frameworks.

We therefore offer our response, having considered the proposed policy options and various factors relevant to the issue of unfair trading practices.

OUR RESPONSE

EXISTING PROTECTIONS

We understand that with the boom of the digital economy, the landscape of trading has changed, and has posed difficulties for government and regulators to regulate. In particular, Australia's increasingly data-driven economy and the pervasiveness of digital life has resulted in dark patterns and questionable data collection and use.

However, based on the examples of potentially unfair trading practices provided in the Consultation Paper, we are not convinced that the existing legislative and regulatory frameworks are not able to resolve many of the issues. This includes the prohibition against unconscionable conduct and existing specific prohibitions as well as frameworks that are not strictly under the Australian Consumer Law.

For example, we believe issues relating to individuals' data is best left to regulate under Australia's privacy protections framework. We especially note the ongoing privacy reforms that will strengthen Australia's privacy protections, especially when it comes to digital privacy. We are concerned that with the reform work underway, also introducing more prescriptive trade related legislation in respect of data use and sharing will result in duplications or potentially even conflicts that will only make it more confusing for both consumers, and industry, and in particular, small businesses.

Thus, we do generally support the proposed policy option to introduce a new general prohibition against unfair trading practices. However, we believe that less onerous mechanisms are available and will be more effective and efficient, as will be detailed below.

POLICY OPTIONS

Of the proposed policy options set out in the Consultation Paper, we support Option 2, the proposal to amend the existing prohibition of unconscionable conduct. However, we also propose that there are further policy options that should be considered.

We would propose that rather than a general prohibition alongside further specific prohibitions, reform could be effected to expand or lower the threshold of the unconscionable conduct prohibition (Option 2), while also introducing new specific prohibitions against certain unfair trading practices, where appropriate and/or necessary. We believe this to be an alternative to Option 4, that is more aligned with the existing framework, thereby less likely to cause the great costs associated with a new general prohibition, while also providing more protections and is therefore a more balanced approach.

In general, we believe that many of the considerations that a court may currently have regard to under section 22 of the Australian Consumer Law in determining whether conduct was unconscionable already captures the various factors that may make certain trading practices unfair. Otherwise, there are other provisions by way of the prohibition against misleading or deceptive conduct (Part 2-1 of Chapter 2 of the Australian Consumer Law) as well as the various specific prohibitions.

We also do not believe it is necessary to amend section 22 to provide the courts "must" and not "may" give consideration to the various factors set out under the provision. This is already implied by section 22, and in practice, courts do indeed consider these factors to determine whether conduct was unconscionable. However, more effective reform would be to add further factors that courts should consider to ensure greater protections.

For example, we consider that an amendment that could be made under Part 2-2 pertaining to unconscionable conduct would be to consider whether an entity took reasonable steps to ensure a consumer or counterparty was aware of the effect of any contractual term or condition that would substantially prejudice the consumer or counterparty's interest. This is a protection that already exists in NSW jurisdiction under the *Fair Trading Act 1987* (NSW) that could be included under the federal legislation that would not only provide greater protections for consumers (and businesses),

but would also harmonise State and federal legislation. Other examples could include an entity's practices with respect to its cancellation options, or use of dark patterns that results in outcomes that causes or is likely to cause substantial injury to consumers. However, simultaneously, the courts should also consider in determining whether practices were unconscionable, whether it is not outweighed by the benefits to the consumer or to competition.

Alternatively, further specific prohibitions could be introduced under Chapter 3, if deemed more appropriate. In addition, given many of the issues lie with digital platforms, an industry code applying to digital platforms could be introduced such as in relation to use of dark patterns. This would then have to be considered by way of section 22 in determining whether conduct was unconscionable or not.

Furthermore, we also note that in the majority of the international jurisdictions cited in the Consultation Paper as having a general prohibition against unfair trading practices, the manner in which these general unfair trading practice prohibitions seems to be implemented is very similar to the existing protections we have in Australian legislation, as set out below.

International Response	Australian Consumer Law
United States – FTC Act - General Prohibition	Combination of: - **Part 2-2:** Unconscionable conduct; - **Part 2-3**: Unfair contract terms; and - **Chapter 3:** Specific protections
EU – UCPD: - **Articles 6 and 7:** Misleading actions and omissions - **Article 8**: Aggressive commercial practices - **Article 9:** Harassment, coercion and undue influence	- **Part 2-1:** Misleading or deceptive conduct; and **Division 1 of Part 3-1:** Unfair practices - **subsection 22(1):** factors that court may have regard to in determining unconscionability; - **Section 50:** Harassment and coercion; and **paragraph 22(1)(d):** Consideration of undue influence or pressure in determining unconscionability.
UK – CPR: - Similar to EU	Similar to EU
Singapore – CPTFA - Misleading or deceptive conduct - False claims - Taking advantage of consumers	- **Part 2-1:** Misleading or deceptive conduct - **Division 1 of Part 3-1:** False or misleading representations etc - **Part 2-2:** Unconscionable conduct

In addition, we believe that the issues with unfair practices currently going unaddressed pertains more to issues with enforceability of the existing prohibitions, rather than the nature of the prohibitions themselves. Thus, we would recommend greater consideration of the ACCC's powers and functions. Moreover, we strongly urge for increased education and awareness campaigns for both consumers and industry to provide more guidance on existing rights and responsibilities as a consumer or business, with particular focus on small businesses and engagement with the smaller

entities within the digital platform economy. We believe this to be fundamental in order to ensure actual improvement and compliance.

CONCLUSION

Once again, IAA appreciates the opportunity to contribute to the Treasury's consideration of Australia's legislative framework that protects consumers from unfair trading practices. As outlined in our response, we are committed to ensuring a balanced and measured approach that will improve protections while also not being onerous for government to introduce or industry to implement. We look forward to engaging further with the Treasury as well as other stakeholders as this work continues.

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IAA is also a licenced telecommunications carrier, and operates on a not-for-profit basis.

Yours faithfully,

Internet Association of Australia

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23 February 2026

To the Treasury
By submission: Treasury Consultation Hub

RE: Unfair Trading Practices – Exposure Draft

The Internet Association of Australia Ltd (**IAA**) thanks the Treasury for the opportunity to respond to the consultation on the Exposure Draft of the proposed *Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026*, and accompanying Explanatory Memorandum.

IAA is a member-based association representing Australia's Internet community. Our membership is largely comprised of small to medium sized Internet service providers (**ISPs**) in the telecommunications industry that would be captured by the changes proposed under the Exposure Draft. We submit our response in representation of these members, as well as for the greater public good of the Internet industry which underpins much of today's digital economy. We have also been actively involved in the development of these unfair trading practices (**UPT**) laws, responding to the Treasury's consultation on the supplementary consultation paper on UPT in 2024 (**2024 Consultation**).

As expressed in our response to the 2024 Consultation, IAA and our members emphasise our commitment to addressing gaps in consumer protection across the Australian economy. We support the work of the Treasury and the Australian Government in introducing laws that will better protect consumers from UPT. However, we also reiterate our concerns regarding the undue costs of duplicative regulation, particularly for the smaller telecommunications providers whom we represent.

This is particularly the case of the proposed subscription contract laws which we believe to unnecessarily duplicate long-standing consumer protections regulation in the telecommunications sector. We also consider there may be some technical impracticalities in the application of the subscription contract laws. As such, and as will be further discussed in the response, we strongly recommend exempting the telecommunications industry from the subscription contract laws. We also urge the Treasury to narrow the small business definition to better reflect business relationships, and make recommendations in relation to the compliance timeline and approach.

CONSULTATION TIMEFRAME

We take this opportunity to first raise concerns about the short timeframe for consultation. We note that the consultation on the Exposure Draft opened 9 February 2026, and is set to close 23 February, allowing the public with only two weeks to review, consider and respond to what is a significant piece of law reform. We are further unaware of whether a public town hall, or sector specific meetings were held to explain the proposed changes to sufficiently inform industry and other stakeholders.

We appreciate that this is not the first round of consultations on the matter, and UPT has been consulted on previously. However, we consider this timeframe inadequate given the exposure draft goes into further detail of the operation of the UPT regime than was apparent in the previous consultations. For example, the application of the subscription contract laws on the telecommunications sector was unclear.

As a wide-reaching regime, we recommend the Treasury to hold another round of consultation, with explicit summaries of the feedback received, and if and/or how feedback has been considered by Treasury prior to the tabling of the Bill in Parliament.

We also note that due to the compressed timeframe, this response is limited in its scope and depth of analysis of the impact of the proposed laws.

EXEMPTION OF TELECOMMUNICATIONS

Duplication with Telecommunications Regulation

We understand that the Exposure Draft proposes to capture telecommunications contracts as part of 'subscription contracts' that would be regulated under the proposed laws. We strongly oppose this and consider that telecommunications contracts should be an 'excluded subscription contract', either as 'a contract for supply of a public utility' (and therefore requiring amendment to the definition of public utility to remove the exclusion of telecommunication services from a public utility service) or as otherwise prescribed.

We note the telecommunications sector is already heavily regulated, including in relation to various consumer safeguard concerns. Most notably, we consider that the *C628: Telecommunications Consumer Protections Code* (**Code**) already addresses the gaps the Government intends to address economy-wide via the proposed laws.

As was detailed by the Australian Telecommunications Alliance (then, Communications Alliance) in its submission to the 2024 Consultation, the Code already sets out extensive obligations on a provider in relation to providing information to consumers via the Code, including but not limited to billing, information about standard form of agreement (which includes information on how to request cancellation or disconnection), as well a critical information summary (**CIS**) that includes information about a telecommunications service such as monthly charges, early termination fees. Importantly, the Code is also currently under review, and there have been significant uplifts in the proposed updated version of the Code which is currently under consideration by the ACMA for registration. The revised Code placed concerted focus on improving transparency and responsible selling practices, addressing the concerns of the Government in proposing these new laws.

The existing and proposed extensive rules under the Code are similarly intended to ensure transparency so that consumers are well-informed, and are not misled regarding the terms of their service. However, the Code has the benefit of being specific to the telecommunications sector, and its billing and contractual practices. As will be further detailed below, the drafting of the proposed subscription contract laws will make some of the obligations impracticable for telecommunications entities.

Furthermore, we understand that a key focus of the proposed subscription laws is to make it easier for consumers to cancel their subscription contracts. To that end, we note the high level of 'churn' in the telecommunications sector, whereby consumers cancel their service(s) and/or switch to a

competitor provider. We further note that the telecommunications industry makes it extremely easy for customers to switch providers, whereby consumers don't even have to contact their then-current provider to advise or request cancellation prior to switching providers. Consumers are able to contact their new provider, request porting of existing services (where relevant), and the transfer is handled by the new provider.

One specific example of where confusion between the application of regulation and legislation may be of serious detriment to consumers is in the application of the *Mobile Number Portability Code (C570:2024)*. This Code sets out stringent requirements before a mobile phone number can be moved to another provider and came about largely due to egregious cases of fraud committed upon consumers. Mobile phones and associated SMS and other services are increasingly used by banks, superannuation funds and other financial services providers as a key component in their security via two/multi-factor authentication systems used to guarantee the authenticity of a consumer's request to access funds. Should these systems be undermined, then there is little doubt that fraudsters and scammers will move rapidly to take advantage of any weaknesses in the system. This Code is but one of a set of obligations imposed on the sector to prevent fraud.

We are thus concerned that the introduction of additional subscription contract laws for the telecommunications industry that will only duplicate existing obligations, and make it confusing for providers having to refer to multiple pieces of regulation, and has the potential to raise serious security concerns. We especially note the disproportionate burdens placed on the smaller entities within the telecommunications industry whom we represent. Many of these smaller entities lack the resources to navigate complex regulatory frameworks, and the existence of multiple sources of regulation dealing with the same matter will cause great confusion.

We therefore recommend that telecommunications subscription contracts are exempted from the proposed laws.

Notwithstanding this position, we provide further recommendations as outlined in the remainder of this response to assist the Treasury in the event that the telecommunications sector is not exempted from the scope of the regime to ensure the subscription laws operate proportionately and in a manner that reflects the technical and commercial realities of the telecommunications sector.

Firstly, where there is any overlap and inconsistency between the proposed laws and existing telecommunications regulation, a clear safe harbour provision should apply. Again, due to the limited timeframe for consultation, we have been unable to complete an analysis of the extent of the overlap between industry codes and standards and the obligations under the proposed laws. However, we do note that other industry codes and standards do deal with similar matters of information to be provided, and disconnection or cancellation processes that specify timing, form and content that may differ from the proposed regime. Thus there is a risk that telecommunications providers may be exposed to dual and potentially inconsistent compliance obligations, increasing compliance complexity and uncertainty, which is disproportionately felt by smaller providers. It

As such, we recommend a clear safe harbour provision that ensures where a telecommunications provider has complied with applicable telecommunications regulation dealing with the same subject matter, compliance with the telecommunication regulation is taken to satisfy the obligation under the proposed subscription laws. At the least, compliance with the telecommunications

regulation should be taken into consideration as a mitigating factor when assessing a providers' non-compliance with the new subscription laws.

Technical Realities

Cancellation

We also raise the technical impracticalities with regard to the application of the proposed subscription laws on telecommunications services.

Importantly, the cancellation provision, while well-intended, does not consider the technical complexity of telecommunications services. This is particularly the case of telecommunications services provided in business-to-business contexts, which would still likely be captured under the breadth of the 'small business requirement', which we discuss further below. Telecommunications services is much broader than the standard landline, mobile, and internet services most commonly thought of, and rely on technical interdependencies and complex network engineering. As such, cancellation may not always be straightforward, nor will it be always possible to complete a cancellation process online. There may be legitimate reasons where a provider should be contacted during the cancellation process, such as to ensure correct porting, or where there are bundled or interdependent services requiring reconfiguration. As noted above, we reiterate the security concerns regarding service cancellations that not being thoroughly implemented to ensure correct porting in accordance with established industry regulations to protect consumers against fraud.

Thus, we consider subsection 48G(d) should be amended to clarify that a provider must provide a way for the subscriber to end the contract online, only to the extent it is practicable and safe to do so. The provision can further stipulate considerations that may make it impracticable to do so including technical constraints, dependencies with other services, any regulatory, security or identity verification requirements.

We also recommend that a new safe harbour provision is included to specify that a provider who has taken reasonable steps to enable online cancellation but cannot complete the cancellation process online due to limitations beyond the provider's reasonable control, and where the provider has provided alternative means to complete the cancellation in accordance with subsection 48G(c).

Similarly, what is considered 'straightforward' for the purposes of section 48G(b) should be clarified and the proposed laws should explicitly state that requiring subscribers to undertake technical steps to enable the cessation of a service or contact the provider to complete the cancellation process does not mean the cancellation process is in contravention of subsection 48G(b), so long as the steps were in accordance with subsection 48G(c).

Free Trial or Promotional Period

We also raise concerns about the drafting of section 48E. We understand the provision is directed at scenarios where a consumer receives goods or services at a reduced rate, or at no charge (together, **discounted rate**) for a defined period (**discount period**), and is subsequently transitioned to supply at a higher rate unless they take steps to cancel during the discount period. We further appreciate that this provision is to provide consumers with strong notice and exit rights.

However, we are concerned that the drafting goes beyond the legislative intent and captures contracts where a discounted rate may reflect non-standard billing structures or amortised contract value pricing. There are legitimate cases where a reduced rate may be offered, not as a genuine

promotion but rather to reflect proration, or a cost recovery mechanism for the total contract value. Telecommunications contracts often involve proration for the first month of billing, and also commonly involve staged or amortised recovery of the total contract value where capital costs are recovered over the term of the contract but not necessarily by an equal amount in each period.

We understand that the respective paragraph (c) under subsections 48E(2) and (3) is intended to act as a way to distinguish true discounts from other pricing constructs, on the basis that the subscriber has the right to end the contract before liability at the higher rate is incurred. However, in practice, the existence of a contractual right to cancel does not clearly differentiate promotional pricing from fixed-term telecommunications arrangements. In many telecommunications contracts, a subscriber may formally have the right to cancel at any time, but that right is subject to early termination charges or paying the balance of amortised costs.

Thus, we recommend amendment of section 48E to clearly specify the provision only applies to true discounts where a subscriber should be informed of their right to exit a contract during a discount period without consequence.

SMALL BUSINESS DEFINITION

As mentioned above, we consider the definition of 'small business' too broad, particularly in the telecommunications context. As an increasingly vital service to conduct business, telecommunications is supplied to almost all businesses across Australia, including to enterprise customers. Indeed, there are ISPs whose business model is solely to provide services to SMEs. However, ironically, the threshold set in the proposed 'small business requirement' to be a 'subscriber' would mean there are cases where the 'subscriber' business is actually larger in size and of greater revenue than many of the small to medium sized ISPs in the telecommunications sector. We are concerned this will cause a number of unintended consequences, including:

- further entrenching the dominant telecommunications providers in the market who are better equipped to absorb costs associated with the new laws;
- causing or entrenching power asymmetry between the smaller ISPs and enterprise customers;
- introducing new regulatory burdens for smaller ISPs having to segment their customers in order to comply with the new laws, and;
- thereby causing ISPs to change their contract models, such as withdrawing flexible contracts or creating new, bespoke contracts for certain customers which causes rising operational costs and complexity in their contract management.

Again, we note the limited resources of smaller ISPs who will struggle with the disproportionate impacts of regulatory compliance.

As it pertains to the telecommunications sector, we recommend that the small business requirement is harmonised with existing thresholds often used in telecommunications consumer safeguard regulation, provided below:[1]

[1] This definition is from the *Telecommunications (Financial Hardship) Industry Standard 2024*, but is similar to the threshold used in various other regulation, including the TCP Code and *Telecommunications (Domestic, Family and Sexual Violence Consumer Protections) Industry Standard 2025.*

a business which acquires or may acquire one or more telecommunications products which are not for resale and which, at the time it enters into the consumer contract:

(i) does not have a genuine and reasonable opportunity to negotiate the terms of the consumer contract; and

(ii) has or will have an annual spend with the provider which is or is estimated on reasonable grounds by the provider to be, no greater than $40,000.

COMPLIANCE TIMELINE AND APPROACH

We understand that the Government proposes for the new laws to commence on 1 July 2027. We do not consider this enough time, particularly for smaller telecommunications providers who, we reiterate, have limited resources. Compliance with the new laws will require systems redesign to ensure notification and cancellation workflows, and customer portals or websites are compliant. This will particularly cause issues for smaller ISPs who may use white-label billing platforms or customer relationship management systems that are not so easily modified to accommodate the changes in accordance with the proposed laws.

We recommend a tiered commencement timeline, whereby the proposed commencement date applies to the large companies who are not deemed small businesses first, with a subsequent commencement date for smaller businesses. We consider a reasonable commencement date for smaller businesses to be 1 March 2028. We also urge the Treasury and the ACCC, and sector-specific regulators, such as the ACMA in the telecommunications sector, to work proactively with the smaller businesses to assist with compliance.

Given this is a broad and wide reaching amendment, the compliance approach should moreover be educative and collaborative. Specifically, for the first 12 months from the respective commencement dates, ACCC should commit to taking enforcement action only in egregious cases where companies were non-compliant or negligent in their compliance.

Furthermore, the ACCC should work with the sectors to provide guidance material that is sector-specific, noting the above response of the incompatibility of some of the provisions to the telecommunications context. Specifically, the ACCC and/or ACMA should publish guidance material that compares the application of the subscription contract laws and the existing consumer safeguard regulations in the telecommunications sector, explicitly setting out differences in timing, content and form where the obligation relates to the same subject matter.

Once again, IAA appreciates the opportunity to contribute to the Exposure Draft of the *Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026.* We reiterate our commitment to ensuring consumers are protected from unfair trading practices, and support the work of the Government in addressing gaps in the economy. However, we are equally interested in ensuring any new unfair trading practices laws are proportionate and fit-for-purpose. Importantly, providers should not be impeded in their efforts to provide a fairer, smoother consumer experience by complex regulatory frameworks. Moreover, these laws should not serve as a barrier to conducting business between enterprises where the risk of unfairness for 'consumers' is not apparent due to the nature of the commercial relationship. To that end, we look forward to continue working with

Treasury, regulators, industry and other stakeholders in the development of a fit-for-purpose unfair trading practices regime.

ABOUT THE INTERNET ASSOCIATION OF AUSTRALIA

The Internet Association of Australia Ltd (**IAA**) is a not-for-profit member-based association representing the Internet community. Founded in 1995, as the Western Australian Internet Association (**WAIA**), the Association changed its name in early 2016 to better reflect our national membership and growth.

Our members comprise industry professionals, corporations, and affiliate organisations. IAA provides a range of services and resources for members and supports the development of the Internet industry both within Australia and internationally. Providing technical services as well as social and professional development events, IAA aims to provide services and resources that our members need.

IAA regularly engages with government and regulatory bodies on policy matters affecting the Internet industry. In particular, our advocacy efforts represent the small to medium sized internet service providers in Australia who are often disproportionately disadvantaged by law reform affecting the telecommunications sector. Our public policy work is guided by the following principles:

We stand for an internet for the common good

We stand for an open internet platform

We stand for measured, effective and practical regulation

IAA is also a licenced telecommunications carrier and provides the IX-Australia service to Corporate and Affiliate members on a not-for-profit basis. It is the longest running carrier neutral Internet Exchange in Australia. Spanning seven states and territories, IAA operates over 30 points of presence and operates the New Zealand Internet Exchange on behalf of NZIX Inc in New Zealand.