

4 March 2026

The Treasury
Langton Crescent
PARKES ACT 2600

Via online form.

Re: Unfair trading practices - exposure draft

To Whom It May Concern:

The Association of Digital Service Providers Australia New Zealand (DSPANZ) welcomes the opportunity to provide feedback on the Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026 ("the Bill").

About DSPANZ

Digital Service Providers Australia New Zealand is the gateway for the government into the dynamic, world-class business software sector in Australia and Aotearoa New Zealand. Our members range from large, well-established companies to new and nimble innovators working at the cutting edge of business software and app development on both sides of the Tasman.

DSPANZ represents business software providers (Digital Service Providers, or DSPs) that offer subscription-based software products to help businesses and consumers manage compliance, finance, payroll, tax, and other core operational functions.

We support the objective of strengthening protections against genuinely harmful trading practices, including subscription traps and drip pricing. Clear, proportionate and technology-neutral regulation is essential in maintaining trust in the digital economy while supporting innovation and competition.

Our submission focuses on ensuring the reforms provide:

- Clarity in the interpretation and application of the new general prohibition.
- Proportionate treatment of digital subscription models.
- Practical and flexible implementation pathways.
- Early and detailed regulatory guidance to support compliance.

In particular, we emphasise the importance of timely Australian Competition and Consumer Commission (ACCC) guidance to provide certainty to businesses as they adapt billing

systems, customer dashboards, and subscription management processes ahead of commencement.

DSPANZ supports the intent of the Bill and looks forward to continued engagement with Treasury and the ACCC as the reforms progress.

We welcome the opportunity to discuss our submission further.

Regards,

Chris Denney,
President & Director
DSPANZ.



General prohibition on unfair trading practices

DSPANZ supports the introduction of a principles-based general prohibition targeting conduct that unreasonably manipulates consumers or distorts decision-making and causes detriment.

A principles-based approach is flexible and adaptable to emerging digital practices. Alignment with comparable overseas frameworks, including the European Union's Unfair Commercial Practices Directive and the United Kingdom's Digital Markets, Competition and Consumer Act 2024, supports regulatory harmony for businesses operating internationally.

The inclusion of a two-limb test, requiring both unreasonable manipulation or distortion and likely detriment, is an important safeguard that reduces the risk of overreach.

Need for regulatory clarity

The breadth of the proposed prohibition means the interpretation of "unreasonably" will be critical to business certainty.

DSPs routinely use:

- Personalised content and offers
- A/B testing of interface design
- Limited-time promotional pricing
- Social proof indicators
- Retention offers during cancellation flows.

These are widely accepted commercial practices and form part of legitimate business competition. Clear regulatory guidance will be essential to distinguish legitimate persuasive design from prohibited manipulation.

Recommendation

Treasury should require the ACCC to publish draft guidance on the general prohibition at least 6 months before commencement. This draft guidance should include:

- Worked examples of compliant and non-compliant conduct
- Specific analysis of digital marketing and interface design
- Clarification of the interaction between the general prohibition and existing misleading or deceptive conduct provisions.

Early publication of guidance will materially reduce compliance uncertainty and support consistent implementation.

Subscription contract reforms

DSPANZ supports measures to ensure transparency at sign-up and a straightforward ability to cancel subscription contracts.

Many DSPs already design subscription models consistent with the amendments outlined in the Bill and explanatory memorandum. However, several aspects of the Bill warrant refinement to ensure proportional implementation in digital environments.

Ongoing notice requirements for indefinite subscriptions

The requirement to issue notices every 6 months for indefinite term subscription contracts may create unintended consequences in digital contexts.

Many DSPs already provide:

- Ongoing billing confirmations
- Dashboard visibility of subscription status
- Clear cancellation pathways within customer accounts.

Layering a prescriptive 6-monthly notice requirement on top of existing communications risks generating notification fatigue, reducing engagement and, in some cases, leading to communications being ignored or filtered.

In business environments, customers may manage multiple subscriptions under a single account. Requiring per-subscription notices may undermine rather than enhance the notice regime.

The most valuable use of a proactive notice requirement may be where a customer has been dormant - meaning they have not logged into their account or engaged with communications over a defined period. However, where customers have not engaged for 6 months, repeating communication through the same channel may also prove ineffective.

DSPANZ also notes that the United States Federal Trade Commission's Click-to-Cancel Rule, finalised in October 2024, removed its proposed annual reminder requirement after recognising the compliance burden and limited consumer benefit in circumstances where customers had ongoing visibility.

The legislation should also allow flexibility in how businesses communicate required information under such an obligation, provided the mandatory content is clearly conveyed.

Recommendation

To preserve consumer protection objectives while reducing unnecessary communication

overload, Treasury should consider:

- Permitting account-level consolidated notices where multiple subscriptions exist.
- Allowing dashboard visibility to satisfy notification objectives where customers have actively logged into their accounts or accessed billing communications.
- Focusing on proactive notice obligations on dormant accounts.
- Allowing flexibility in communication format, provided the required information is clearly and prominently conveyed.

Exit pathways and retention offers

DSPANZ supports the requirement to provide an easy-to-find, straightforward way to cancel subscription contracts.

Section 48G appropriately recognises that only steps “reasonably necessary” to end the contract and protect the subscriber’s interest should be required.

In digital software environments, reasonable steps may include:

- Appropriate authorisation to prevent unauthorised cancellation
- Ensuring customers can retrieve data or information and complete offboarding.

Retention offers, such as discounts or pause options, can benefit subscribers when presented transparently and without obstructing cancellation.

Recommendation

ACCC guidance should clarify that:

- Proportionate verification steps are permissible.
- Retention offers are acceptable provided cancellation remains clear, straightforward and unobstructed.

Drip pricing and transaction-based charges

DSPANZ supports strengthened transparency around mandatory transaction-based charges.

However, software pricing models may include:

- Usage-based components
- Variable transaction processing fees
- Optional add-on modules.

The interaction between the new section 48A and the existing section 48 (single price requirements) should be clarified to avoid duplication or conflicting display obligations.

Recommendation

ACCC guidance should:

- Clarify the treatment of variable usage-based pricing
- Confirm how section 48A interacts with the existing single price rule
- Provide worked examples relevant to digital software subscription models.

Transition and implementation

Although the Bill commences on 1 July 2027, subscription notification and exit requirements will apply to contracts renewed after commencement.

Many Software-as-a-Service (SaaS) products renew monthly. As a result, compliance obligations will apply rapidly across existing customer bases.

DSPs will need to implement changes to:

- Billing systems
- Customer dashboards
- Notification workflows
- Subscription sign-up and cancellation interfaces.

These changes require substantial development, testing and deployment cycles.

Our members recall the implementation of the Unfair Contract Terms reforms in 2023, where delayed regulatory guidance contributed to uncertainty during the transition period. Given the broader scope of the proposed general prohibition, early and detailed guidance will be essential.

Recommendation

To support effective implementation, DSPANZ recommends:

- Draft ACCC guidance be published by 1 January 2027.
- Final guidance be published by 1 April 2027.
- The ACCC should adopt a proportionate, good-faith approach to early enforcement where businesses can demonstrate credible compliance plans.

Extension to Small Businesses

The press release accompanying the exposure draft flags a further consultation on extending unfair trading practice protections to small businesses. DSPANZ supports this extension.

Small businesses experience similar vulnerabilities to consumers in subscription contexts. The existing Australian Consumer Law small business threshold (fewer than 100 employees or turnover under \$10 million) is well understood and should be adopted for consistency.

Conclusion

DSPANZ supports the objectives of the Bill and the intent to address genuinely harmful subscription and pricing practices.

To ensure the reforms strengthen trust without inhibiting legitimate digital innovation, we recommend:

- Early and detailed ACCC guidance
- Proportionate treatment of digital subscription models
- Flexibility in notification mechanisms
- Clear delineation between legitimate marketing and manipulation
- A practical and well-supported implementation pathway.

DSPANZ welcomes continued engagement with Treasury and the ACCC as the reforms progress.