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16 July 2026

Committee Secretariat
Finance and Expenditure Committee
Parliament Buildings
Wellington

SUBMISSION on Fair Trading Amendment Bill

1. Introduction

Thank you for the opportunity to make a submission on the Fair Trading Amendment Bill (the Bill). This submission is from Consumer NZ, an independent, non-profit organisation dedicated to championing and empowering consumers in Aotearoa. Consumer NZ has a reputation for being fair, impartial and providing comprehensive consumer information and advice.

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2. General comments on the Bill

Consumer NZ welcomes the Fair Trading Amendment Bill and supports its overall objectives.

We have been calling for increased penalties for many years so strongly support the introduction of the new penalty regime. We also support the introduction of a comprehensive civil liability regime, a safe harbour defence for service providers disrupting scams and streamlining product safety settings.

However, we consider the Bill should only be regarded as a first stage of wider reform rather than the completion of Fair Trading Act (FTA) modernisation. There are a range of other amendments that are still required to bring our laws into line with comparable jurisdictions and the digital age. These are discussed in further detail below.

3. Specific comments on the Bill

Civil Liability Regime

We support the creation of the comprehensive civil liability regime under the Bill and the retention of a limited set of criminal offences.

In our view, the new liability framework will allow regulators to intervene earlier, resolve matters more efficiently and obtain remedies that better reflect consumer harm.

Penalties

We strongly support the increased penalties in the Bill. We have long been concerned that, for some businesses, compliance with the FTA is a commercial calculation. Where the financial benefits of non-compliance outweigh the likely consequences, businesses may rationally choose to break the law. This undermines consumer confidence, distorts competition and places compliant businesses at a competitive disadvantage.

Although the penalties are not as high as we recommended, the proposed framework represents a significant improvement on the current FTA. However, the Committee should consider whether the statutory maximum penalties will continue to provide an effective deterrent for New Zealand's largest businesses over time.

At a minimum, we recommend penalty levels are monitored following implementation and reviewed to determine whether a further increase is necessary in three years.

Declarations of contravention

We welcome the introduction of declarations of contravention in new sections 41C to 41E.

These provisions will make it easier for consumers to obtain compensation by allowing them to rely on an earlier declaration, reducing duplication and litigation costs.

We also support the expansion and clarification of the compensation powers in new sections 41J and 41K, which improves the clarity and accessibility of the remedies framework.

Together, these reforms strengthen consumers' ability to obtain meaningful redress.

Defences

Although we generally support the proposed statutory defences, they should not unintentionally reduce incentives for businesses to maintain effective compliance systems.

We recommend careful monitoring of these provisions following implementation. Guidance on the defences may also be useful.

Product safety

Consumer NZ supports clauses 9 and 10 which enable regulations to authorise the Chief Executive to prescribe product safety standards by notice.

The existing requirement to amend regulations whenever technical standards change creates unnecessary delay and increases regulatory costs without improving consumer protection.

The proposed framework appropriately maintains Parliamentary oversight by requiring regulations to authorise the use of product safety notices.

We encourage MBIE to maintain transparent consultation practices when issuing or revising product safety notices.

Online scams

Consumer NZ supports the introduction of the safe harbour for online service providers taking action to disrupt scams.

Nationally representative surveying by Consumer NZ in April 2026 found that in the previous 12 months, 50% of households had been targeted by scams and 10% of households had lost money to a scam. So, it's clear online scams continue to impose substantial financial harm on New Zealand consumers.

New section 48U appropriately encourages providers to take reasonable proactive steps to disrupt suspected scams.

Consumer NZ particularly supports the requirements that providers:

- hold reasonable grounds for suspicion;
- act within 28 days;
- act proportionately; and
- reverse intervention where appropriate.

These safeguards appropriately balance consumer protection with the rights of legitimate users.

However, Consumer NZ recommends the effectiveness of the safe harbour is monitored to ensure providers make appropriate use of it.

4. Matters not addressed in the Bill

As mentioned previously, we do not think this Bill represents the full scope of reform necessary to modernise the FTA and make it fit for purpose in a modern digital economy. We consider a second stage of amendments is required. In particular, we recommend:

(a) *a prohibition on unfair trading practices* similar to the prohibition being introduced in Australia to better protect consumers from the range of unfair trading practices that harm consumers but that are not currently captured by existing laws (for example, hidden fees, manipulation using dark patterns, subscription traps etc). These types of practices are becoming increasingly common but protections under existing laws are insufficient.

(b) *a supermarket pricing accuracy code* to provide clear rules for supermarkets about pricing and promotional practices, requiring automatic compensation for consumers when they get their pricing wrong and higher penalties for misleading conduct. Over 25,000 people signed our 'Price it right' petition calling for a supermarket pricing accuracy code and increased penalties.

(c) *amending to the unfair contract terms provisions* of the FTA to allow consumers (and small businesses) to take action when they face an unfair term. Currently, only the Commerce Commission can take action in respect of an unfair term, which it does extremely rarely. This means consumers are continuing to face unfair terms on a daily basis with no practical recourse.

(d) *all-inclusive pricing rules*, similar to Australia, to require businesses to display the total price of products and services online, including taxes, duties and unavoidable or pre-selected extras. Our research has found that two-thirds of people have been stung by sneaky fees and the majority of people would support a ban on these fees.

(e) *better rules about greenwashing* including regulatory oversight of sustainability claims before products go to market and banning ambiguous terms such as 'eco', 'natural', 'green', and 'sustainable' unless the terms are specific, verifiable and independently certified. For more information, see https://campaigns.consumer.org.nz/greenwashing.

(f) *Penalties for harassment and coercion* to ensure businesses are incentivised to behave appropriately towards consumers. Without these penalties, we are concerned that debt collectors, in particular, will be able to continue to harass and coerce consumers, unchecked.

Thank you for the opportunity to provide comment.

ENDS