

Let's talk shop.

Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026

Submission to the Senate Economics Legislation Committee

May 2026

The Australian Retail Council (ARC) welcomes the opportunity to provide feedback to the Senate Economics Legislation Committee's inquiry into the *Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026*.

ARC represents Australia's \$444 billion retail sector, the nation's largest private sector employer. Retail employs more than 1.4 million Australians, representing one in ten workers, and is the single largest employer of young Australians aged 15 to 24.

ARC's membership spans the full breadth of Australian retail, from family-owned small and independent businesses, which comprise 95 per cent of our membership, through to large national and international retailers that support thousands of jobs and sustain communities across metropolitan and regional Australia. The sector operates more than 155,000 retail outlets nationwide, with the majority also maintaining an online or e-commerce presence. A significant portion of every dollar spent in retail flows back to employees, suppliers, superannuation funds, and local communities.

ARC is committed to supporting Australian retailers by collaborating and advocating for policy settings and reforms that drive growth, resilience, and long-term prosperity for the retail sector and the millions of Australians who rely on it.

Executive Summary

ARC supports the policy objective of strengthening consumer confidence and ensuring the Australian Consumer Law remains fit for purpose in modern retail markets.

ARC's key positions are:

- ARC welcomes the Bill's targeted subscription reforms, which broadly align with measures ARC has previously supported to improve transparency, reminders and cancellation pathways.
- ARC supports clearer disclosure of mandatory transaction-based charges, but recommends delivery charges be expressly excluded from the definition of transaction-based charge.
- ARC does not support the broad, principles-based general prohibition on unfair trading practices, which risks creating uncertainty for ordinary retail conduct already regulated under existing ACL provisions.
- If the general prohibition proceeds, ARC recommends targeted amendments to improve workability, including requiring conduct to "unfairly manipulate" a consumer and requiring detriment to be "material".
- ARC recommends clear guidance, practical examples and proportionate enforcement before commencement, particularly for small and independent retailers.



Let's talk shop.

Subscription practices

ARC welcomes the Bill's targeted reforms to improve transparency and consumer control in subscription arrangements.

ARC has previously supported measures that require clearer disclosure of key subscription terms, timely reminders or notifications, and a straightforward cancellation process. These measures respond to recognised consumer concerns and are capable of improving trust in subscription-based models without prohibiting legitimate and valued subscription offerings.

Subscriptions are used across a wide range of retail and consumer-facing business models, including memberships, bundled offerings, digital services, "subscribe and save" arrangements and loyalty-linked offers. Implementation guidance will be important to ensure the requirements operate consistently across in-store and online environments.

ARC recommends that guidance clarify what constitutes reasonable cancellation steps, including where identity verification, fraud prevention or disclosure of the consequences of cancellation is necessary. This should ensure businesses can make cancellation straightforward without being prevented from taking reasonable steps to protect consumers and explain the impact of ending a subscription.

Transaction-based charges and drip pricing

ARC supports the Bill's objective of improving disclosure of mandatory transaction-based charges and addressing drip pricing practices that obscure the total price payable. Clear and timely disclosure helps consumers compare offers, reduces disputes and supports confidence in retail pricing.

However, ARC recommends that delivery charges be expressly excluded from the definition of transaction-based charge. Delivery charges are inherently variable and often cannot be calculated until later in the purchase journey, when the consumer's location, fulfilment method and final cart composition are known.

Without this exclusion, retailers may be required to display delivery charges, or a method for calculating those charges, close to the base price across product listings and promotional materials. In practice, this could create unworkable compliance obligations, particularly for online retailers with large catalogues, multiple fulfilment options or marketplace-based models.

ARC notes this issue is distinct from hidden booking, service or administrative fees. Consumers purchasing goods online generally understand that delivery charges may apply, and those charges are usually dependent on information that is not available at the first point a product price is displayed.

ARC recommends that section 48A(8) be amended to exclude "a charge that is payable in relation to sending goods from the supplier to the purchaser" from the definition of transaction-based charge.

General prohibition on unfair trading practices

ARC does not support the introduction of a broad, principles-based general prohibition on unfair trading practices.

It would introduce broad and novel concepts into the Australian Consumer Law, including conduct that "manipulates" a consumer or "unreasonably distorts" the environment in which a consumer makes, or is likely to make, a decision.



Let's talk shop.

These concepts are not yet supported by established precedent and may be difficult for businesses, particularly small and independent retailers, to apply with certainty. ARC is concerned the prohibition risks duplicating existing ACL protections while creating new uncertainty around ordinary retail practices that are not deceptive, coercive or harmful.

ARC acknowledges that the Bill has been narrowed in some important respects compared with earlier reform options. In particular, the Bill confines the general prohibition to consumer-facing conduct at this stage and does not extend it immediately to small business or broader business-to-business transactions.

This staged approach is consistent with ARC's previous position. Any future extension should only occur following further consultation, evidence of a clearly defined regulatory gap, assessment of compliance costs and consideration of how the consumer-facing regime operates in practice.

If the general prohibition proceeds, ARC recommends two targeted changes to make the provision more workable.

First, the Bill should refer to conduct that "unfairly manipulates" a consumer, rather than simply conduct that "manipulates" a consumer. This would better reflect the policy intent of targeting improper or exploitative conduct, while reducing uncertainty for ordinary retail practices such as promotions, merchandising, loyalty offers and customer experience design.

Second, the Bill should require "material detriment". This would ensure the prohibition is focused on conduct causing genuine consumer harm, rather than minor inconvenience, technical issues or low-risk friction in a customer journey.

Retailers must be able to engage in ordinary and legitimate commercial activity, including promotions, merchandising, loyalty offers, personalised offers, accurate scarcity messaging, customer service processes and user-interface design that improves the customer experience. The Bill should not create uncertainty around conduct that is not deceptive, coercive or harmful.

If the general prohibition proceeds, ARC recommends that it be supported by:

- detailed regulator guidance well before commencement, with practical examples for physical retail, e-commerce, subscriptions, loyalty programs and promotional activity;
- clear examples distinguishing prohibited manipulation from ordinary retail marketing, merchandising and customer experience practices;
- an education-first implementation approach, particularly for small and independent retailers; and
- proportionate, harm-focused enforcement that prioritises systemic or intentional conduct causing material consumer detriment, rather than technical or low-risk compliance errors.

Commencement and implementation

ARC notes the Bill is due to commence on 1 July 2027. This delayed commencement is welcome, but practical implementation will depend on the timely release of clear guidance and worked examples.

Retailers operate at scale across stores, digital platforms, point-of-sale systems, marketing channels, customer service teams and supplier arrangements. Even targeted changes to consumer law can require significant system, process, training and legal compliance work.

ARC recommends that Treasury and the ACCC work closely with industry before commencement to ensure the reforms are understood, workable and implemented consistently.



Let's talk shop.

Conclusion

ARC supports the Bill's targeted reforms on subscription practices and transaction-based charge disclosure, subject to practical guidance and an express exclusion for delivery charges.

ARC does not support the broad, principles-based general prohibition on unfair trading practices. If Parliament proceeds with this measure, ARC recommends targeted amendments to improve workability, including replacing "manipulates" with "unfairly manipulates" and requiring detriment to be "material".

The reforms should be supported by clear guidance, practical examples, proportionate enforcement and continued industry engagement to avoid unnecessary uncertainty for legitimate retail activity.

Any queries in relation to this submission can be directed to policy@retail.org.au.

