

# AUSTRALIAN TELECOMMUNICATIONS ALLIANCE SUBMISSION

To: The Treasury

Re: Unfair Trading Practices – exposure draft

23 February 2026



## TABLE OF CONTENTS

---

<b>1. AUSTRALIAN TELECOMMUNICATIONS ALLIANCE</b>	<b>3</b>
<b>2. INTRODUCTION</b>	<b>3</b>
<b>3. ENDING SUBSCRIPTION CONTRACTS</b>	<b>4</b>
<b>4. INTERACTION WITH TELCO-SPECIFIC REGULATION</b>	<b>5</b>
<b>5. OTHER ISSUES</b>	<b>7</b>

---

## 1. AUSTRALIAN TELECOMMUNICATIONS ALLIANCE

---

The Australian Telecommunications Alliance (ATA) is the peak body of the Australian telecommunications industry. We are the trusted voice at the intersection of industry, government, regulators, and consumers. Through collaboration and leadership, we shape initiatives that grow the Australian telecommunications industry, enhance connectivity for all Australians, and foster the highest standards of business behaviour. For more details, visit [www.austelco.org.au](http://www.austelco.org.au).

For questions on this submission, please contact Peppi Wilson, [p.wilson@austelco.org.au](mailto:p.wilson@austelco.org.au).

## 2. INTRODUCTION

---

- 2.1 The ATA appreciates the opportunity to make a submission in response to the Treasury's [unfair trading practices – exposure draft](#) (UTP draft).
- 2.2 The ATA and its members support the intent of the new rules; consumers should clearly be protected from unfair trading practices, including hidden transaction fees, subscription traps, and practices that unreasonably manipulate decision-making by consumers and cause them harm.
- 2.3 As noted in our December 2024 submission to Treasury, the telecommunications sector is already heavily regulated: ATA's members are bound by detailed, telco-specific rules that have been put in place to address most circumstances in which the issues covered by the proposed UTP rules, would arise.
- 2.4 The sector is also subject to numerous other telco-specific rules, including those to protect consumers from scams and fraud.
- 2.5 In the most part, these existing rules regulations support and complement the proposed UTP rules. However,
  - (a) in certain circumstances, section 48G(d) of the UTP draft (subscription contract exit methods) may conflict with existing government rules in place to protect consumers from fraud or domestic and family violence; and
  - (b) it is unclear how some of the proposed UTP rules will interact with other telco-specific rules and regulations. This will create compliance and enforcement challenges.
- 2.6 This submission explores these issues and provides some suggested ways to address the conflicts and concerns specific to the telco industry, while ensuring that consumers are protected as envisaged.
- 2.7 The ATA would welcome the opportunity to discuss these issues with Treasury, and with the Australian Communications and Media Authority (ACMA), to address these issues before the UTP is finalised or comes into effect.

### 3. ENDING SUBSCRIPTION CONTRACTS

---

3.1 The draft UTP rule at section 48G – exit method - states that:

*A person who, in trade or commerce, supplies goods or services under a subscription contract must provide a way for the subscriber to end the contract that:*

- (a) is easy to find; and*
- (b) is straightforward; and*
- (c) requires the subscriber to take only steps that are reasonably necessary to end the contract and protect the subscriber's interests; and*
- (d) if the subscriber entered the contract online—is online (whether or not the person also allows the subscriber to end the contract in other ways).*

3.2 The ATA fully supports the intent of this section and agrees that consumers must be able to easily find information about how to cancel their subscription contract and must be able to cancel their subscription contract without undue difficulty.

3.3 As such, provided that telco-specific regulations are considered when interpreting this section - so that, for example, it is clear what 'straightforward' looks like for telco services already subject to a raft of specific regulations in this space – we support sub-sections (a) to (c).

3.4 We are concerned about the proposed requirement at (d), however, as it potentially constrains the *person* from including steps that will protect the consumer from fraud or a malicious cancellation attempt by a third party seeking to harm the consumer. This is counter both to telco-specific regulation, and to the protection of a consumer's interests as recognised in sub-section (c).

3.5 Numerous pieces of telco-specific regulation govern the procedures, information and timeframes that telcos must adhere to before service cancellation, with the key fraud-protection regulation being the [Telecommunications Service Provider \(Customer Identity Authentication\) Determination 2022](#) (CID Determination).

3.6 Under the CID Determination, multi-factor authentication (MFA) is required for all high-risk transactions, to make sure that the person requesting the transaction is the telco's customer, or their authorised representative.

3.7 Service cancellation that results in loss of access to a service is classified as a high-risk transaction under the CID Determination<sup>1</sup>. Telcos must, therefore, multi-factor authenticate anyone requesting to unsubscribe a service where the cancellation would result in service disconnection.

3.8 In most instances, a customer who has entered a contract online will also be able to request that the service is disconnected online – as required by the proposed rule at sub-section 48G(d).

*Note: For clarity, the ATA suggests that 'online' is clearly defined in the legislation, but assumes it would be defined to include interactions through the internet, including through a website, an app, email or through chat messaging services, but potentially is intended to exclude voice calls, even if they are made online (e.g. through VOIP).*

3.9 A consumer might complete the MFA requirements fully online by, for example, logging into their account and then confirming a one-time password (OTP) or code sent to their primary contact number (e.g. mobile number).

---

<sup>1</sup> **high-risk customer transaction** means a transaction that may result in one or more of the following: (a) a customer losing access to the customer's telecommunications service; (etc.)

- 3.10 There are instances, however, where a customer may be unable to complete the required authentication online, even if they signed up online. For example, a customer without a smartphone, or with some disabilities or vulnerabilities who cannot receive or manage an OTP.
- 3.11 In such circumstances, a telco can still protect a consumer from fraud and meet its obligations under the CID Determination through alternative mechanisms. These mechanisms may not be online.
- 3.12 As currently drafted, a telco employing these alternative verification procedures may be in breach of section 48G(d).
- 3.13 Similarly, we are concerned that compliance with section 48G(d) could be incompatible with the requirement in the Telecommunications (Domestic, Family and Sexual Violence Consumer Protections) Industry Standard 2025 to protect the interests of the affected person (i.e. the victim-survivor).
- 3.14 This is because the requirement for online cancellation may inadvertently make it easier for perpetrators of domestic and family violence to exercise control over a partner or family member's telecommunications account.
- 3.15 Cancellation of a partner/family member's telco service is a known form of abuse. Protecting the affected person's interests may mean not acting on a request to cancel a service until the telco has verified that the affected person wishes that it be cancelled. It may not be possible to safely and reliably complete these checks online.
- 3.16 To address this concern, the ATA suggests that the legislation is drafted in such a way to make it clear that (d) does not apply where unsubscribing online may not be in the interests of the subscriber, or is in breach of sector-specific regulation – for example, regulation designed to protect the consumer (subscriber) from fraud. This could be achieved in a flexible manner by an addition to sub-section 48G(d) which allows for circumstances to be prescribed by regulation where the “exit online” requirement will not apply if an alternative non-online method for the customer to end the contract would protect the safety and interests of the customer or otherwise enable compliance by the *person* with its legal obligations.

## 4. INTERACTION WITH TELCO-SPECIFIC REGULATION

---

- 4.1 As described in our [submission](#) to Treasury's December 2024 Consultation Paper, the telecommunications sector is highly regulated, with numerous instruments setting out detailed obligations to protect consumers from unfair trading practices.
- 4.2 These existing rules and regulations support and complement the draft UTP rules.
- 4.3 For example:
  - The proposed new Telecommunications Consumer Protections (TCP) Code (submitted for registration in November 2025 and drafted with considerable input and direction from the ACMA, Telecommunications Industry Ombudsman, ACCC and other stakeholders) supports the Australian Consumer Law (ACL) and proposed new UTP rules by:
    - setting out specific rules to ensure easy, convenient and timely access to customer service. (Draft UTP Bill - general prohibition in section 28B.)
    - spelling out what must be clearly and in plain-English, disclosed to consumers pre-sale (advertising), during the sale and post-sale. (Draft UTP Bill– grey list section 28B(5)(b).)
    - detailed requirements about key information to be provided; about costs/pricing; suitability; required notifications (payments, changes to contracts, etc.), cancellation. (Draft UTP Bill – grey list section 28B(5)(b).)
    - requiring responsible sales of telecommunications goods and services, with a broad range of obligations protecting consumers from unreasonable manipulation, misinformation, confusing

- sales tactics, etc., with a specific focus on protecting consumers in vulnerable circumstances. (Draft UTP Bill - general prohibition in section 28B.)
- setting out remedies for mis-selling. (Draft UTP Bill – grey list section 28B(5)(a).)
  - The Telecommunications (Consumer Complaints Handling) Industry Standard (2018) ensures consumers can make a complaint, ensuring their right to exercise their legal rights, or seek legal remedies, are met. (Draft UTP Bill – grey list 28B(5)(a).)
  - The Telecommunications Service Provider (International Mobile Roaming) Determination sets out information requirements to consumers using international roaming services. (Subscription contract notifications obligations in draft UTP Bill s48B.)
- 4.4 However, there is the potential for confusion and possible conflict in interpretation if telco-specific rules are not specifically considered when interpreting, implementing or considering compliance with, the broad UTP rules.
- 4.5 For example, as described in the explanatory memorandum, the draft UTP Bill looks to prohibit unreasonable distortion of the environment in which a customer makes a decision, with a grey list example given in relation to the consumer being provided with “excessive” or “confusing” information that makes key information difficult to find or understand. (Draft UTP Bill – grey list section 28B(5)(b).)
- 4.6 The ATA unequivocally supports consumers being provided with clear information and fully supports the intent of the prohibition against distortion.
- 4.7 However, we suggest there is a risk that the information that telcos publish and provide to consumers to meet their obligations under telco-specific regulation may be considered excessive and confusing by some consumers and other stakeholders, leading them to question whether a Carriage Service Provider is breaching the UTP rules.
- 4.8 Another example relates to the notification requirements (draft UTP Bill – new Division 4A), which require customers to be informed of prescribed matters in a legible, prominent and unambiguous manner.
- 4.9 As described earlier, there is a plethora of mandatory information that telcos must make prominently available and/or send to customers under telco-specific regulation. ATA suggests that Treasury carefully consider the volumes of mandatory notifications being sent to telco customers. We urge Treasury to enable flexibility in the scheme by allowing for the frequency of notifications to be determined by regulation rather than be hard-coded into the Australian Consumer Law. Such flexibility may also enable subscription notifications to be combined with other notifications already being provided on a regular basis, and to not repeat information already contained in the same notification. If the legislation set out the notification obligation at an overarching level but left the frequency and circumstances to be determined in regulations, this could also provide flexibility to tailor notifications to sector-specific circumstances. For example, a telco providing a month-to-month service with direct debit (auto renew) enabled (i.e. an indefinite term subscription contract) could be permitted to provide notice to meet the notification requirement at each renewal point, rather than ‘each’ 6 months. (Draft UTP Bill – subsection 48(C)(2).)
- 4.10 To address these concerns, we suggest that:
- the specific notification intervals and information requirements in the provisions of the new Division 4A be excised from the principal legislation and be dealt with by regulation, which would be able to be tailored to specific industry sectors and circumstances – especially where there are extensive notification obligations and information disclosure requirements already prescribed by sector-specific regulation; and
  - Government publish telecommunications-specific guidance on compliance with the new UTP provisions, having regard to existing sector-specific regulation with which telcos must comply.
- 4.11 Such a resource would reduce subjectivity in interpretation and would assist:
- (a) telcos (particularly the smaller ones) to understand and comply with all their regulatory obligations;
  - (b) regulators when considering matters of enforcement and compliance; and

(c) consumers and other stakeholders to understand the protections offered to them in the context of the broader regulatory framework.

- 4.12 We would envisage that these guidelines would be drafted by Treasury, in collaboration with the ACMA and other stakeholders as required. The ATA would be pleased to assist in such an exercise.

## 5. OTHER ISSUES

---

- 5.1 As the Treasury may be aware, there is ongoing debate about whether telco should be directly regulated as an ‘essential service’.
- 5.2 Should this happen, it would make sense for telco to be excluded from the UTP legislation subscription notification obligations, like the other directly-regulated utilities, allowing the direct regulation to set out the obligations and removing duplication. As currently drafted, with telecommunication services specifically listed as excluded from the definition of “public utility” in the primary legislation, this would require legislative change. We do not consider that sub-section (i) of the definition of “excluded subscription contract”, which allows for additional contracts of certain kinds to be added by regulation, could be used to add telecommunications services contracts because this would directly contradict the express exclusion already set out in the definition of “public utility”. We consider that this is equally rigid with respect to transport services, where at some point in the future it is quite possible that there may be certain types of such contracts which Treasury would wish to exclude.
- 5.3 We suggest, therefore, that Treasury consider providing itself flexibility (without changing the character or the requirements) by setting out both the inclusions and the exclusions from those products and services deemed to be of a “public utility” nature in regulation, rather than in the UTP legislation itself. Treasury will be aware that the process to make changes to the ACL is lengthy and complex. For that reason, it is better to have highly prescriptive elements contained in regulation. We note that a key aspect of the ACL, the value threshold in ACL section 3(3)(a)(i) which determines when services are acquired “as a consumer”, allows for a higher amount to be prescribed, most recently used to increase the threshold to \$100,000 by the *Treasury Laws Amendment (Acquisition as Consumer—Financial Thresholds) Regulations 2020*. Therefore, there exists significant precedent for enabling this kind of flexibility.
- 5.4 As noted in paragraph 4 of our submission, we suggest that as a general legislative design principal, Treasury consider also taking this approach to setting out matters such as notification timing and required content of subscription notifications, allowing it to review and more easily amend requirements. We consider this will make the new UTP provisions far more responsive to community needs, should feedback suggest that the mandated timeframes are not optimal, or that the categories of information that must be notified in respect of subscriptions should be changed to be more effective, or that certain industries or sectors should have different information and notification periods depending on their particular circumstances. We note that one of the strengths of sector-specific self-regulatory schemes such as that governing the TCP Code, is the process of scheduled regular review and subsequent changes to reflect community feedback and technology developments.

Ends

