



Minister Willis

Minister for Finance and Economic Growth Parliament

Via email: [N.Willis@ministers.govt.nz](mailto:N.Willis@ministers.govt.nz)

CC Minister Simpson – Minister for Commerce and Consumer Affairs

15 October 2025

Kia ora Minister Willis

### **Make the Fair Trading Act fairer**

We are writing to urge you to proceed with your original plans to make the Fair Trading Act (FTA) fairer.

Collectively we are concerned to hear that industry associations representing powerful sectors including electricity, telecommunications and retirement villages have been lobbying for the proposed FTA reforms to be watered down.

Our current laws make it too easy for businesses to breach the rules without real consequence. Everyday our organisations hear from people who are paying the price for our existing weak consumer protections under the FTA.

Proposed changes to the unfair contract terms regime would significantly bolster consumer rights and address the imbalance of power between businesses and their customers in certain circumstances. It is not surprising that business interests, profiting from unfair contract terms, have lobbied for the regime to stay as is.

The status quo means people are trapped in contracts that unfairly benefit businesses. For example, retirement village residents paying for repairs and maintenance on a property they don't own, and gym members stuck paying for contracts they can't get out of, no matter what their circumstances.

Although the FTA prohibits unfair contract terms in standard form contracts, consumers can't take action to enforce their rights. Instead, they can only complain to the Commerce Commission about an alleged unfair contract term. The Commission does not have the

resources to act on every complaint and nor should it. A fairer and more efficient system would provide individuals the right to take complaints about unfair contract terms to the disputes tribunal and introduce penalties for businesses including unfair terms.

Businesses concerned about an avalanche of civil action by individuals, or prosecutions for including unfair terms, should have removed these terms in 2015, when the laws first came into effect.

While we are pleased to see the Government is not backing away from improving the penalties regime, we also urge you to take a harder line with businesses that harass or coerce consumers. Currently, a debt collector would not be penalised for harassing or coercing someone who is unable to meet unreasonable payment demands.

We believe introducing penalties for harassment and coercion under the FTA would incentivise better behaviour in high-risk industries, such as debt collection.

We also urge you to reconsider the infringement offence regime. To ensure businesses comply with their FTA obligations, we believe the Commission needs greater powers to issue infringement notices with meaningful fines for clear-cut breaches of the Act. Without these powers, businesses will be able to continue flouting the law, to the detriment of consumers and the economy, in the knowledge they are unlikely to face consequences.

In so many of our critical consumer markets in New Zealand, competition is weak and failing to incentivize businesses to improve service and treat customers fairly. The coalition has publicly stated it is interested in increasing the competitiveness of markets in New Zealand – this begins with legal settings containing the appropriate incentives for businesses to play fair.

It's time to modernise our FTA and to give New Zealand consumers the same protections they are afforded in other countries. There needs to be serious penalties for businesses who cause serious harm to consumers.

Please, do not miss the opportunity to make our Fair Trading Act fairer.



Jon Duffy  
Chief Executive, Consumer NZ



Fleur Howard  
Chief Executive, FinCap



Sue Moroney  
Chief Executive,  
Community Law Centres Aotearoa



Andrew Hubbard  
Deputy Chief Executive,  
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