Telecommunications Industry Ombudsman

Unfair trading practices protections for small businesses

Submission to the Treasury

July 2026

Introduction

Thank you for the opportunity to comment on the Treasury's unfair trading practices (**UTP**) protections for small businesses consultation.

The Telecommunications Industry Ombudsman (**TIO**) provides a fair, independent, and accessible external dispute resolution (**EDR**) service for individual consumers, small businesses, occupiers and owners of property and not-for-profits who have been unable to resolve their complaint with a phone or internet service provider.

The TIO supports extending UTP protections to small business consumers, particularly telecommunications and digital platforms. Our office regularly handles complaints from small businesses, and in the 2024-25 FY, we received 6,328 complaints from small businesses about their phone or internet services.[1]

Small businesses complain to our office about matters that may constitute UTP, including scenarios involving high pressure sales tactics, obstructive retention practices when a consumer attempts to exit their contract, retaliatory actions when consumers seek to exercise their legal rights, and previously-unnoticed clauses in non-standard form contracts such as termination charges which amount to the full remaining costs of a fixed term contract.

We also hear from small businesses looking for help with their digital platform complaints, despite digital platforms being outside of the TIO's current jurisdiction. Recent research by the Consumer Policy Research Centre (**CPRC**) has found that small businesses are experiencing issues cancelling subscriptions or with slow or non-existent customer service, which ultimately interfere with the small business' ability to exercise their rights under contract or seek legal remedies.

Extending UTP protections to small business consumers - who often have little bargaining power, minimal expertise in what they are purchasing, and limited resources to challenge their service providers - will provide significant safeguards against such practices, while lifting trust and confidence in industry.

Our submission supports the prohibition and recommends Australian Competition and Consumer Commission (**ACCC**) guidance to help small businesses, providers and the TIO understand how the protections will work in practice.

We look forward to the outcome of the Treasury's consultation.

[1] TIO, Annual Report 2024-25, pg 92.

1. Unfair trading practices protections should be extended to small business consumers

Our office supports UTP protections being extended to small businesses, especially in the context of small businesses who purchase telecommunications and digital platforms services. Research undertaken by the CPRC outlines that nearly half of Australians did not lodge a complaint when they encountered a telco problem. Some reasons consumers chose not to complain were they did not believe it would make a difference, they did not have the time to do so, or they did not know how to complain or where to begin.[2]

Protections against UTP should apply broadly to small businesses so that provider behaviour improves and small businesses are protected even if they do not make a formal complaint.

1.1 Unfair trading practices affect small business consumers of telecommunications services

Small businesses, and especially sole traders, often do not have any additional legal or contractual expertise than a residential consumer when purchasing telco services, yet they often purchase substantially more expensive services and are subjected to similar sales tactics, obstructive retention strategies and unfair cancellation procedures as their residential counterparts.

While the unfair contract term (**UCT**) regime applies to Standard Form Contracts (**SFC**), we handle complaints where telcos dispute that the UCT protections apply to their contracts because they say the small business customer had the opportunity to negotiate the terms of the contract prior to signing. However, in practice we often see the small business was only able to change minor details of the contract. Where the UCT regime does not apply, small business consumers should still be covered by UTP protections.

Some examples of UTP we see in the telecommunications industry include:

- convoluted or burdensome cancellation practices, such as repeated attempts at retention or long notice periods for cancelling a contract
- the pairing of short-term service contracts with long-term finance agreements for the leasing of business equipment, often presented in ways that are confusing to consumers, and which cover amounts that far exceed the value of the equipment
- early contract termination charges in negotiated contracts which amount to the full remaining costs of a fixed contract term, where the small business had limited bargaining power to negotiate the termination clause, and that discourage them from cancelling a

[2] Consumer Policy Research Centre, Barriers to effective dispute resolution in the telecommunications industry, July 2024, pg 13.

contract[3]

- lengthy delays in fulfilling promises to pay out the exit fees on the consumer's previous service contract, which leave the consumer facing out of pocket expenses or debt collection action while they wait for their new provider to fulfil that part of the contract, or
- service providers retaliating against small businesses who complain or dispute charges, such as by disabling the business' telephone number or inhibiting their ability to transfer to another service provider.

We see small business consumers experience various types of financial detriment as a result of these practices, including:

- surprisingly large exit fees on contracts that the consumer was not aware of, or could not negotiate out of
- costs related to being bound by unwanted or unnecessary equipment contracts
- service providers attempting to pass on the costs of handling a complaint about potential UTPs, or
- business loss and time spent trying to resolve their dispute.

Case study: Francesco* received a large bill from a third party leasing company

Francesco runs a small travel agency business and needs reliable landline services. One day, Francesco was approached by Tui Telco with a special deal for a landline service contract and four phone handsets. However, after signing up to the deal, Francesco wasn't able to properly move his existing phone service to Tui Telco, so he decided to cancel.

Following cancellation, Francesco received a surprise bill from Branch Business Tel for the four phone handsets for over $8,000. Eventually, Francesco found out that Tui Telco had originally created a separate contract with Branch Business Tel for him to lease the phones without his knowledge or consent.

Francesco was confused and felt misled as he thought the equipment contract was with Tui Telco. Concerned about the large, unexpected equipment charges from Branch Business Tel, Francesco approached the TIO for assistance.

**Names of all parties have been changed.*

[3] Our 2026 Cancellations Policy Position Statement includes information on unfair customer retention practices in the telco sector, along with 13 proposed changes that we consider consistent with the objectives of the Australian Consumer Law.

Protections for small businesses against UTP are most important where an obvious imbalance of power exists. For example, we handle complaints where small businesses sign up for contracts that don't fall under the SFC requirements, although the consumer doesn't believe they had a real opportunity to negotiate the contract with the telco.

Our office also sees complaints where small businesses report being pressured into buying telco products and services during high-pressure unsolicited sales, such as when a salesperson cold-calls them or visits their business premises without warning. For instance, where telcos attend a small business premises and talk the consumer into signing a contract, while providing ambiguous or incomplete descriptions of key aspects of the service.

For another example, we see complaints where telcos sell service contracts to small businesses alongside longer, expensive equipment lease contracts (often financed through third parties). The duration of these contracts rarely align, such that a service contract may last three years while the equipment contract will last five years. Arranging pairs of contracts like this can mean that once the small business has fulfilled the service contract, they can be left with an expensive equipment lease contract that they do not wish to continue, which can result in either costly early termination charges or being pressured into renewing an additional unwanted service contract.

These sales practices (which sometimes, but not always, cross the threshold into misleading and deceptive conduct) contribute to an imbalance of power and undermine the sound decision-making of the small business consumer, which can leave them vulnerable to mis-selling or accepting unfavourable contract terms, which they only later discover when trying to enforce their rights under contract. We are particularly concerned about these practices as we occasionally hear from small business consumers who say they relied on what the salesperson presented to them, and either did not read the contract or were discouraged from doing so.

For these reasons, small businesses should be protected from UTP to ensure their interests are safeguarded and not taken advantage of by other entities.

1.2 Unfair trading practices affect small business consumers of digital platforms

The TIO also hears from Australians who experience UTP on digital platforms. Growing numbers of people are raising complaints about digital platforms and services with our office despite these complaints currently being outside of our jurisdiction, with over 2,000 people contacting the TIO about problems with digital platforms problems since the start of 2023.

Strengthening consumer protections from UTP offers an important safeguard for digital platforms users, including small businesses.

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Recent research from the CPRC into consumer experiences of resolving problems with digital services found that small businesses are experiencing similar challenges to non-business owners with digital services. However, when looking by challenge type, significantly higher proportions of business owners reported:

- getting charged for a subscription they couldn't cancel (18% compared to 11%), and
- experiencing slow customer service (50% compared to 43%).

These figures are likely an under-representation of the challenges small businesses face online, and highlight that small businesses are likely carrying a further disproportionate risk when doing business online (both financial and reputational).[4] This research shows that small businesses are vulnerable to similar challenges to that of residential consumers and need protections from UTP.

Case study: Edith's* cloud service provider did not allow her to set cost or data limits

Edith runs a website for her small business. She pays a monthly fee to a cloud service provider for her business website and customer database software, which includes traffic and data limits. When there is a surge in traffic to her website she gets charged for the extra data usage, but her subscription doesn't let her set an upper limit.

Edith contacted the cloud service provider to ask about setting data or cost limits to her account but she could not set these limits. She was worried about being charged high additional fees while having no mechanism to limit this, so she contacted the TIO to see if we could help.

**Names of all parties have been changed.*

2. Guidance from the ACCC would help small businesses

The TIO occasionally hears from telcos who are themselves small businesses, who lack the same resources as larger telcos (such as a legal team) to help navigate regulatory and legislative changes. Readily available guidance from the ACCC about practical examples that constitute UTP (in addition to the existing proposed 'grey list') will help educate and equip small telcos to comply with any relevant changes to the law.

Practical guidance from the ACCC about what actions constitute UTP would also be beneficial to the TIO and consumers, as complaints often include business practices that are not directly covered by the UCT regime but may lead to similar outcomes for consumers. This guidance could be provided in a similar format to the ACCC's published guidance about what constitutes an UCT.

[4] Consumer Policy Research Centre, Someone to turn to, June 2026, pg 10.