

## VACC welcomes Federal Governments consultation on banning “unfair trading practices.”

Dear Member

The Victorian Automotive Chamber of Commerce (VACC) welcomes the Federal Government launching consultation on possible reforms to the Australian Consumer Law (ACL) to address currently *unregulated* unfair trading practices.

VACC attended a roundtable discussion with the Commonwealth Treasury Department and discussed the nature of unfair trading practices in Australia and specifically within the automotive industry.

VACC is cognisant that due to the current definition and limitation on what is a “small business” many of VACC’s larger business members may not be afforded the same rights, as a small business. A small business is one who employs fewer than 100 persons or has a turnover for the last income year of less than \$10 million. For instance, a franchise car or truck dealership will invariably employ less than 100 people and have turnover more than \$10 million, given that the price point for new cars or trucks doesn’t take much to arrive at the \$10 million threshold. In addition, a tyre retailer may also employ less than 100 people but have a turnover more than \$10 million.

VACC strongly advocates amongst other changes that any potential unfair trading prohibitions are extended to ALL businesses not just “small business” within the current definition. This fair change recognises that all businesses can often face the same challenges when it comes to experiences of unfair trading.

### What are unfair trading practices?

Small businesses can often face the same challenges as consumers when it comes to experiences of unfair trading. For instance, exploiting bargaining power imbalances in supply chain arrangements, including by unilaterally varying supply terms at short notice. Unfair trading practices that will be prohibited will fall outside the recent Unfair Contract Terms Legislation.

### What could it mean for businesses?

If new laws are introduced, businesses may face greater obligations to revise compliance practices, train staff, and ensure practices do not contravene broad and flexible provisions. However, clearly articulating acceptable business practices may also provide useful guidance. New penalties may deter unfair conduct and secure redress for harm.

Overall, the proposed options aim to balance the need to address unfair trading practices against burdening businesses with unclear or expansive new obligations. More work is required to refine and assess the options, and stakeholder feedback will inform Treasury’s decision on the preferred approach.

### How can you provide feedback?

The consultation process is open until 29 November 2023. The unfair trading practices Consultation Regulation Impact Statement can be found [here](#). VACC invites feedback from members on the consultation paper by **Friday, 3 November 2023**. Feedback can be emailed to Industry Policy Advisor, Kathy Zdravevski [kzdravevski@vacc.com.au](mailto:kzdravevski@vacc.com.au)

For further reading and information regarding unfair trading practices please see [VACC’s summary document](#).

Treasury will release a ***Decision Regulatory Impact Statement*** in 2024, upon all consultation submissions being reviewed. VACC together with the Motor Trades Association of Australia will ensure a subsequent submission on the Decision RIS is made.

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