



18 May

**Commission appeals record 2.25m fine in Vodafone FibreX case**

The New Zealand Commerce Commission (NZCC) filed an appeal in the High Court against a record \$2.25 million fine imposed on Vodafone for its misleading offending under the Fair Trading Act 1986 during its FibreX advertising campaign.



19 July

**Mercury charged for allegedly misleading customers**

The NZCC filed seven charges against Mercury under the Fair Trading Act for making false and / or misleading representations to some residential energy customers that they were required to pay an early termination fee when they were not.



16 August

**Major Fair Trading Act changes in force**

Key changes to the Fair Trading Act entered into force on 16 August 2022, including:

- the unfair contract terms regime being extended to standard form “small trade contracts”;
- a new prohibition on unconscionable conduct in trade; and
- empowering people to require uninvited direct sellers to leave or not enter their property.

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23 August

**Draft guidance on customer remediation approaches released**

The NZCC published draft consumer remediation guidance for businesses on the approach to fixing issues for consumers where a business is likely to have breached one of the laws that the NZCC is responsible for enforcing.

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13 October

**New unfair contract terms decision**

Delayed delivery terms used in contracts entered into by Ace (a mobile trader targeting low socio-economic communities), have been declared unfair by the High Court, preventing Ace from relying on the terms in current or future contracts.



1 November

**NZCC publishes online sales practices guidance**

With consumers increasingly choosing to shop online, the NZCC released guidance on online sales practices for businesses, with a focus on the use of ‘scarcity claims’ that reference the availability and / or popularity of goods or services.



\$780,000

11 November

**Strandbags fined for misleading conduct**

The Auckland District Court fined handbag and luggage retailer Strandbags \$780,000 for misleading customers with its discounting and sales practices. This conduct involved numerous pricing strategies between 2018 and 2020, which created misleading impressions about the discounts available or the “special” nature of the price.

On the horizon for the new year...

**Establishment of a Consumer Data Right Framework**

Last year the Government signalled its intention to establish a Consumer Data Right (CDR) framework for New Zealand.

**About the reform:**

Once implemented, the CDR would provide individuals (and potentially also businesses) with a statutory ability to require data holders to share information held about them with trusted third parties and the ability to require them to carry out some form of action on the relevant individual's behalf. The Minister of Commerce and Consumer Affairs, Hon Dr David Clark, has confirmed that banks will be the first sector to implement the CDR mechanism in New Zealand.

**Expected timing:**

The next step will be consultation on an exposure draft of the CDR legislation. Originally planned to be released by the end of this year, it is looking like this timing will slip into the first quarter of 2023.

**New protections for consumers using Buy-Now, Pay-Later**

Last year the Ministry of Business, Innovation, and Employment (MBIE) consulted on Buy-Now, Pay Later (BNPL). As a result, the Government decided to introduce new protections for consumers using BNPL services that are intended to protect consumers from potential financial harm, while enabling access to low-cost credit.

**About the reform:**

The Government has agreed to apply the Credit Contracts and Consumer Finance Act 2003 (CCCFA) to BNPL, to provide consumers with many of the same protections as borrowers in other consumer credit contracts (e.g. credit cards and personal loans). There will also be some additional obligations that will apply specifically to BNPL lenders.

**Expected timing:**

While MBIE originally signalled that it aimed to begin further consultation on the detail of the regulations later this year, it appears that the timing may have slipped, and the consultation will likely commence in the first quarter of 2023. It is intended that final regulations will be made in 2023.

Any questions? Talk to one of our experts



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