



12 November 2024

Mr Aidan Storer
Director
AI and Consumer Law Review Unit
Market Conduct Division
Treasury
Langton Cres
Parkes ACT 2600
Submitted via email to aidan.storer@treasury.gov.au

Dear Mr Storer

REVIEW OF AI AND THE AUSTRALIAN CONSUMER LAW.

The Australian Finance Industry Association (AFIA) is the only peak body representing the entire finance industry in Australia.¹ We appreciate the opportunity to respond to the Review of AI and the Australian Consumer Law.²

We represent over 150 members, including bank and non-bank lenders, finance companies, fintechs, providers of vehicle and equipment finance, car rental and fleet providers, and service providers in the finance industry. We are the voice for advancing a world-class finance industry and our members are at the forefront of innovation in consumer and business finance in Australia. Our members finance Australia's future.

We collaborate with our members, governments, regulators and customer representatives to promote competition and innovation, deliver better customer outcomes and create a resilient, inclusive and sustainable future. We provide new policy, data and insights to support our advocacy in building a more prosperous Australia.

¹ [Australian Finance Industry Association \(afia.asn.au\)](https://afia.asn.au).

² Treasury, [Review of AI and the Australian Consumer Law](#) ('Consultation Paper'), 2024
Australian Finance Industry Association
The Commons on George, Level 3, 388 George Street, Sydney NSW 2000
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INTRODUCTORY COMMENTS

AFIA welcomes the opportunity to provide feedback on the Australian Consumer Law (ACL) consultation regarding the application of Artificial Intelligence (AI) to consumer protections. AFIA represents a broad cohort of financial services firms that operate under stringent regulatory obligations to uphold transparency, fairness, and consumer trust. We support the continued application of ACL's existing principles, which provide a robust framework for addressing consumer protection issues.

While AFIA acknowledges Treasury's commitment to ensuring consumer protections remain robust in a rapidly evolving digital environment, we submit that the current ACL framework is already well-suited to address the issues posed by emerging technologies, including AI, without the need for additional AI-specific regulations.

The ACL's broad and adaptable provisions on transparency, fairness, and preventing misleading conduct already extend to AI-driven practices, ensuring consumers remain protected without introducing unnecessary regulatory complexity.

AFIA looks forward to continuing to engage with Treasury as it refines its approach to AI within the ACL framework. We are confident that a balanced, consistent regulatory environment will best serve Australian consumers and support competition and innovation across the financial services industry.

Sufficiency of current ACL provisions

The consultation paper suggests that AI may introduce new risks to consumer transactions, implying a need for additional regulatory measures under ACL. AFIA submits that the ACL's current provisions on transparency, fairness, and misleading or deceptive conduct adequately cover the risks raised by AI applications.³

These existing ACL standards, for example sections 18-19, section 4, and sections 29-38, are clear that businesses must not mislead or deceive consumers, and this protection applies equally to practices involving AI.⁴ Whether an algorithm or a human decision is involved, ACL's focus remains on the outcome—protecting consumers from any conduct that may cause them to form a wrong impression or make misinformed choices.

The ACL is designed to address a wide range of scenarios, including those involving new technologies like AI. Additional regulation would add complexity without increasing consumer protection.

Dynamic pricing and consumer protections

³ Consultation Paper, p 4.

⁴ *Competition and Consumer Act 2010* (Cth)

AFIA acknowledges the Australian Competition & Consumer Commission's (ACCC's) work in ensuring fair trading practices, including in dynamic pricing. Dynamic pricing, often associated with AI, is cited in the consultation paper as a practice that may potentially harm consumers if left unchecked. AFIA considers that dynamic pricing does not present unique risks requiring special treatment under ACL.

The current ACL framework is capable of governing dynamic pricing by addressing concerns over transparency and fairness. If a business uses AI to personalise pricing, it remains bound by the ACL requirement to avoid misleading or deceptive pricing practices; the introduction of AI does not appear to alter these obligations.

It is important to note that ACL's provisions on unfair trading and deceptive conduct can be applied regardless of the underlying technology used. Therefore, AFIA sees no need to create new requirements or carve-outs specifically addressing AI-enabled pricing mechanisms.

Consistency across regulatory initiatives

AFIA recommends that this ACL consultation process be integrated with existing government reviews on cybersecurity and AI regulation to minimise regulatory overlap. Given the current parallel consultations on cybersecurity for IoT devices⁵ and the recent Mandatory AI Guardrails⁶ regulatory proposals, there is a risk of creating duplicative or inconsistent requirements. To avoid this, we propose that the ACL framework maintain its focus on consumer protection from misleading conduct, while technical standards – particularly those related to device safety and cybersecurity – be developed within their dedicated frameworks. This consolidated approach would support clearer, more effective regulations without adding unnecessary compliance burdens for industry or confusion for consumers.

CLOSING COMMENTS

AFIA supports the ACL's adaptable framework. We suggest that existing provisions of ACL are well-suited to managing any consumer protection issues associated with AI. Making additional AI-specific ACL regulations may overly increase the regulatory burden.

AFIA encourages Treasury to consider a coordinated, consistent approach across regulatory initiatives. By ensuring alignment, Treasury can support a balanced regulatory environment that protects consumers while allowing industries to innovate responsibly. We look forward to continuing our work with Treasury to help shape a regulatory landscape that benefits both consumers and industry.

⁵ *Cyber Security Bill 2024; Intelligence Services and Other Legislation Amendment (Cyber Security) Bill 2024; Security of Critical Infrastructure and Other Legislation Amendment (Enhanced Response and Prevention) Bill 2024*

⁶ Industry, [*Introducing mandatory guardrails for AI in high-risk settings: proposals paper*](#), October 2024

Should you wish to discuss our submission or require additional information, please contact AFIA Policy Advisor Kate Melville at kate.melville@afia.asn.au or 0450 520 287.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Roza Lozusic', with a stylized, sweeping flourish extending to the right.

Roza Lozusic
Executive Director Policy and Public Affairs