



COVERSHEET

Minister	Hon Nicola Willis	Portfolio	Economic Growth
	Hon Cameron Brewer		Commerce and Consumer Affairs
Title of proactive release	Cabinet papers for the Fair Trading Amendment Bill	Date to be published	11 June 2026

List of documents that have been proactively released

Date	Title	Author
October 2025	Cabinet paper: Amendments to the Fair Trading Act 1986	Office of the Minister of Commerce and Consumer Affairs
13 October 2025	Amendments to the Fair Trading Act 1986 CAB-25-MIN-0353 Minute (revised)	Cabinet Office
April 2026	Cabinet paper: Fair Trading Amendment Bill – Approval for Introduction	Office of the Minister of Commerce and Consumer Affairs
30 April 2026	Fair Trading Amendment Bill: Approval for Introduction LEG-26-MIN-0077 Minute	Cabinet Office

Information redacted

YES

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reasons of Constitutional conventions.

Office of the Minister for Commerce and Consumer Affairs

Cabinet Legislation Committee

Fair Trading Amendment Bill: Approval for Introduction

Proposal

- 1 This paper seeks approval for:
 - 1.1 the introduction of the Fair Trading Amendment Bill (the Bill);
 - 1.2 Cabinet agreement to progress product safety streamlining changes through the Bill rather than the Regulatory Systems (Commercial Matters) Amendment Bill.

2

Constitutional Conventions

Policy

Cabinet has agreed to reform aspects of the Fair Trading Act

- 3 The Fair Trading Act 1986 (**the Act**) is a core part of New Zealand's consumer law framework. It applies across the economy and sets baseline rules for how businesses interact with consumers, including prohibitions on misleading and deceptive conduct, false representations, and unfair practices. The Act plays a central role in promoting fair competition, consumer confidence, and well-functioning markets. The Commerce Commission enforces the Act, and courts are responsible for determining breaches and imposing penalties, or other remedies.

Previous decisions made by Cabinet

- 4 Cabinet has previously made decisions in three related areas, which are addressed in turn below: penalties reform, scam disruption, and product safety settings.
- 5 On 13 October 2025, Cabinet agreed that aspects of the Act have not kept pace with changes in business models, digital markets, and the scale of harm that can arise from non-compliance, and agreed to progress a package of reforms through this Bill [CAB-25-MIN-0353 refers].

Penalties reform

- 6 Cabinet agreed to insert a civil liability regime for most breaches of the Act, to address concerns that the current criminal penalties regime and penalty levels do not adequately deter serious, unfair conduct. In particular, criminal penalties can be too low to influence behaviour where the commercial gain from breaching the Act outweighs the maximum fine.

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- 7 The new regime includes tiered maximum penalties calibrated to the seriousness of the conduct and aligned with comparable regimes (for example, the Financial Markets Conduct Act 2013). Criminal offences would be retained for a limited set of serious and egregious conduct, including serious product safety contraventions and obstruction of enforcement.

Scams disruption

- 8 Cabinet agreed to introduce a statutory safe harbour defence to protect online service providers from civil liability when they act in good faith to proactively disrupt suspected scam content. This is intended to encourage these businesses to prevent consumer harm by mitigating the risk of potential civil liability. Use of the safe harbour is subject to conditions designed to ensure the protection is used appropriately and does not undermine consumer protections.

Product safety settings

- 9 Cabinet agreed that the process for maintaining product safety regulations can be streamlined. This is to address concerns that standards become out of date because they refer to a specific version of a technical standard and are seldom amended. This can result in businesses being required to comply with outdated standards and create delays in responding to emerging safety risks.

Decisions taken by the Minister under delegated authority during drafting

- 10 During drafting of the Bill, I took the following policy decisions under delegated authority:
- 10.1 set commencement arrangements, and transitional and savings provisions necessary to support the move to the new civil liability and offence framework,
 - 10.2 agree to consequential amendments to other enactments and secondary legislation required to give effect to the Bill's policy changes.
- 11 During drafting, officials identified technical issues with retaining the current infringement regime under the Bill's increased penalty settings. Therefore the previous Commerce and Consumer Affairs Minister, Hon Scott Simpson agreed, under delegated authority, to replace infringement offences with either standard criminal offences or civil liability provisions, depending on the nature and seriousness of the conduct.

Decisions for Cabinet agreement - Streamlining updates to product safety standards

- 12 During drafting of the Bill, PCO identified a practical limitation with the proposed approach to updating product safety regulations. Cabinet has agreed to allow regulations to reference future versions of the same standard, with later updates approved by an official, to reduce the need for repeated Cabinet decisions on highly technical matters. Even if a newer version of a standard could be approved at an official level, the regulations themselves would continue to refer to the original version, because a notice cannot

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amend regulations. This risks businesses being directed to an out-of-date standard when checking the regulations, undermining clarity and the intended streamlining benefits.

- 13 I now seek Cabinet agreement to replace that earlier approach with a refined and more flexible model, and to give effect to it through this Bill instead. Under this revised approach, Cabinet would continue to decide which products are subject to safety regulation and whether compliance with a standard is required. Regulations would then authorise the MBIE Chief Executive to specify or update one or more applicable technical standards by product, within parameters set by Cabinet.
- 14 In practice, this means the technical requirements would sit in a single, up to date notice rather than being embedded in regulations that must be amended each time a standard changes. Where authorised, notices could specify one or more applicable standards (or parts of standards) and include reasonable transition periods.
- 15 This approach preserves a clear division of roles. Cabinet retains control over the core policy decisions (which products are regulated and the scope of any delegation), while the MBIE Chief Executive is able to manage technical updates to standards as they evolve, within the limits set by regulations.
- 16 The change also better supports alignment with international practice over time. While regulations can already specify one or more product safety standards, relocating this technical detail to notices allows updates to be made more efficiently as international standards change, without repeated regulatory amendments, while still maintaining product safety outcomes.
- 17 Product safety notices will be secondary legislation, and therefore subject to Regulatory Standards Act requirements and regulatory impact analysis (as applicable), publication, presentation to the House, and possible disallowance.

Impact analysis

- 18 A Regulatory Impact Statement (RIS) on the penalties reforms was prepared in accordance with the necessary requirements and submitted at the time of Cabinet decisions [CAB-25-MIN-0353 refers]. A quality assurance panel of representatives from the Ministry of Business, Innovation and Employment has reviewed the RIS and determined that the RIS partially meets the quality assurance criteria.
- 19 Another RIS on the scams safe harbour was also submitted at the time of Cabinet decisions [CAB-25-MIN-0353 refers] and the MBIE panel determined that the RIS met the quality assurance criteria.
- 20 A RIS is not required for the Product Safety component of this Bill as an exemption has been granted on the grounds that the policy given effect in this Bill has no or only minor economic, social, or environmental impacts.

Compliance

- 21 The Bill complies with
- 21.1 the principles of the Treaty of Waitangi;
 - 21.2 The Bill engages the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. Bill of Rights Act vetting by the Ministry of Justice is underway.
 - 21.3 the disclosure statement requirements. A disclosure statement has been prepared and is attached;
 - 21.4 the principles and guidelines set out in the Privacy Act 2020;
 - 21.5 relevant international standards and obligations;
 - 21.6 the [Legislation Guidelines](#) (2021 edition).

Consultation

- 22 The Commerce Commission, Ministry for Regulation, Ministry of Justice, Treasury, Ministry of Foreign Affairs and Trade, New Zealand Customs Service, Department of Internal Affairs, Financial Markets Authority, Police, Serious Fraud Office, Standards New Zealand and Inland Revenue have been consulted. The Department of Prime Minister and Cabinet has been informed.

Binding on the Crown

- 23 The Bill does not alter the existing position under the Act in relation to binding the Crown. Cabinet previously agreed that the Act should continue to bind the Crown [CAB-25-MIN-0353 refers].

Creating new agencies or amending law relating to existing agencies

- 24 The Bill does not create any new agencies. It amends the enforcement framework applying to the Commerce Commission by shifting most breaches under the Act from criminal prosecution to a civil liability regime and expanding the civil remedies available to the courts.
- 25 These changes operate within existing institutional frameworks, and the Ombudsmen Act 1975 and the Official Information Act 1982 will continue to apply.
- 26 The safe harbour provision is confined to general civil liability and does not affect or alter the statutory roles, functions, or responsibilities of the Commerce Commission as the Act's regulator.

Allocation of decision-making powers

- 27 The Bill does not involve the allocation of decision-making powers between the executive, the courts, or tribunals.

Associated regulations

- 28 Existing product safety standard regulations will need to be updated to reflect the enabling provisions in the Bill, including to provide for the use of product safety notices where appropriate. Any amendments will be progressed in accordance with the 28-day rule and standard Cabinet requirements.

Definition of Minister/department

- 29 The Bill contains standard definitions of Minister, department, and chief executive.

Commencement of legislation

- 30 The Bill will come into force in two stages. The provisions relating to penalties will come into force 6 months after Royal assent. The enabling powers for product safety notices and the scam disruption safe harbour will come into force on the day after Royal assent, to allow those frameworks to be implemented immediately.

Parliamentary stages


- 31 I intend to introduce the Bill on 5 May 2026
- 32 I propose the Bill be referred to the Finance and Expenditure Committee, with a report back period of six months.

Proactive Release

- 33 I intend to proactively release this paper within 30 business days, subject to any appropriate redactions under the Official Information Act 1982.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1  Constitutional Conventions
- 2 **note** that the Bill implements policy decisions to strengthen penalties, introduce a civil liability regime, introduce a safe harbour to support scam disruption, and update the product safety framework;
- 3 **note** that, during drafting, I made implementation and drafting decisions consistent with Cabinet's agreed policy intent, including replacing infringement

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offences with standard criminal or civil liability provisions setting commencement and transitional arrangements, and making consequential amendments, and that those decisions are reflected in the Bill;

Streamlining product safety updates

- 4 **rescind** Cabinet's earlier decision (CAB-25-MIN-0353, recommendation 6) to amend the Fair Trading Act 1986, through the Regulatory Systems (Commercial Matters) Amendment Bill, to allow product safety regulations to reference any future version of the same standard subject to departmental approval; and
- 5 **agree** that the product safety streamlining changes be progressed through the Fair Trading Amendment Bill;
- 6 **agree** that the Fair Trading Amendment Bill include a regulation making power allowing regulations to authorise the MBIE Chief Executive to specify one or more applicable product safety standards by disallowable product safety notice, for goods defined in the regulations;

Introduction and parliamentary stages

- 7 **approve** the Fair Trading Amendment Bill for introduction on 5 May 2026, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 8 **agree** that the government propose that the Bill be referred to the Finance and Expenditure Committee for consideration.

Authorised for lodgement

Hon Cameron Brewer

Minister of Commerce and Consumer Affairs

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