**Annexure 2: Current and proposed competition and consumer law reforms**

The following table sets out the current and proposed reforms for the *Competition and Consumer Act* and Australian Consumer Law (**ACL**), since the first Treasury unfair trading practices consultation in November 2023.

|  |  |  |
| --- | --- | --- |
| * + 1. REcent Law Reform Proposal | * + 1. REFORM proposed/enacted | EFFECTIVE DATE |
| Artificial Intelligence (‘AI’) and the ACL | The Treasury released a Discussion Paper on 15 October 2024, seeking submissions on the following issues:   * how well adapted the ACL is to support Australian consumers and businesses to manage potential consumer law risks of AI-enabled goods and services; * the application of well-established ACL principles to AI-enabled goods and services; * the remedies available to consumers of AI-enabled goods and services under the ACL; and * the mechanisms for allocating liability among manufacturers and suppliers of AI-enabled goods and services.   The consultation was designed to complement other work by the Government on AI, including the proposals for introducing mandatory guardrails for AI in high-risk settings. | **Legislation Enacted:** N/A  Submissions on the Discussion Paper closed on 12 November 2024. Treasury is considering responses. |
| Consumer Guarantee Changes | Treasury released a Consultation Paper on 16 October 2024, which sought feedback on the design of proposed new civil prohibitions and penalties for consumer guarantees and supplier indemnification. The proposed prohibitions are:   * prohibition on suppliers failing to provide a consumer guarantee remedy to a consumer when required under the ACL; * prohibition on manufacturers failing to indemnify suppliers where they are liable under the ACL; and * prohibition on manufacturers retaliating against suppliers where suppliers seek indemnification under the ACL (e.g the manufacturer terminates a contract or increases prices).   The Consultation Paper also sought views on the proposed enforcement powers and remedies which included:   * powers for the ACCC to issue infringement notices for contraventions of the proposed prohibitions; and * civil penalties for contraventions of the proposed prohibitions. | **Legislation Enacted:** N/A  Submissions on the Discussion Paper closed on 14 November 2024. Treasury is considering responses. |
| Unfair Contract Terms | The *Treasury Laws Amendment (More Competition, Better Prices) Act 2022* (Cth) introduced the following reforms to the Unfair Contract Terms regime in Part 2-3 of the Australian Consumer Law:   * expanded the definition of small business contract to mean a business with fewer then 100 employees or an annual turnover of less than $10 million; and * introduced substantial penalties for proposing, applying or relying on an unfair contract term in a standard form consumer or small business contract. | **Legislation Enacted**: 9 November 2022  **Transitional Period to prepare for amendments**:12 Months  **Date penalties took effect**: For contracts entered into or renewed from 9 November 2023 |
| Ex-Ante Digital Platform Codes | Following the release of the ACCC’s report of the Digital Platform Services on 11 November 2022, Treasury published a Consultation Paper on the ACCC’s recommendations to address competition and consumer issues posed by digital platforms and their services. Some of the ACCC’s recommendations included:   * introducing a new competition framework, which would subject ‘designated’ digital platforms to mandatory codes applying to the services they provide, based on principles set out in the legislation; and * introducing targeted competition obligations for designated digital platforms to be included in the proposed new framework and codes, to address harms such as anti-competitive self-preferencing.   Following the consultation, the Government announced on 8 December 2023 that it supports in-principal the recommendations made by the ACCC. It is now undertaking further work to complement the recommendations, which will include consulting on the development of a new ex-ante digital competition regime. | **Legislation Enacted:** N/A  Submissions on the Consultation Paper closed on 15 February 2023. |
| Grocery Code Reforms | On 23 September 2024, Treasury released an Exposure Draft of the *Competition and Consumer (Industry Codes—Food and Grocery) Regulations 2024*. The proposed changes to the Grocery Code include:   * making the code mandatory; * strengthening dispute resolution arrangements; * addressing supplier fears of retribution; and * introducing penalties for breaching the code.   Treasury also released an Exposure Draft for *Treasury Laws Amendment (Fairer for Families and Farmers) Bill 2024: Industry Codes (Penalties and Other Amendments*). The proposed legislation will amend the *Competition and Consumer Law Act* to allow higher infringement notice penalties and higher maximum penalties for breaches of the Grocery Code. | **Proposed Commencement Date**: 1 April 2025 |
| Merger Clearance Reforms | In November 2024, Parliament passed the *Treasury Laws Amendment (Mergers and Acquisitions Reform) Bill 2024*, overhauling Australia’s merger control regime.  From 1 January 2026, ACCC clearance will become mandatory for certain transactions meeting monetary thresholds (or other specific industry thresholds), and transactions will be suspended from completing (and voided if completed) without ACCC clearance.  This reform is the most significant change to regulation and merger and acquisition activity since the introduction of the *Trade Practices Act* in 1974. | **Commencement date:** 1 July 2025, mandatory 1 January 2026 |
| Privacy Act Reforms | In November 2024, Parliament passed the *Privacy and Other Legislation Amendment Bill 2024,* to introduce a range of measures directed at protections individuals’ privacy.  The Bill included measures to:   1. expand the Information Commissioner’s powers; 2. facilitate information sharing in emergency situations or following eligible data breaches; 3. require the development of a Children’s Online Privacy Code; 4. provide protections for overseas disclosures of personal information; 5. introduce new civil penalties; 6. increase transparency about automated decisions which use personal information; 7. introduce a statutory tort to provide redress for serious invasions of privacy; and 8. Introduce into the Criminal Code Act 1995 criminal offences targeting the release of personal data using a carriage service in a manner that would be menacing or harassing (known as ‘doxxing’).   Further reforms flagged, including:   1. the introduction of a new general obligation to ensure all handling of personal information is ‘fair and reasonable’, regardless of consent 2. an expansion of the definition of ‘personal information’ to cover online identifiers and other information that can be used to target individuals even without revealing their underlying legal identity; 3. new individual rights, such as rights to ask for information to be deleted and for online search engine results to be de-indexed; 4. changes to rules around use of personal information for direct marketing and targeted advertising, including stronger opt-out rights; 5. clarification of the extra-territorial operation of the Privacy Act, with previous changes having significantly (and perhaps unintentionally) expanded the operation of the Act to potentially cover information about individuals with no clear connection with Australia; and 6. rights for individuals to take direct action in court in response to breaches of the Privacy Act (something that would have further increased the prospects of seeing a more litigious privacy landscape in future). | **Commencement Date:** |
| Scams Prevention Framework | On 13 September 2024, Treasury released an Exposure Draft of its proposed Scams Prevention Framework.  The framework will apply to multiple sectors across the Australian economy, and will first apply to telco providers, banks and digital platform providers. A business providing services in a regulated sector will need to:   1. proactively take reasonable steps to detect, prevent and disrupt scams 2. comply with additional steps that may be required under sector specific codes to be developed later 3. report to the ACCC about actionable scam intelligence the business has and scam disruption actions they have taken 4. implement detailed governance policies in relation to scams and comply with related reporting requirements. This includes filing an annual compliance certificate in relation to policies and procedures signed by a senior officer 5. establish internal dispute resolution processes, and join an external dispute resolution (**EDR**) scheme to resolve customer complaints for scams. The Government has proposed that the Australian Financial Complaints Authority (**AFCA**) will be the relevant EDR scheme for the telco, banking and digital platform sectors. | **Proposed Commencement Date:** The day the Act receives Royal Assent  Submissions on the Exposure Draft closed on 4 October 2024. Treasury is considering responses. |