



**Submission:
Competition and Consumer
Amendment (Unfair Trading Practices)
Bill 2026**

Australian Grape & Wine
May 2026

Submission

Australian Grape & Wine (AGW) welcomes the opportunity to comment on the Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026. AGW strongly supports the Government's longstanding commitment to addressing unfair trading practices (UTPs), noting that this commitment has been reiterated over several years of consultation and regulatory review. However, despite this commitment, the Bill fails to extend the general prohibition on Unfair Trading Practices to small business Business-to-Business (B2B) dealings, restricting these critical protections to consumers only. Specifically, the Bill fails to address concerns previously raised by AGW in relation to retailer market power, non-contractual conduct, and loopholes that allow for evasion of available protections; this failure comes with no consideration of the cost of deferral.

Amending the Bill to ensure these concerns are captured would provide small and medium sized businesses with greater confidence in their operations and provide a more level playing field in the future.

Bringing greater balance to the wine retail marketplace

The Australian Government's December 2025 announcement of a Mandatory Code of Conduct for Winegrape Purchases provides for important protection for growers, but will increase the cost of business for many wine producers who receive no commensurate downstream relief from market power imbalances with major liquor retailers.

In the wine sector, major retailers act simultaneously as dominant buyers, powerful gatekeepers, and direct competitors through aggressive private-label and buyer-own-brand programs. Their disproportionate market power allows them to engage in harmful B2B practices, including:

- Exploiting information asymmetries: both during contract negotiations, and by taking advantage of superior market insights to gain competitive advantage for their own brands.
- Potential to use consumer choice editing to artificially suppress competitor products in favour of private labels, thereby eroding the shelf space for other producers.
- Imposing short-notice product de-listings, forcing small suppliers to bear the cost of stranded inventory.
- Unilaterally altering terms of trade without adequate consultation or compensation.

The vulnerability of SMEs is uniquely acute in Australia, where the grocery and liquor retail sectors are among the most highly concentrated in the world. In such a stifled commercial environment, the lack of robust B2B protections means the future of many Australia's SME wine businesses is under threat, which will ultimately lead to loss of choice for consumers. Expanding past a boutique scale introduces major risks, because if a dominant liquor retailer drops a product line, alternative commercial paths are highly limited. Exporting is not a pressure-valve for sudden domestic surpluses - it requires years of market development, compliance navigation, and tailored product positioning.

Non-Contractual Conduct: A Critical Gap

Existing Unfair Contract Terms (UCT) legislation provides a level of defense for small businesses against harmful terms such as protracted payments, however its fundamental limitation is that it only applies where a standard form contract exists. UCT laws offer zero protection against unfair commercial conduct that occurs outside the bounds of a written agreement.

This gap is particularly concerning for the winegrape sector right now. With the impending introduction of the Mandatory Code of Conduct for Winegrape Purchases, there is a severe and foreseeable risk of unintended behavioral shifts in the market. To avoid being captured under the regulatory obligations of the Mandatory Code or UCT provisions, it is highly likely that some purchasers will deliberately avoid entering into formal, written contracts with growers. Because UCTs and the Mandatory Code fundamentally rely on the existence of a contract to trigger their protections, they cannot comprehensively address the issue of harmful conduct. A general prohibition on Unfair Trading Practices (UTPs) that explicitly covers small B2B dealings is the only regulatory mechanism capable of capturing and penalising unfair, manipulative conduct that occurs outside a formal contract. Failing to include B2B protections in this Bill effectively leaves the most vulnerable growers entirely defenseless against buyers who choose to operate outside the contractual system.

The Cost of Deferral

The 2026 Bill was widely anticipated to be the mechanism to close the remaining regulatory loopholes mentioned above. By deferring B2B protections to future, undefined consultations, the Government risks leaving small suppliers effectively defenseless in the interim. The shift to deferring protections for small-business B2B dealings represents a significant departure from earlier Government signals in 2024-2025. Given the urgency created by the economic conditions facing our sector, deferring these protections guarantees ongoing harm, market distortion, and potential business closures across regional Australia.

Recommendations:

AGW strongly recommends that the Committee and the Parliament take the following actions:

Recommendation 1: Amend the current Bill to extend the general prohibition on Unfair Trading Practices (UTPs) to include small business B2B dealings, thereby honouring the Albanese Government's earlier commitments.

Recommendation 2: If immediate amendment is not feasible, the Bill should include a statutory review mechanism requiring consideration of the extension of UTP protections to B2B transactions by a specified date within this term of government.

Recommendation 3: Direct the ACCC to immediately commence the development of targeted guidance for concentrated markets - specifically major liquor retail - to ensure businesses understand how future UTP prohibitions will apply to common industry practices.

A combination of general and specific prohibitions targeting harmful B2B behaviors is essential to ensure that the Government's economic objectives are fully realised. Without amendments, the Competition and Consumer Amendment (Unfair Trading Practices) Bill 2026 represents a missed opportunity to deliver the fair, consistent treatment that small Australian businesses urgently require.

Greater protection for SME B2B dealings means protection of multi-generational family businesses. It is these businesses whose passion, grit, and deep connection to the land and regional communities are the essence of what makes Australian wine so valued by consumers, and celebrated on the world stage. SMEs drive the innovation, regional diversity, and unique storytelling that a consolidated, private-label-driven corporate retail market can never replicate.

About Australian Grape & Wine

Australian Grape & Wine is Australia's national association of winegrape and wine producers with the role to help forge a political, social and regulatory environment - in Australia and overseas - that enables profitable and sustainable Australian Grape & Wine businesses. To do this, activities focus upon the objective of providing leadership, strategy, advocacy, and practical support. Australian Grape & Wine represents small, medium and large winemakers and winegrape growers.

The grape and wine businesses that Australian Grape & Wine supports are unique in agriculture as a value-added product with regional exports and food and wine tourism, making a significant contribution to Australia's rural and regional economies and driving economic growth. There are over two thousand producers and approximately five thousand grape growers, a vast majority based in regional Australia.

The Australian grape and wine sector is a major contributor to Australia's economy and to rural and regional communities. The grape and wine sector:

- Supports 203,392 direct and indirect full- and part-time jobs.
- Generates \$15 billion in income from direct and flow-on employment.
- Contributes \$51.3 billion to Australia's gross output.
- Adds \$25.4 billion in value-added to the Australian economy. ¹

Australian Grape & Wine is recognised as the representative organisation for winegrape and wine producers under the *Wine Australia Act 2013* and is incorporated under the *SA Associations Incorporation Act 1985*.

Australian Grape & Wine has a proud history working with the Australian Government to develop and implement policy that is in the best interests of winegrape growers and winemakers across Australia.

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¹ <https://www.wineaustralia.com/getmedia/813bfd73-955c-40f5-aae2-c6a8c14d3d4a/MI-AgEconPlus-Gillespie-Economic-Contribution-Aust-Wine-Sector-2025-report.pdf>