

1 September 2025

Kia ora 

### **Official Information Act request 25.028**

Thank you for your request of 30 July 2025, refined 4 August 2025, for information about the regulation of dark patterns in New Zealand. We have processed your request under the Official Information Act 1982 (the OIA).

### **Our response**

Each year, the Commission sets enforcement and compliance priorities. In 2024/25, one of our specific enforcement and compliance priorities is looking at illegal online sales conduct. You can read more about our enforcement and compliance priorities on our website at:

[https://comcom.govt.nz/\\_data/assets/pdf\\_file/0031/363595/20242F25-Enforcement-and-Compliance-Priorities.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0031/363595/20242F25-Enforcement-and-Compliance-Priorities.pdf)

We also have guidance and information for traders on our website regarding making [accurate representations](#) that can be substantiated, [online sales practices](#) and [subscription traps](#).

1. *Information on all enforcement action taken by the Commerce Commission against websites and apps for alleged use of dark patterns. That enforcement action includes warning letters, enforceable undertakings and negotiated settlements. For the period January 2020 to 30 June 2025 [amended to 1 July 2024 – 30 June 2025]. As the Jetstar example above shows, it is unlikely that the term “dark patterns” has been used. For example, just some of the many different types of dark patterns are:*
  - a. *difficulties unsubscribing,*
  - b. *users being tricked into buying things they didn’t mean to buy,*
  - c. *the use of countdown clocks,*
  - d. *statements such as only 1 left, when such statements are incorrect,*
  - e. *trick questions – ambiguous or misleading language is used to confuse users.*

Regarding your first question, we have warned or taken litigation against two traders over the refined requested period and these are summarised in the table overleaf:

Project name	Dark pattern	Enforcement action taken	Links to related documents
Hello Fresh (Mar 2025)	Subscription traps	Litigation	<a href="https://comcom.govt.nz/news-and-media/news-and-events/2025/comcom-takes-hellofresh-to-court-for-misleading-consumers-over-subscriptions">https://comcom.govt.nz/news-and-media/news-and-events/2025/comcom-takes-hellofresh-to-court-for-misleading-consumers-over-subscriptions</a>
Kogan Australia Pty Limited T/A Dick Smith (Oct 2024)	Sneak into cart, preselection, subscription disclosure	Warning	<a href="https://comcom.govt.nz/news-and-media/news-and-events/2024/dick-smith-warned-for-sneaking-subscriptions-into-shopping-carts">https://comcom.govt.nz/news-and-media/news-and-events/2024/dick-smith-warned-for-sneaking-subscriptions-into-shopping-carts</a>  <a href="https://comcom.govt.nz/_data/assets/pdf_file/0030/362784/Kogan-Australia-Pty-Limited-trading-as-Dick-Smith-Warning-Letter-24-October-2024.pdf">https://comcom.govt.nz/_data/assets/pdf_file/0030/362784/Kogan-Australia-Pty-Limited-trading-as-Dick-Smith-Warning-Letter-24-October-2024.pdf</a>

In addition to the above:

- In February 2025, we sent a compliance advice letter to Portier New Zealand Limited (Uber One) related to inadequate disclosure of subscription terms and fine print: [https://comcom.govt.nz/\\_data/assets/pdf\\_file/0036/368469/Compliance-Advice-letter-to-Portier-New-Zealand-Limited-Uber-One-.pdf](https://comcom.govt.nz/_data/assets/pdf_file/0036/368469/Compliance-Advice-letter-to-Portier-New-Zealand-Limited-Uber-One-.pdf)
  - In June 2025, we sent an open letter to the New Zealand game developer industry about misleading practices such as countdown timers and hidden costs. The New Zealand Game Developers Association (NZGDA) has since circulated the letter to its members. The Commission has held compliance discussions with a number of studios whose games were reviewed during the sweep, and is due to present at the NZGDA conference on 26 September on the topic of Fair Trading Act compliance and gamer rights under the Consumer Guarantees Act: <https://nzgda.com/wp-content/uploads/2025/07/Information-passed-to-the-New-Zealand-Game-Developers-Association-and-its-Members-10-June-2025-5511518.3.pdf>
  - Also of note was 1-Day being fined \$840,000 in 2022 for misleading stock level indications and the use of misleading countdown timers: <https://comcom.govt.nz/news-and-media/news-and-events/2022/online-retailer-1-day-fined-for-misleading-today-only-deals>
2. *For the same period (January 2020 to 30 June 2025) general information (so no personal information) on how many complaints the Commerce Commission has received on dark patterns and the nature of those complaints, ie what type of dark patterns were being complained about. Ideally the names of the businesses would be provided, or if that is not possible, then industries in which they are in and whether they are New Zealand businesses or international ones accessible by New Zealanders.”*

Before responding to your request in detail, it is important to clarify that the Commission now reports on overall ‘concerns received’. This is because the wide range of information we receive from the public may include, but is not limited to, complaints.

The tables below show concern data broken down by year and by category.

The concerns outlined reflect where specific dark patterns are explicitly named in the "issue(s)" field which we use to categorise reported concerns.

While this will not be an exhaustive list of all the Commission reported concerns that contain elements of dark patterns; however, we are confident this represents a significant majority of concerns in scope of your request. To confirm any remaining concerns would require us to undertake considerably more searching, including manual keyword searches, amounting to substantial collation and research.

Please also note, for Table 1, these figures reflect product / service categories that generated more than 50 concerns in total. The 'other' row reflects categories that made up of the remainder.

**Table 1**

<i>Category</i>	<i>2020/21</i>	<i>2021/22</i>	<i>2022/23</i>	<i>2023/24</i>	<i>2024/25</i>	<i>Grand Total</i>
Online Platforms	20	18	37	334	63	472
Restaurants/Food Delivery	8	8	115	71	35	237
Software, Applications, Online Services and Broadcasting	38	48	32	27	20	165
Domestic Appliance Retail	58	39	21	24	23	165
Retail (General)	11	18	34	54	42	159
Professional and Personal Services	19	12	17	10	20	78
Telecommunications	20	10	16	25	6	77
Games, Toys and Leisure and Entertainment	18	8	20	15	12	73
Tickets, Concerts and Events	29	15	12	10	2	68
Air Travel	8	5	23	13	18	67
Accommodation	16	7	22	8	12	65
Travel	18	6	10	8	17	59
Logistics	15	13	5	9	14	56
Motor Vehicle Rentals	9	6	12	9	13	49
Other	68	43	68	42	42	263
<b>Total</b>	<b>355</b>	<b>256</b>	<b>444</b>	<b>659</b>	<b>339</b>	<b>2053</b>

**Table 2**

<i>Primary issue</i>	<i>2020/21</i>	<i>2021/22</i>	<i>2022/23</i>	<i>2023/24</i>	<i>2024/25</i>	<i>Grand Total</i>
Undisclosed charges	218	141	172	165	183	879
Subscription traps	49	50	175	412	100	786
Bait advertising	75	58	86	72	53	344
Pressure selling	13	7	11	10	3	44
<b>Total</b>	<b>355</b>	<b>256</b>	<b>444</b>	<b>659</b>	<b>339</b>	<b>2053</b>

**Further information**

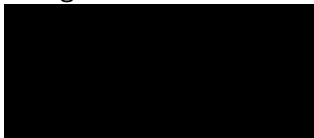
We hope this response has been helpful.

If you have any questions about this response, please do not hesitate to contact us at [oia@comcom.govt.nz](mailto:oia@comcom.govt.nz).

If you are not happy with our response, you have the right to complain to the Ombudsman. Information about how to do this is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

Finally, confirming the Commission may publish this response on our website as part of our proactive release process. All personal information will be redacted prior to publication.

Ngā mihi nui



Adam McFerran

**Senior Advisor | OIA & Information**