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17 December 2025

[redacted]

Kia ora [redacted]

Official Information Act request 25.123

Thank you for your request of 17 November 2025 to the Commission's Senior Communications Advisor, Nick Truebridge, asking questions about subscription services such as Hello Fresh and My Food Bag.

We have considered your request under the Official Information Act 1982 (the OIA).
On 15 December 2025, we advised you that we had made our decision on your request; however, required a few extra days to finalise. We appreciate your patience.

Our response

1. *Has the Commerce Commission received complaints about consumers struggling to cancel subscription services, including meal-kit or auto-renew platforms? If so, how many in the past year?*

Before responding to your request in detail, please note that the Commission reports on overall 'concerns received', which we consider better reflects the wide range of information we receive from the public – including, but not limited to, complaints.

As at 17 November 2025, the Commission received 304 concerns relating to subscription issues and/or 'subscription traps' within the 12 months prior.

Of these concerns, 167 involved cancelations. To arrive at this figure, we conducted a keyword search of concerns that contained the keyword 'cancel', then manually spot checked the results for concerns which relate to consumers having trouble cancelling. While we have not comprehensively checked all 167 concerns to confirm this, we consider it likely they all relate to difficulties cancelling these services. Please note, there may be other concerns about this nature which we have missed because they did not quote the word 'cancel'.

It is also important to consider the following context when reviewing the numbers:

- While your request references Hello Fresh or My Food Bag, the figures provided include but are by no means limited to these companies. Our figures reflect concerns about

subscription services on e-commerce sites as well as in regard to companies in the technology / communications / entertainment and fitness industries, amongst others.
- Numbers of concerns received on their own does not paint a complete picture of compliance with the law. The fact that a concern has been raised does not necessarily mean that a trader has done anything wrong, or any harm has been caused to any consumer or competitor. Some concerns will not be investigated by the Commission because they are unfounded or outside our jurisdiction, and some that are investigated will not proceed to further action.
- The data only reflects what consumers have chosen to report to the Commission or to other organisations that have, in turn, provided information to the Commission. Other concerns on the same matter are likely to have reached other complaint bodies instead of the Commission.
- Larger traders are likely to generate more enquiries as a function of their scale; and we have not adjusted for this.
- Enquiry volumes for a trader can be about a single matter or multiple matters. Some matters that attract a high level of publicity can generate a large volume of enquiries.

2. *Could making cancellation difficult, through confusing steps, hidden options, or requiring customers to contact the company directly, amount to a breach of the Fair Trading Act?*

If a business is making cancellation difficult, it could amount to a breach of the Fair Trading Act 1986.

- Where confusing steps or hidden options are used by businesses, whether through subscription services or otherwise, it increases the risk that consumers are misled. Businesses that make false or misleading representations, or engage in conduct liable to mislead consumers, may be in breach of sections 10, 11, or 13 of the Fair Trading Act 1986.
- Where businesses make it difficult for consumers to get out of a contract (such as by requiring customers to contact them directly) they could also breach the Fair Trading Act 1986 through its Unfair Contract Term provisions. These provisions, which apply to standard form consumer contracts, prohibit the use of unfair contract terms. This will include situations where:

    - A term in a contract is not transparent, and
    - A term in a contract is not reasonably necessary to protect the interests of the party who gains advantage from it; and
    - A term in a contract causes a significant imbalance in the parties' rights and obligations.

    For example, a term which, in practice, did not permit the cancellation of a contract by one of the parties, may be an example of an unfair contract term.

For more information, read our guidance on subscriptions and automatic-roll over contracts.

And, to reduce the risk of breaching the Act, businesses should make sure their contractual terms are fair and avoid making claims that give the impression a contract is easy to cancel, when that is not the case.

3. *Does the Commission have concerns about "subscription traps" or dark-pattern cancellation designs in New Zealand, and is this an area of active focus or enforcement*

The Commission does have concerns about subscription traps and it is an area of active enforcement and focus. Our current enforcement priorities includes online sales conduct, specifically subscription traps.

Earlier this year, HelloFresh New Zealand was fined $845,000 for misleading consumers into reactivating their subscription to its food delivery service. Hello Fresh's call strategy, which resulted in the reactivation of almost 80,000 customer subscriptions, made it difficult for consumers to get out their subscription. The investigation is a good example of the unexpected forms subscription traps can take.

The Commission has developed expertise in the area of misleading and deceptive patterns of design, sometimes known as dark patterns. We have been using a range of engagement, compliance and enforcement tools to respond to concerns identified in public reports and proactive work.

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.

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.

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

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Adam McFerran
Senior Advisor | OIA & Information