

22 February 2019

**Ministry of Business, Innovation and Employment**  
[competition.policy@mbie.govt.nz](mailto:competition.policy@mbie.govt.nz)

### **Response to the discussion paper on protecting businesses and consumers from unfair commercial practices**

This submission is from the Financial Services Council of New Zealand Incorporated (**FSC**) on the discussion paper.

The Financial Services Council is a non-profit member organisation and the voice of the financial services sector in New Zealand. Our 35 members comprise 95% of the life insurance market in New Zealand and manage funds of more than \$47.5bn. Members include the major insurers in life, disability and income insurance, fund managers, KiwiSaver, professional services and technology providers to the financial services sector.

Our submission has been developed through consultation with FSC members, and represents the views of our members and our industry. We acknowledge the time and input of our members in contributing to this submission. Where our members have differing views, we have noted these views in our response.

The FSC's guiding vision is to be the voice of New Zealand's financial services industry and we strongly support initiatives that are designed to deliver:

- Strong and sustainable consumer outcomes;
- Sustainability of the financial services sector; and
- Increasing professionalism and trust of the industry.

We support this review and agree with the review's objectives, being to protect businesses from unfair contract terms and unfair conduct, and protect consumers from unfair conduct.

We believe that good conduct and good consumer outcomes should be a requirement for all businesses regardless of the industry, market or size.

Unfair contracts and conduct ultimately puts consumers at a disadvantage, resulting in a loss of faith and trust in the industry. Our view is that this is a poor outcome both for consumers and for the New Zealand economy more generally.

We agree that additional legislation is appropriate if there are any gaps in existing legislation that allows for unfair conduct that is particularly egregious. This will help ensure positive and sustainable outcomes for businesses and consumers.

Our members have identified that there may be specific impacts on the wealth management industry that we would welcome further discussion on, for example, alignment with exemptions under the Human Rights Act. We would welcome assurances that the findings of this review will be consistent with the outputs of the Insurance Contract Law Review, particularly regarding the exceptions for insurance contracts from the unfair contract term provisions under the Fair Trading Act.

I can be contacted on 021 0233 5414 or [richard.klipin@fsc.org.nz](mailto:richard.klipin@fsc.org.nz) to discuss any element of our submission, including issues specific to the wealth management sector.

Yours sincerely

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