

**CONCISE STATEMENT**

**FEDERAL COURT OF AUSTRALIA  
DISTRICT REGISTRY: VICTORIA  
DIVISION: GENERAL**

**NO VID**

**OF 2026**

**AUSTRALIAN COMPETITION AND CONSUMER COMMISSION**

Applicant

**AMAZON COMMERCIAL SERVICES PTY LTD (ACN 616 935 623)**  
and another named in the schedule

Respondents

**A. NATURE OF THE ACCC'S CLAIM**

1. The applicant (**ACCC**) brings this proceeding against Amazon Commercial Services Pty Ltd (**Amazon AU**) and Amazon.com Services LLC (**Amazon US**) (collectively, **Amazon**) under the Australian Consumer Law (**ACL**).
2. The proceeding concerns unfair contract terms in standard form consumer contracts made by Amazon AU with over a million annual subscribers to Amazon Prime between 1 November 2023 and 18 August 2025 (**Relevant Period**). Those contracts included five terms permitting Amazon AU to unilaterally make materially adverse changes to its services (including, but not limited to, Prime Video) and the terms governing those services, without any contractual entitlement for subscribers to receive refunds or other meaningful redress.
3. The ACCC contends that:
  - (a) the terms were unfair within the meaning of s 24 of the ACL and void pursuant to s 23(1) of the ACL, and that by proposing each term in its contracts, Amazon AU separately contravened s 23(2A) of the ACL;
  - (b) Amazon AU relied or purported to rely on some of those terms to introduce advertisements into Prime Video, and a \$2.99 monthly fee for subscribers to access advertisement-free Prime Video content from 2 July 2024, in contravention of s 23(2C) of the ACL; and

- (c) Amazon US was directly or indirectly knowingly concerned in, or party to, the contraventions by Amazon AU.

**B. IMPORTANT FACTS GIVING RISE TO THE CLAIM**

- 4. Amazon offers a subscription program known as “Amazon Prime” (**Prime**), which provides subscribers with a bundle of services, including a digital streaming service known as “Prime Video”, a digital music streaming service, access to an e-book catalogue and delivery services connected with the Amazon marketplace. Prime Video provides subscribers with access to an on-demand library of video content. Prior to 2 July 2024, almost all such content had been delivered advertisement-free.
- 5. Prime subscriptions are offered on a monthly or annual basis. During the Relevant Period, an annual Prime subscription cost \$79 per year, and a monthly Prime subscription cost \$9.99 per month. The alleged contraventions concern contracts entered into with Prime subscribers on an annual basis.
- 6. Consumers contract with Amazon AU for Prime subscriptions through a standardised online sign-up process. During the Relevant Period, the standard form contracts between Amazon AU and annual Prime subscribers (collectively, **Contracts**) comprised, or included, the following terms:
  - (a) Conditions of Use dated 20 October 2023 (**Use Conditions**);
  - (b) Prime Video Terms of Use (AU) dated 31 October 2023 (**Video Terms**); and
  - (c) Prime Terms and Conditions dated 23 October 2023 (**Prime Terms**) and 31 March 2025 (**Revised Prime Terms**).
- 7. During the Relevant Period, the Contracts contained terms that allowed Amazon AU to unilaterally vary the services supplied to subscribers (**Variation of Services Terms**) and terms that permitted Amazon AU to unilaterally vary the terms of those Contracts (**Variation of Agreement Terms**), without any contractual entitlement to a pro rata refund or other meaningful redress (together, the **Relevant Terms**).
- 8. The Variation of Services Terms comprised, at the start of the Relevant Period:
  - (a) **Use Conditions cl 15**: “*We reserve the right to cease providing any Amazon Service, or any part thereof, to discontinue any Amazon Service and to make changes to any Amazon Services, including adding or removing content from Amazon Services at any time. Where we make a materially adverse change to an Amazon Service, as reasonably determined by us, we will provide advance notice to you.*”

- (b) **Video Terms cl 6(d):** *“Amazon may change any aspect of the Service in accordance with clauses 15 and 16 of the Amazon Conditions of Use. Where we make a materially adverse change to this Agreement or the Service, as reasonably determined by us, we will provide you with prior written notice via email or reasonably substitutable means.”*
  - (c) **Prime Terms cl 4:** *“We may in our reasonable discretion change these Terms, the Prime Service, or any part thereof in accordance with the Amazon Conditions of Use. Any changes implemented by Amazon will not affect your rights to cancel your membership autorenewal at any time. Where we make a materially adverse change to these Terms or the Prime Service, as reasonably determined by us, we will provide you with prior written notice via email or reasonably substitutable means.”*
9. The Variation of Agreement Terms comprised, at the start of the Relevant Period, in addition to cl 4 of the Prime Terms:
- (a) **Use Conditions cl 16:** *“We reserve the right to make changes to any Conditions of Use and Service Terms at any time by posting the changes on Amazon.com.au, or such other website or application that is used to provide the Amazon Services. Where we make a materially adverse change to these Conditions of Use or any applicable Service Terms, as reasonably determined by us, Amazon will provide advance notice to you.”*
  - (b) **Video Terms cl 6(e):** *“Amazon reserves the right to amend any part of this Agreement in accordance with clause 16 of the Amazon Conditions of Use. Where we make a materially adverse change, as reasonably determined by us, we will provide you with written notice via email, or if no email is available, via reasonably substitutable means.”*
10. Despite the introduction of the Revised Prime Terms, the Contracts did not provide annual Prime subscribers with any contractual entitlement to a pro rata refund or other meaningful redress in respect of materially adverse changes to either the Prime service or the Contracts themselves until after 18 August 2025.
11. On 22 September 2023, Amazon AU announced it would introduce advertisements to Prime Video movies and television shows in Australia in 2024. On 21 May 2024, Amazon US, alternatively Amazon AU, notified Prime subscribers that the change would take effect from 2 July 2024 and that to continue to access advertisement-free movies and television shows they would be required to pay an additional \$2.99 per month (**Ad-Free Option**).
12. On 2 July 2024, Amazon AU implemented the change. As at that date, over 850,000 Prime subscribers had paid an annual fee for their subscription, which included access to Prime Video. Those subscribers were thereafter provided with a degraded

Prime Video service for the balance of their subscription. Under the Contracts, subscribers who wished to avoid that change had to pay an additional amount for the Ad-Free Option, and they had no contractual entitlement to a pro rata refund or other redress if they chose to cancel their subscription.

**C. RELIEF SOUGHT FROM THE COURT**

13. The ACCC claims the relief set out in the accompanying originating application.

**D. PRIMARY LEGAL GROUNDS FOR THE RELIEF SOUGHT**

14. Each of the Contracts was a standard form consumer contract within the meaning of s 23(3)(a) of the ACL. The ACCC relies on the presumption in s 27(1) of the ACL.
15. **Unfairness.** Having regard to the Contracts as a whole, each of the Relevant Terms was unfair within the meaning of s 24(1) of the ACL because it:
- (a) caused a significant imbalance in the parties' rights and obligations;
  - (b) was not reasonably necessary to protect Amazon AU's legitimate interests, in respect of which the ACCC relies on the presumption in s 24(4) of the ACL; and
  - (c) would have caused detriment to consumers if relied upon by Amazon AU.
16. The Relevant Terms caused a significant imbalance in the parties' rights and obligations. The terms granted Amazon AU unilateral power to make materially adverse changes to the services provided under the Contracts at the time of contracting, and/or the Contracts themselves, without any meaningful constraint. Annual Prime subscribers had no meaningful entitlement to redress: the requirement that Amazon AU give subscribers notice of any materially adverse change did not address the imbalance, nor did subscribers' ability to terminate the Contracts in circumstances where they had no contractual entitlement to a pro rata refund or other meaningful redress. Reliance by Amazon AU on the Relevant Terms would have caused obvious detriment to consumers. Clauses of this kind are identified in s 25(d) and (g) of the ACL as terms that may be unfair.
17. Nor were the Relevant Terms reasonably necessary to protect Amazon AU's legitimate interests. This is supported by the fact that Amazon AU subsequently amended cl 4 of the Revised Prime Terms and cl 6(d)-(e) of the Video Terms to introduce a right to a pro rata refund where annual Prime subscribers cancelled their services in response to materially adverse changes.
18. **Contraventions of s 23(2A).** Between 9 November 2023 and the end of the Relevant Period, Amazon AU contravened s 23(2A) of the ACL on each occasion that it

proposed the inclusion of a Relevant Term in a Contract that it made with an annual Prime subscriber, in circumstances where each Contract was a standard form consumer contract and included a Relevant Term, and each Relevant Term was unfair. Amazon AU separately contravened s 23(2A) in respect of each Relevant Term (s 23(2B)).

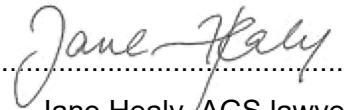
19. **Contraventions of s 23(2C).** As described in paragraph 11 above, on 21 May 2024 Amazon US, alternatively Amazon AU, notified subscribers of the introduction of advertisements to Prime Video and the availability of the Ad-Free Option, and stated that no action was required from subscribers. By introducing advertisements to Prime Video on 2 July 2024 and implementing the Ad-Free Option in that way, Amazon AU relied, or purported to rely, on one or more of the Variation of Services Terms. Amazon AU contravened s 23(2C) on each occasion that it relied, or purported to rely, on those terms in respect of each annual Prime subscriber who subscribed or renewed their subscription from 9 November 2023.
20. **Accessorial liability.** Amazon US was directly or indirectly knowingly concerned in or party to the contraventions of Amazon AU set out above and, as a result, is also liable to pay a pecuniary penalty under s 224(1)(e) of the ACL. Amazon US was involved in drafting the Relevant Terms. It was also responsible for proposing and deciding to implement the introduction of advertisements into Prime Video movies and television shows globally (including in Australia), and it assisted in planning, announcing and implementing that decision. In those circumstances, Amazon US knew that Amazon AU entered into standard form consumer contracts with its annual Prime subscribers, that the Contracts contained the Relevant Terms, and that Amazon AU (for s 23(2A) purposes) proposed and (for s 23(2C) purposes) relied, or purported to rely, on the applicable terms.

#### **E. ALLEGED HARM**

21. In relation to s 23(2A), more than a million annual Prime subscribers were exposed to the risk that Amazon AU would rely, or purport to rely, on the Relevant Terms to unilaterally degrade their Prime services or the Contracts. Because of the breadth of the Relevant Terms, Amazon AU could do so without any meaningful constraint, and in a way that significantly altered the services it provided and/or the governing contractual framework. Despite making a substantial prepayment for their subscription, annual Prime subscribers had no meaningful entitlement to redress.
22. In relation to s 23(2C), as at 2 July 2024, there were more than 850,000 annual Prime subscribers (over 600,000 of whom had subscribed, or renewed their subscription,

since 9 November 2023). Those subscribers were provided with a degraded, ad-supported Prime Video service for the balance of their prepaid term unless they paid for the Ad-Free Option. As a result, they were deprived of the service offered and paid for at the time of contracting, without any contractual entitlement to a pro rata refund or other meaningful redress.

Date: 29 June 2026

A handwritten signature in cursive script that reads "Jane Healy". The signature is written in black ink and is positioned above a horizontal dotted line.

Jane Healy, AGS lawyer

for and on behalf of the Australian Government Solicitor  
Solicitor for the Applicant

This Concise Statement was prepared by Andrew McClelland KC and Sarah Zeleznikow of counsel.

**Schedule**

**FEDERAL COURT OF AUSTRALIA  
DISTRICT REGISTRY: VICTORIA  
Division: General**

**No VID of 2026**

**Respondents**

Second Respondent

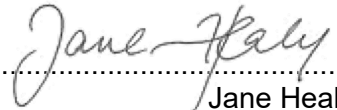
**AMAZON.COM SERVICES LLC**

Date: 29 June 2026

**CERTIFICATE OF LAWYER**

I, Jane Healy, certify to the Court that, in relation to the Concise Statement filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 29 June 2026

A handwritten signature in cursive script that reads "Jane Healy". The signature is written in black ink and is positioned above a horizontal dotted line.

Jane Healy  
AGS lawyer

for and on behalf of the Australian Government Solicitor  
Solicitor for the Applicant