

Concise Statement

No. NSD of 2025

Federal Court of Australia

District Registry: New South Wales

Division: General

AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

Applicant

MICROSOFT CORPORATION

First Respondent

MICROSOFT PTY LTD (ACN 002 589 460)

Second Respondent

INTRODUCTION

1. The Applicant (the **ACCC**) alleges that since 31 October 2024 (**Relevant Period**), the Respondents engaged in misleading or deceptive conduct and/or made false or misleading representations about goods and/or services in breach of ss 18, 29(1)(i), (l) and (m) of the *Australian Consumer Law* (**ACL**) by offering existing subscribers a choice between (1) maintaining access to their Microsoft 365 Personal or Family subscription bundles by accepting artificial intelligence (**AI**) integration, at an increased price, or (2) cancellation of their subscription; in circumstances where subscribers had an undisclosed third option of maintaining access to their subscription without AI integration, at the old subscription price. The first respondent deliberately omitted reference to the undisclosed third option in circumstances where consumers would expect to be made aware of it, in order to minimise the number of consumers opting out of AI integration and increased pricing.

IMPORTANT FACTS GIVING RISE TO THE CLAIM

2. The first respondent (**Microsoft US**) is a corporation incorporated under the laws of the State of Washington in the United States of America. Microsoft US carries on the business of manufacturing, marketing, distributing and supplying computer products

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and services. Microsoft US was responsible for the preparation and issuance of communications to consumers about changes to their Microsoft 365 subscriptions.

3. The second respondent (**Microsoft AU**) is an indirect wholly-owned subsidiary of Microsoft US (together with Microsoft US, **Microsoft**). Microsoft AU sells Microsoft US computer products and services in Australia to Australian consumers. Microsoft AU adopted the communications of Microsoft US in relation to Microsoft 365 subscription in its capacity as seller of those subscriptions to Australian consumers.
4. During the Relevant Period, Microsoft supplied software and services to Australian consumers, including through the sale of Microsoft 365 Personal or Family subscription bundles. Prior to 31 October 2024, the **Bundles** comprised:
 - a. Microsoft 365 Personal which provided a subscriber with access to Word, Excel, PowerPoint, Outlook, and the OneNote desktop applications; data and device security with the Defender application; cloud storage; ad-free outlook.com email; and filters and effects in the Clipchamp video editing application; and
 - b. Microsoft 365 Family which provided access to the same software and services as Microsoft 365 Personal, but for use by the subscription owner and up to five additional people.
5. The Bundles were billed monthly or annually. Subscribers could auto-renew their subscription (**AR Subscribers**).
6. In 2023, Microsoft US launched **Copilot**, an AI product that can assist with drafting, editing documents, analysing data and performing routine tasks.

AI integration and price increase

7. On 31 October 2024, Microsoft US published a blog post on its website (<https://news.microsoft.com/apac/2024/10/31/unlock-your-potential-with-copilot-and-designer-in-microsoft-365-personal-and-family/>) announcing that AI (in the form of Copilot) would be integrated across the products in the Bundles, and that subscription prices would be increased upon AR Subscribers' next renewal (**Blog Post**). A copy of the Blog Post is at **Annexure A**.
8. The price increase for the Bundles was as follows. For Microsoft 365 Personal, annual subscription fees increased from \$109 to \$159, whilst monthly subscription fees increased from \$11 to \$16. For Microsoft 365 Family, annual subscription fees increased from \$139 to \$179, whilst monthly subscription fees increased from \$14 to \$18.

9. Microsoft communicated the Copilot integration and/or price increase to existing AR Subscribers who had subscribed for a Bundle on or before 30 October 2024 and had auto-renewal enabled (**Existing AR Subscribers**) in two emails.
10. First, between 31 October 2024 and 31 January 2025, Microsoft issued an email to Existing AR Subscribers (**First Email**), at least 30 days before their next renewal date. Microsoft sent the First Email to approximately 2.7 million Existing AR Subscribers. The First Email was headed “Upcoming price change for your Microsoft 365 subscription”. It stated that to “continue evolving the benefits included with your subscription and ensure Microsoft customers are among the first to access powerful AI features in our apps” prices were being adjusted; the new price would be charged unless the consumer cancelled or turned off recurring billing; and that “[b]y continuing your subscription, you’ll maintain access to your secure cloud storage, advanced security for your data and devices, AI-powered features, along with all your other subscription benefits.” A copy of the First Email is at **Annexure B**.
11. Second, from mid-November 2024, Microsoft issued an email to Existing AR Subscribers 7 days before their next renewal date (**Second Email**). The Second Email was headed “Important update about your Microsoft 365 [Personal/Family] subscription”. It stated that unless the consumer cancelled their subscription the new price would be charged at the next renewal date. A copy of the Second Email is at **Annexure C**.

Classic Option

12. During the Relevant Period, Microsoft in fact offered an alternative option to Existing AR Subscribers to retain access to their Bundle subscription, without AI integration and retaining their pre-31 October 2024 subscription pricing (the **Classic Option**).
13. During the Relevant Period, the Classic Option was only made visible to Existing AR Subscribers after they initiated the process of cancelling their subscription (**Cancellation Flow**).
14. None of the Blog Post, First Email or Second Email (together, **Communications**) referred to the Classic Option.
15. During the Relevant Period, the Microsoft 365 Bundle storefront webpages made no reference to the Classic Option, and referred only to the more expensive AI-integrated Bundles.

Representations

16. By publishing the Blog Post and/or the First Email, Microsoft, in trade or commerce, represented that Existing AR Subscribers had to accept AI integration to maintain access to their Bundle subscription (**Copilot Necessity Representation**).
17. By publishing each of the Communications, Microsoft, in trade or commerce, represented that Existing AR Subscribers had to pay higher prices to maintain access to their Bundle subscription (**Price Necessity Representation**).
18. Further or alternatively, by publishing the First Email and/or Second Email, Microsoft, in trade or commerce represented that Existing AR Subscribers had only two choices: to accept AI integration and pay the higher price at the next renewal, or to cancel their subscription (**Options Representation**).
19. The representations set out in paragraphs 16, 17 and 18 were partly express and partly implied. To the extent they were express, they were made by the statements in the Communications giving Existing AR Subscribers only two choices. To the extent they were implied, they were implied by the failure of the Communications to refer to any other option to maintain access to the Bundle at the pre-31 October 2024 price without Copilot, namely the Classic Option. Further, or alternatively, the Existing AR Subscribers had a reasonable expectation that the Classic Option would be disclosed to them in the Communications, which were otherwise communicating their options to maintain continued access to their Bundle subscriptions.
20. The Copilot Necessity Representation was false or misleading because Existing AR Subscribers did not have to accept AI integration to maintain access to their Bundle subscription, because the Classic Option was available.
21. The Price Necessity Representation was false or misleading because Existing AR Subscribers did not have to pay a higher price to maintain access to their Bundle subscription, because the Classic Option was available at the price they were already paying.
22. The Options Representation was false and misleading because Existing AR Subscribers did not have only two options, they had a third option, the Classic Option.

PRIMARY LEGAL GROUNDS FOR THE RELIEF SOUGHT

23. By reason of the matters set out in paragraphs 17, 18, 21, and 22 above, Microsoft US and Microsoft AU, in connection with the supply, possible supply and promotion of the supply of the Bundles, each engaged in misleading or deceptive conduct and/or made false or misleading representations as to the price of goods and/or services, in contravention of ss 18 and 29(1)(i) of the ACL.
24. By reason of the matters set out in paragraphs 16, 18, 20, and 22 above, Microsoft US and Microsoft AU, in connection with the supply, possible supply and promotion of the supply of the Bundles, each engaged in misleading or deceptive conduct and/or made false or misleading representations as to the need for goods and/or services, in contravention of ss 18 and 29(1)(l) of the ACL.
25. By reason of the matters set out in paragraphs 18 and 22 above, Microsoft US and Microsoft AU, in connection with the supply, possible supply and promotion of the supply of the Bundles, each engaged in misleading or deceptive conduct and/or made false or misleading representations as to the existence, exclusion or effect of any condition or right in contravention of ss 18 and 29(1)(m) of the ACL.

RELIEF SOUGHT FROM THE COURT

26. The ACCC seeks the relief set out in the accompanying Originating Application.

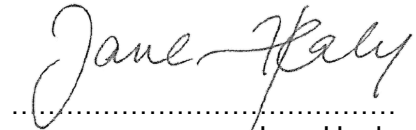
ALLEGED HARM

27. The Classic Option was deliberately hidden within the Cancellation Flow by Microsoft US in order to minimise the number of consumers opting for it, thereby increasing the uptake of Copilot, which Microsoft US knew many consumers were sceptical of.
28. As a result of Microsoft's conduct, consumers may have permitted auto-renewal of their Bundle subscriptions at a higher price, with AI integration, based on false or misleading information, believing it was their only option to maintain access to their Bundle. If aware of the Classic Option during the renewal period, many consumers may have switched to that option. Consumers may have done so for cost-saving reasons, because they did not want or need AI integration, or a combination thereof. Consumers that would have switched to the Classic Option if they had been aware of it, but instead accepted the higher Bundle pricing, have suffered loss, being the difference in price between the two options.

OTHER

29. The ACCC does not consider the issues in this Concise Statement are suitable for a report by a referee under section 54A of the *Federal Court of Australia Act 1976* (Cth).

Date: 27 October 2025



Jane Healy
AGS lawyer

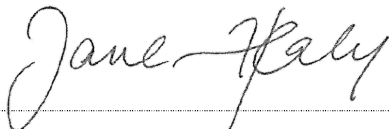
for and on behalf of the Australian Government Solicitor
Solicitor for the Applicant

This Concise Statement was prepared by Tamieka Spencer Bruce SC and Ella Delany of counsel.

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: 27 October 2025



Signed by Jane Healy

AGS lawyer

for and on behalf of the Australian Government

Solicitor

Lawyer for the Applicant

Unlock your potential with Copilot and Designer in Microsoft 365 Personal and Family

October 31, 2024



Since we launched Microsoft 365 (formerly Office 365) to consumers in 2013, we've steadily delivered new apps, features, and benefits to our subscribers. These include advanced security with Microsoft Defender, creativity tools like Clipchamp, and countless enhancements to Word, Excel, PowerPoint, OneNote, and Outlook.

Today, we're building on that decade of innovation by bringing Copilot and Designer to Microsoft 365 Personal and Family subscribers in Australia, New Zealand, Malaysia, Singapore, Taiwan, and Thailand. These changes bring the transformative power of AI to the personal productivity and creativity apps that millions of people use every day.

The next step in our Copilot journey

It's been nine months since we introduced consumers to Copilot in our Microsoft 365 apps via [Copilot Pro](#). We've spent that time adding new features, improving performance, and listening carefully to customer feedback. Based on that feedback, **we're making Copilot part of our Microsoft 365 Personal and Family subscriptions.**

Productivity and creativity are at the heart of Microsoft 365, and with Copilot integration across our apps you're now equipped with an AI companion that doesn't just make your work easier—it makes it more effective (and fun). Here are the Copilot experiences coming to Microsoft 365 Personal and Family subscribers:

- **Copilot in Word** transforms your writing and reading experience by generating outlines or full drafts, suggesting rewrites to better capture your ideas, summarizing long texts into digestible pieces, and even creating unique images to complement your documents.
- **Copilot in Excel** helps you analyze your data to provide actionable insights and graphs, and generates formulas based on your requirements.
- **Copilot in PowerPoint** enhances your storytelling by generating full outlines with visuals, text, and speaker notes, and allows you to create custom images to make your presentations more engaging.
- **Copilot in Outlook** makes managing emails a breeze by drafting emails based on your intent, providing tips to improve tone and clarity, and summarizing email threads to help you catch up quickly.
- **Copilot in OneNote** takes your notetaking to the next level by helping you organize information, create lists, draft plans, generate ideas, and offers insights into past notes.

Furthermore, **we're making our newest app, [Microsoft Designer](#), part of our Microsoft 365 Personal and Family subscriptions.** In addition to accessing Designer within apps like Word and PowerPoint, you can also use the standalone Designer app on the web and mobile. Use Designer to create eye-catching images by simply describing what you're looking for or choosing from pre-populated ideas. Plus, expertly edit your photos with AI by erasing unwanted objects with ease.

Microsoft 365 Personal and Family subscribers will receive a monthly allotment of AI credits to use Copilot in Word, Excel, PowerPoint, Outlook, OneNote, and Designer. The credits will also apply to apps like Paint, Photos, and Notepad on Windows. Those who frequently use Copilot can upgrade to [Copilot Pro](#), without worrying about usage limits. [Learn more about AI credits.](#)

To reflect the value we've added over the past decade and enable us to deliver new innovations for years to come, we're increasing the prices of Microsoft 365 Personal and Family. The price increase will apply to existing subscribers upon their next renewal. The price increases vary in each market—[visit our website for exact local pricing](#). For Microsoft 365 Family subscribers, Copilot will be available to the subscription owner and cannot be shared with others.

Safe and responsible AI

At Microsoft, we are focused on building tools that harness the incredible potential of generative AI while providing a safe experience for our users. We are committed to ensuring that our systems are used in a responsible and ethical manner. We have implemented a responsible AI process and take actions to mitigate negative outcomes and further prevent misuse, including guardrails, threat monitoring, and abuse detection, and provenance technology, and we are continuously working to strengthen our safety systems to help create a safer environment. [Learn how we make our AI products safer for consumers.](#)

Accessing Copilot in Microsoft 365 Personal and Family

Existing Microsoft 365 Personal and Family subscribers will automatically get access to Copilot in their apps once they [update to the latest version](#). If you're not already a Microsoft 365 Personal or Family subscriber, [sign up directly from Microsoft](#) or via your favorite retailer.

Annexure B

Having trouble viewing this email? | [View it online](#)



Upcoming price change for your Microsoft 365 subscription

Thank you for being a valued Microsoft 365 subscriber. Today, we're sharing an upcoming change to your subscription. To continue evolving the benefits included with your subscription and ensure Microsoft customers are among the first to access powerful AI features in our apps, we're adjusting our subscription prices.

Starting on **April 19, 2025**, the price for your **Microsoft 365 Personal** subscription will change from **AUD 109.00/year** to **AUD 159.00/year**. You will be charged the new price unless you cancel or turn off recurring billing at least two days before your next billing date by visiting your [Microsoft account](#). By continuing your subscription, you'll maintain access to your secure cloud storage, advanced security for your data and devices, AI-powered features, along with all your other [subscription benefits](#).

Thank you for choosing Microsoft.

Learn more about how to manage your subscription, including [how to cancel](#).

You are receiving this email because you have a Microsoft 365 subscription.

[Privacy Statement](#)

Microsoft Corporation, One Microsoft Way, Redmond, WA 98052



Annexure C



Important update about your Microsoft 365 Personal subscription

We received your last payment of AUD 109.00 on Friday, April 19, 2024 for your Microsoft 365 Personal subscription. Thank you for your payment.

We want to let you know about a change to the amount of your next payment. Unless you cancel two days before Saturday, April 19, 2025, we'll charge AUD 159.00 including taxes every year to your PayPal.

We'll tell you if this price ever changes. Cancel any time to stop future charges or change how you pay by managing your subscription in your Microsoft account.

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