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Consumer Policy Unit
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By email: uctprotections@treasury.gov.au

Re: Strengthening protections against unfair contract terms - exposure draft legislation

The Australian Competition and Consumer Commission (ACCC) welcomes the release of the exposure draft legislation and explanatory material aimed at strengthening the existing protections against unfair contract terms in the Australian Consumer Law (ACL).

The ACCC has been, and remains, a strong proponent of strengthening protections for consumers and small businesses under the ACL's unfair contract terms (UCT) regime, given the real detriment UCTs can cause to consumers and small businesses in Australia.

The ACCC considers that the exposure draft legislation will achieve the government's objectives, particularly by reducing the prevalence of UCTs in consumer and small business contracts. The introduction of a civil penalty prohibition in particular will provide a powerful and direct incentive for businesses to ensure compliance.

We also welcome further clarifications and amendments to ensure that UCT protections better cover the types of small business contracts originally intended to be covered by the legislation. That is, standard form contracts imposed on businesses who have limited or no countervailing bargaining power, no meaningful choice about whether or not to enter such contracts, and/or no power to negotiate the terms of that contract.

We welcome and support the Government's commitment to enhancing the UCT regime.

Yours sincerely

Rami Greiss

Executive General Manager

Consumer and Fair Trading