



AUSTRALIAN HOTELS ASSOCIATION

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Consumer Policy Framework Unit
Small Business Competition and Consumer Policy Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: AustralianConsumerLaw@treasury.gov.au
Contact: Shakira Jones (02) 6263 3833.

Dear Sir/Madam,

Submission re: Unfair Contracts for Small Business

Thank you for the opportunity to make a submission in regard to the extension of extend the consumer unfair contract term protections to small businesses. We understand that the effect of the proposed legislation is that a court will be able to strike out a term in a small business contract that is considered unfair.

The protections will apply to businesses that employ less than 20 persons and where the value of the contract does not exceed either \$100,000, or \$250,000 for contracts that last longer than 12 months. In general, the Australian Hotels Association supports the new legislation. Whilst AHA is supportive and appreciative of any protections for small business, there are some concerns as addressed below.

Limits

Our concern is that the limits may not be wide enough to provide meaningful use for many hotels. For example, the limit of \$100,000 would be easily exceeded by hotels with contracts relating to high volume products such as e.g. labour, beer, wagering.

Only applies to new contracts

There is an issue of the start of the operation of the UCT law, is it contracts that are entered into after the law. Some existing contracts are up to five years and hence the law may not have an impact for a while. The legislation should be retrospective so as to capture current unfair contracts signed before the legislation comes into force.

Threshold

There is also an issue as to how to calculate the threshold re transactions. Is it what the business actually purchases or handles for the supplier; this covers the issue of agency etc. For example, is the \$100,000 limit on a pub TAB wagering contract related to the gross value of sales or net commission?

Yours faithfully,

STEPHEN FERGUSON
AHA NATIONAL CEO