

Heads up! Penalties for unfair contract terms are on their way

Currently, the Australian Consumer Law says that unfair contract terms in standard form contracts with consumers or small businesses are void.

That just means they're ineffective and can't be enforced. They're not prohibited. The only consequence is not being able to rely on the unfair terms. And maybe a bit of public shaming if the ACCC pulls you up.

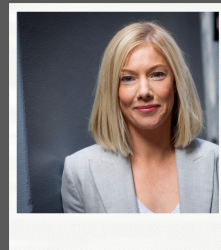
Last week, the federal and state governments agreed to strengthen the unfair contract terms regime. Under the planned amendments:

- unfair contract terms will become unlawful;
- pecuniary penalties will apply (but we don't yet know at what level);
- the scope of 'small business' contracts will be expanded; and
- there will be further clarity as to what comprises a 'standard form contract'.

The actual legislation is still a little way off. An exposure draft and consultation are the next steps. What's clear at this stage is that penalties are a-coming. That will change the risk profile on all contracts to which the regime applies.

Stay tuned, we'll keep you posted as the action unfolds.

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