

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

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Supplementary Budget Estimates

20-21 November 2013

Question: **SBT 1098**

Topic: **Unfair contract terms in consumer contracts**

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Senator PRATT asked:

1098. Senator PRATT: What changes have been made in standard form contracts, and in which particular industries? I think you mentioned motor vehicle hire, communications—

Mr Sims: Scott, could you help me out here?

Mr Gregson: Certainly. We also looked at—we perhaps have not published as much information on it—the fitness industry. Telecommunications contracts were another area that we focused on. In the last year we put out a report on the achievements of our compliance work. I would be happy to forward that to you.

Answer:

1098. Unfair contract terms used in standard form consumer contracts have been changed or removed following an industry specific review and engagement by the Australian Competition and Consumer Commission (ACCC).

The ACCC reviewed standard form consumer contract provisions in the airline, telecommunications, fitness and vehicle rental industries, as well as some contracts commonly used by online traders. Standard form contracts used by travel agents were also examined. Fitness and online consumer contracts were reviewed as part of a national project led by the ACCC and Consumer Affairs Victoria.

These industries were chosen due to a number of factors including relatively high levels of consumer complaints, feedback from consumer stakeholders and potential for widespread consumer detriment.

The aim of the industry review was two-fold. First we wanted to evaluate compliance, and secondly work with business to achieve positive changes to standard form consumer contracts.

As part of the review and engagement process, the ACCC identified eight types of terms which are of concern and invited businesses to change or remove them. They are:

1. Contract terms that allow the business to change the contract without consent from the consumer
2. Terms that cause confusion about the agency arrangements that apply and that seek to unfairly absolve the agent from liability
3. Terms that unfairly restrict the consumer's right to terminate the contract
4. Terms that suspend or terminate the services being provided to the consumer under the contract

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5. Terms that make the consumer liable for things that would ordinarily be outside of their control
6. Terms that prevent the consumer from relying on representations made by the business or its agents
7. Terms seeking to limit consumer guarantee rights
8. Terms that remove a consumer's credit card chargeback rights when buying the service through an agent.

The ACCC found that in most cases, the particular businesses under review chose to make changes to their standard form contracts. Problematic terms were identified and either amended or deleted.

The ACCC's report *Unfair contract terms – industry review outcomes* is available on the ACCC's website at <http://www.accc.gov.au/publications/unfair-contract-terms>.