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Guide to Unfair Contract Terms
Consumer Strategies
Australian Competition and Consumer Commission
GPO Box 520
Melbourne VIC 3001

email: unfaircontracts@accc.gov.au

16th April 2010

Dear Sir/Madam,

National Legal Aid, which represents the Directors of the eight State and Territory Legal Aid Commissions, welcomes the opportunity to comment on the national publication *Australian Consumer Law: A guide to unfair contract terms*.

General comments

National Legal Aid welcomes the initiative to develop a guide to explain the nature and application of the Australian Consumer Law. Our comments below are made in the context of the utility of the guide in assisting consumers to understand the role of the Australian Consumer Law.

National Legal Aid has had the benefit of reviewing the submission provided by the Consumer Action Law Centre (CALC) and the NSW Consumer Credit Legal Centre, dated 12 April 2010. We endorse the comments made in that submission and take this opportunity to highlight the following:

- Some of the language used by the guide will not be accessible to many consumers, particularly those from disadvantaged backgrounds;
- guidance as to how the Australian Consumer Law is likely to be interpreted and applied by the Regulator is limited; and
- the referral guide is not complete, particularly in relation to assistance for consumers to access the protections contained in the Australian Consumer Law.

Consumer access to the guide

Whilst the guide is easy to navigate and will be a useful document for professionals working in the field such as lawyers, it is not readily accessible to the majority of our clients due to the complexity of the language and concepts used in the guide.

It is not entirely clear who the target audience for this guide is intended to be – if it is for consumers, especially those with little or no prior knowledge of the law in this area – then it will need to be written in a simpler form and in plainer English. A good example of this is the text under the heading of *Section 4(1) (e) ACL, section 12BH (1) (e) ASIC Act*. The explanation provided is complex and difficult to follow. Further, if the guide is intended for consumers, then it might be more appropriate to provide an example that reflects a situation that will be to the consumer's advantage. In this case, the example would be of a renewed contract that is terminated (and not rolled over), so that its terms can be renegotiated with the consumer.

The target audience of the guide is also very relevant in considering the section *Can consumers take action for themselves?* If the guide is intended for consumers, then this section could also include reference to alternative dispute resolution schemes, as well as courts and tribunals – and where consumers might find legal assistance in order to access these forums.

National Legal Aid would be pleased to also work with the regulator and other consumer organisations to provide this information for inclusion in the guide, and to assist in working on the guide to better meet the information needs of consumers in this area.

Thank you for the opportunity to provide these comments. If you require further information about any of the matters raised in this submission, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Alan Kirkland', with a stylized, elongated horizontal stroke.

Alan Kirkland
Chairperson
National Legal Aid