



**Australian
Privacy
Foundation**

email: mail@privacy.org.au
web: www.privacy.org.au

13 April 2010

Guide to Unfair Contract Terms
Consumer Strategies
Australian Competition and Consumer Commission
GPO Box 520 Melbourne VIC 3001
Email: unfaircontracts@accc.gov.au

CC: Australian Privacy Commissioner
Consumer Action Law Centre
Consumer Credit Legal Service (NSW)

Subject: Draft Australian Consumer Law: Guide to Unfair Contract Terms

The Australian Privacy Foundation wishes to endorse the submission by the Consumer Action law centre and CCLC (NSW) dated 12 April on the draft Guide.

The new law is generally relevant to privacy as it affects the way in which privacy obligations and rights are explained to consumers in terms and conditions. It is also specifically relevant to compliance with the requirement for collection of personal information to be by 'fair means' (NPP 1.2)

In addition to our support for the generic points made by CALC/CCLC, we encourage ACCC, ASIC and state and territory consumer protection agencies to liaise closely with the Office of the Privacy Commissioner in providing guidance on how privacy notices and terms need to be presented consistent with the new provisions of the consumer law.

We have particular concerns about the role of consent, including the common practice of 'bundling' consent for several proposed uses or disclosures, and about the way in which consumers are offered choices as to secondary uses of personal information (opt-in or opt-out).

Nigel Waters

Board Member, APF
Phone: 02 4981 0828, 0407 230342
Email: Board5@privacy.org.au