

INFORMATION FOR FRANCHISEES ON UCT IN AGREEMENTS

20 December 2023

To: ALL AADA MEMBERS

The AADA is advising members that the ACCC has released a report on compliance with Unfair Contract Terms (UCT) in franchise agreements, so members who are negotiating new agreements are informed about the Regulator's views.

On 15 December 2023, the ACCC published the '[Key findings of targeted compliance checks on franchisors report](#)' which provides guidance to the franchising sector about complying with the UCT laws, after penalties came into effect from 10 November 2023.

This report details the ACCC's thinking around key issues that we see in many dealer agreements, Dealers and Dealer Councils should familiarise themselves with this information to assist in negotiations with franchisors.

This report was published following a review of franchising agreements by the ACCC which included, compliance checks with 10 franchisors from a variety of industries requesting franchisors voluntarily provide the ACCC with the latest copies of their key facts sheet, franchise agreement and disclosure document.

The review found that a significant number of clauses in the reviewed agreements raised UCT concerns and identified potential UCTs in 5 main areas:

- unilateral variation clauses
- withholding and set-off payment clauses
- audit power clauses
- restraint of trade clauses
- termination clauses.

The AADA urges Dealers to review their franchise agreements for potential UCTs and note that it is not sufficient for a franchisor to simply add a clause in a contract to state that all the terms are reasonable and necessary.

More information on UCTs is available on the [ACCC website](#).

If you have any questions or need further information, please contact:

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