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TELECOMMUNICATIONS CONTRACT REVIEW

Unfair contract terms



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Report on Commerce Commission review of telecommunications contracts for compliance with Unfair Contract Terms rules

Purpose

- 1 In March 2015, the Fair Trading Act 1986 (**the Act**) was amended to include new provisions that prohibit unfair contract terms in standard form consumer contracts (**the UCT provisions**).
- 2 Since April 2015 the Commerce Commission (**Commission**) has reviewed standard form contracts across the New Zealand telecommunications sector for compliance with the UCT provisions.
- 3 This report summarises:
 - 3.1 Aspects of the new unfair contract terms laws;
 - 3.2 The engagement the Commission had with telecommunications companies;
 - 3.3 The types of terms the Commission found in the telecommunications standard form contracts;
 - 3.4 The Commission's views on those terms; and
 - 3.5 The positive changes made as a result of this engagement.
- 4 The Commission anticipates that this report will provide guidance to other industries, and their advisers, as to the effect of these new laws, particularly as to the types of terms that may be unfair and the steps a business can take to remedy any potential unfairness.
- 5 It is important to note that the guidance in this report is specific to its context. For more general guidance on the UCT provisions, we suggest you refer to the Commission's Unfair Contract Terms Guidelines.¹

Introduction

- 6 The UCT provisions have wide reach. They affect every standard form contract entered into between a business and a New Zealand consumer.²
- 7 The Commerce Commission (**Commission**) has sole responsibility for enforcing the UCT provisions.³
- 8 The Commission has received many complaints over the years about potentially unfair terms in standard form contracts that gave companies significant rights at the expense of their customers. Before the UCT provisions were introduced, notwithstanding that these terms might cause significant consumer harm, there was little the Commission could do about the potential imbalance created by those contract terms, and consumers were also unable or unlikely to take action on their own account. The UCT provisions now give the Commission the tools to investigate these contracts.
- 9 Similar UCT provisions have existed in overseas jurisdictions, including the United Kingdom and Australia, for a number of years. The Commission has spoken to the regulators in the United Kingdom and Australia to understand their experience in enforcing these laws and to seek guidance as to the industries where they had found potentially unfair terms to be most prevalent.

1. <http://www.comcom.govt.nz/fair-trading/guidelines/unfair-contract-term-guidelines/>

2. Consumer is defined in section 2(1) of the Act as a person who acquires goods of a kind ordinarily acquired for personal, domestic or household use.

3. Only the Commission is able to commence proceedings under s46H of the Fair Trading Act.

- 10 One of the key sectors identified in those discussions was the telecommunications sector. Overseas regulators told us that the telecommunications sector was one in which potentially unfair terms were common in their countries.
- 11 Additionally, many of the past complaints about unfair contract terms received by the Commission were about telecommunications contracts.
- 12 As a result of our discussions with overseas regulators, the past complaints we have received and our assessment of the consumer harm that could be caused by unfair terms in this sector, the Commission decided that the telecommunications sector would be a key focus during the first 12 months of the new laws.
- 13 The Commission has prioritised a review of contracts in the electricity retail, credit and gym sectors, for similar reasons. Our work in those areas is on-going.

Purpose of the Telecommunications project

- 14 The overall breadth of the UCT provisions (and the fact that only the Commission can take proceedings) provides the Commission with a broad remit to investigate potentially unfair terms and to take action.
- 15 The purpose of the telecommunications project was to exercise that enforcement remit in a sector that the Commission had identified as having a high potential for potentially unfair terms and attendant consumer harm.
- 16 The Commission's goal was to ensure, as best it could, that the standard form consumer contracts used in the telecommunications sector comply with the new laws.
- 17 To achieve this goal, we intended to review the standard form consumer contracts used in the telecommunications sector, discuss with companies their position in relation to the terms, encourage the companies to comply with the law and, where appropriate, look to take court proceedings to address any remaining unfair terms.
- 18 Ultimately the Commission has achieved its goal without having to take court proceedings to achieve compliance with the UCT provisions. As a result of this project, the companies have now amended, or will shortly amend, their contracts to address the terms that the Commission considered to be potentially unfair.

Background – Summary of new law

- 19 The UCT provisions came into force on 17 March 2015. The UCT provisions have been inserted into the Act at section 26A and under Part 4A at sections 46H to 46M.
- 20 Under the UCT provisions, unfair terms are prohibited in all standard form consumer contracts entered into after 17 March 2015 and those contracts (except insurance contracts) that are renewed or varied after that date.

What is a standard form consumer contract?

- 21 Section 46J of the Act sets out the definition of a standard form consumer contract. There are two key parts to this definition.
- 22 First, the contract must be a “consumer contract”, which means that it must be between a supplier and a consumer, and must relate to the supply of goods or services of a kind ordinarily acquired for personal, domestic or household purposes.⁴
- 23 Second, the contract must be a standard form contract. The factors to be taken into account in determining whether the consumer contract is a standard form consumer contract are set out in section 46J of the Act, and include whether:
 - 23.1 one party has all/most of the bargaining power;
 - 23.2 the contract is prepared by one side before discussion relating to the transaction occurred;
 - 23.3 one party is in effect required to accept or reject the terms in the form presented;
 - 23.4 the extent to which parties had an effective opportunity to negotiate the terms; and
 - 23.5 the extent to which the terms proposed take into account specific characteristics of any party.

When is a term unfair?

- 24 Under section 46I of the Act, the court may declare a term in a standard form consumer contract unfair if it is satisfied that the contract concerned is a standard form consumer contract and the term is unfair as described in section 46L of the Act.
- 25 Section 46L of the Act provides that a court may only give a declaration if it is satisfied that the term:
 - 25.1 would cause a significant imbalance in the parties rights and obligations; and
 - 25.2 it is not reasonably necessary in order to protect the legitimate business interests of the party advantaged by the term; and
 - 25.3 would cause detriment (whether financial or otherwise) to a party if it were applied, enforced or relied on.
- 26 The court can take into account any matters it thinks relevant in determining whether a term is unfair but must take into account the extent to which the term is transparent. The definition of transparent in the Act includes whether it is expressed in reasonably plain language, is legible, is presented clearly, and readily available to the party affected by the term.⁵
- 27 The court must also take account of the contract as a whole. This means that terms that appear to be unfair may be balanced by rights and obligations contained in other clauses of the contract.



4. See section 2 (1) of the Act for definition of ‘consumer contract’.

5. See section 2(1) of the Act for definition of ‘transparent’.

What types of terms are unfair?

- 28 Section 46M of the Act provides a non-exhaustive list of 13 examples of the kinds of contract terms that may be unfair. These are terms that permit (or effectively permit) one party but not the other to:
- 28.1 avoid/limit performance of the contract;
 - 28.2 terminate the contract;
 - 28.3 penalise one party for a breach/termination of the contract;
 - 28.4 vary the terms of the contract;
 - 28.5 renew or not renew the contract;
 - 28.6 allow one party to vary upfront price without right of the other party to terminate;
 - 28.7 allow one party to unilaterally vary the characteristics of the goods/ services to be supplied (including an interest in land);
 - 28.8 unilaterally determine whether a contract has been breached or to interpret its meaning;
 - 28.9 limit one party's vicarious liability for its agents;
 - 28.10 permit one party to assign the contract to the detriment of another party without their consent;
 - 28.11 limit the evidence one party can adduce in proceedings relating to the contract; and
 - 28.12 impose the evidential burden on one party in proceedings relating to the contract.

Some terms are exempt

- 29 Section 46K of the Act provides that some terms cannot be declared unfair by the Court. These are terms that:
- 29.1 define the main subject matter of the contract;
 - 29.2 set the upfront price payable under the contract; and/or
 - 29.3 are required or expressly permitted by any enactment.
- 30 Insurance contracts and any renewals are largely exempted from consideration under the UCT provisions (section 46L(4) of the Act). This is because significant terms, which may otherwise have raised issues under the UCT provisions, have been deemed to be reasonably necessary to protect the legitimate business interests of the insurer.

What action can the Commission take?

- 31 Under section 46H of the Act, the Commission can apply to either the High Court or District Court for a declaration under section 46I that a term in a standard form consumer contract is an unfair contract term. Only the Commission can apply for a declaration although any person who is a party to a standard form consumer contract may ask the Commission to apply to court for a declaration.
- 32 The effect of a declaration made under s46I is that under s26A of the Act, a person must not:
- 32.1 include the unfair term in a standard form contract unless included in a way that complies with the terms (if any) of the decision of the court; or
 - 32.2 otherwise apply, enforce or rely on the unfair contract term.

- 33 If the Commission has obtained a declaration that a term is unfair, and a trader continues to use or rely upon that term, the Commission can then take a criminal prosecution under section 40 of the Act. In addition the Commission can also seek civil orders in a civil proceeding on the contravention of section 26A, seeking the civil remedies set out at sections 41 to 43 and section 46C of the Act, including injunctions, corrective advertising and management banning orders. These remedies will only be available once a declaration has been obtained and section 26A has been contravened.
- 34 The Commission can also use the court enforceable undertaking provisions of the Act on any settlement reached with a business, as an alternative to taking declaration proceedings. The remedies available to the Court for a breach of the undertakings under section 46B of the Act are comprehensive in their own right to address the harm arising from a breach of the undertakings.
- 35 The Commission can also use its other enforcement tools to encourage compliance. In this project, the Commission has sought to encourage the traders to comply with the UCT provisions by removing or amending unfair terms. As a result, the Commission has not had to apply to the court for declarations or require enforceable undertakings to achieve compliance.

The companies involved

- 36 We reviewed the standard form contracts of seven telecommunications businesses:
- 36.1 Spark New Zealand Limited⁶ (**Spark**),
 - 36.2 Vodafone New Zealand Limited (**Vodafone**),
 - 36.3 CallPlus Services Limited (**CallPlus**),
 - 36.4 Orcon Limited (**Orcon**),
 - 36.5 Flip Services Limited (**Flip**),
 - 36.6 Two Degrees Mobile Limited⁷ (**2Degrees**) and
 - 36.7 My Republic Limited (**MyRepublic**).
- 37 This was an extensive, industry wide, review. These companies together make up more than 94% of the fixed-line retail market and nearly 100% of the mobile retail market.⁸



6. Including Spark's Bigpipe brand

7. Our review did not include Snap, a fixed-line provider acquired by 2degrees in 2015.

8. Commerce Commission Annual Telecommunications Monitoring Report - 2014 (published 8 June 2015)

The contracts reviewed

- 38 We reviewed 19 separate standard form consumer contracts, listed below. These contracts affect millions of telecommunications contracts.

Company	Contract
Spark	<ul style="list-style-type: none">• Residential Customer Terms and Conditions updated 17 March 2015, in conjunction with:<ul style="list-style-type: none">– Broadband Terms and Conditions updated 17 March 2015; and– Spark Home Phone Plans and Spark Home Connectivity Packages Terms and Conditions.• Spark Mobile Prepaid Agreement from 16 March 2015, in conjunction with Spark Mobile Service Specific Terms and Conditions.• Spark Mobile Postpaid Agreement from 16 March 2015.• Bigpipe Broadband Customer Terms and Conditions updated 17 March 2015.
Two Degrees	<ul style="list-style-type: none">• 2degrees Prepay Terms and Conditions.• 2degrees Pay Monthly Terms and Conditions
Flip	<ul style="list-style-type: none">• Account Terms and Conditions
Orcon	<ul style="list-style-type: none">• Orcon General Terms and Conditions.• Orcon Fibre Terms and Conditions.• Orcon Mobile Terms and Conditions.• Orcon Residential Terms and Conditions.
Vodafone	<ul style="list-style-type: none">• Vodafone Consumer Terms and Conditions.• Vodafone Residential Broadband, TV and Fixed Line Terms and Conditions.• Vodafone Mobile Terms and Conditions.
CallPlus	<ul style="list-style-type: none">• CallPlus Broadband Terms and Conditions
MyRepublic	<ul style="list-style-type: none">• General Terms and Conditions

Potential unfair terms identified

- 39 It was clear from our review that the majority of the companies had made real efforts to comply with the UCT provisions before they were introduced.
- 40 The exception was MyRepublic. My Republic advised the Commission that it had overlooked reviewing its contracts in light of the new laws. MyRepublic said that this was an oversight, as it had been focussing on the developing of its newly-created business. MyRepublic undertook to take immediate steps to review its contract.
- 41 Although most of the companies had made genuine efforts to comply with the UCT provisions, each of them continued to rely on terms that the Commission considered to be potentially unfair terms.

42 In total the Commission identified 66 terms that it considered to be potentially unfair.

Company	Number of potentially unfair terms identified	Nature of the potentially unfair terms identified
Spark	9	Terms relating to limitation of liability, unilateral variation of services, retention of prepay credit on termination, limitation of intellectual property rights, and the responsibility for unauthorised charges.
Two Degrees	7	Terms relating to limitation of liability, unilateral variation of services, responsibility for unauthorised charges and termination without reason.
Flip	5	Terms relating to limitation of liability, contracting out of consequential loss, charging undisclosed fees and responsibility for unauthorised charges.
Orcon	5	Terms relating to limitation of liability, contracting out of consequential loss, charging undisclosed fees and responsibility for unauthorised charges.
Vodafone	5	Terms relating to limitation of liability, unilateral variation of services, contracting out of the Fair Trading Act, unilateral right to restrict or suspend services and contracting out of consequential loss.
CallPlus	1	Term relating to limitation of liability.
MyRepublic	34	Including terms relating to unilateral variation of contract, avoiding or limiting performance of the contract, unilateral interpretation of contract, assignment of contract, limitation of liability, variation of service, penalty clauses and contracting out of Fair Trading Act.

Steps taken by the Commission

43 Once the Commission had identified the terms that it thought were potentially unfair, it wrote to each of the companies advising them of the Commission’s concerns and seeking the trader’s views on the fairness of these terms. In particular the Commission sought comments on:

43.1 How these terms are reasonably necessary to protect a legitimate interest of the trader.

43.2 If such a legitimate interest exists, whether there are fairer means by which the interest could be protected.

43.3 Whether there are any other matters, including the transparency of the terms and the contract as a whole, which you consider relevant to our consideration of the fairness of these terms.

44 The Commission also held a number of teleconferences with the traders to discuss the matters raised in the letters.

The companies' response

- 45 The companies' response to the Commission's investigation was positive.
- 46 As mentioned earlier, the general attitude of the companies to compliance with the UCT provisions was excellent. Aside from MyRepublic, each of the traders made proactive amendments to their contracts to comply with the UCT provisions before the laws were introduced in March 2015.

Common terms identified

- 47 The Commission identified a wide range of potentially unfair terms across the contracts. Some of those terms have been unique to a particular contract or small group of contracts. However, many of the potentially unfair terms were common across the contracts assessed, including terms that:
 - 47.1 limit or exclude the liability of the company
 - 47.2 allow the company to unilaterally vary the contract
 - 47.3 make the customer responsible for unauthorised charges
 - 47.4 allow the company to avoid liability for consequential loss.
- 48 We analyse these terms below, using selected examples from the contracts we reviewed. These examples are illustrative only, and are not intended to suggest that the particular term was in any way the most unfair or problematic term identified. Also, the examples used are not intended to suggest that the amendments made are the only amendments that could have rendered the term fair. Each term must always be reviewed with reference to the criteria in the Act and the particular relationship between a business and its customers.

Terms that limit or exclude the liability of the company

- 49 The Commission considers that terms that limit or exclude liability can be unfair where:
 - 49.1 The terms are imbalanced, in favour of one of the parties;
 - 49.2 The terms seek to limit or exclude liability that cannot be fairly limited or excluded; or
 - 49.3 The amount of the liability cap is insufficient to cover reasonably foreseeable losses that may arise under the contract.
- 50 The Commission's review showed that all of the companies relied on imbalanced liability clauses that sought to limit and/or exclude the companies' liability, while providing their customers with no corresponding limitation to their liability for any loss they may cause to the company.
- 51 For example, one of the companies sought to limit its liability for any loss caused to customers (other than under consumer laws, including the Consumer Guarantees Act 1993 and Fair Trading Act 1986) to the lesser of \$1,000 or the total amount paid to it for services in the six months immediately prior to the date of the customer's claim.
- 52 Customers had no corresponding limited liability. Under the contract, customers agreed to accept an unlimited liability for any breach of contract or negligence.
- 53 This type of limitation of liability clause can lead to a significant imbalance in the rights under obligations of the parties under the contract. Under the term, the company has limited liability (including in some instances where it has been negligent or has breached the contract), but the customer has no corresponding limitation to their potential liability.

- 54 As noted above, each of the companies relied to varying extents on this type of limitation of liability clause. The Commission asked each of the companies to explain why these clauses were necessary to protect their legitimate business interests.
- 55 Common justifications were that:
- 55.1 The limitation of liability was reasonable, as it was highly unlikely that customer losses would exceed the liability cap.
- 55.2 It is reasonably necessary not to limit the customer's liability as the company has no way of quantifying the loss the customer might cause to it.
- 55.3 Notwithstanding the limitation of liability clause, the customer still had recourse to consumer protection legislation, under which they could recover greater amounts.
- 56 The Commission did not agree that these justifications necessarily made the clauses fair. The Commission was concerned that customers were significantly disadvantaged by the imbalance created by these terms, which were invariably drafted for the benefit of the company.
- 57 The Commission's observation was that these clauses were similar to the type of boilerplate limitation of liability clauses often used in commercial contracts to protect the interests of one of the parties.
- 58 Although the Commission had concerns with the clauses relied upon by the companies, it does accept that limitation of liability clauses may be legitimate in some circumstances, particularly where:
- 58.1 the amount of the limitation is sufficient to ensure that customers are not left out of pocket when loss occurs; and
- 58.2 customers have the same or similar limitation to their liability as the company
- 59 In response to the Commission's concerns, the companies have all amended, or agreed to amend, their limitation of liability clauses. A common approach adopted has been to make the limitation of liability clauses more balanced, by providing that the company and consumer each have similar reasonable limitations to their liability.
- 60 Those proposed amendments have addressed the Commission's concerns. The Commission considered that the amended terms:
- 60.1 are sufficiently balanced;
- 60.2 do not attempt to limit or exclude liability for matters that should not be limited or excluded.
- 60.3 have liability caps that are sufficient to cover reasonably foreseeable losses that may arise under the contract (bearing in mind there can be no limitation for losses caused by breaches of the Fair Trading Act and Consumer Guarantees Act).



Terms that allow the trader to unilaterally vary the contract

- 61 Section 46M of the Act sets out a list of examples of terms that may be unfair contract terms. One of those is a term that permits, or has the effect of permitting, one party (but not another party) to vary the terms of the contract.
- 62 The Commission considers that a term that requires customers to accept unanticipated costs, new requirements or reduced benefits is likely to be unfair. This is particularly the case for fixed or minimum term contracts where the customer is required to pay a termination fee if they seek to exit a varied contract.
- 63 Many of the contracts we reviewed contained clauses that allowed the business to unilaterally vary the terms of the contract.
- 64 For example, one of the companies was able to change the service it provided to customers on fixed or minimum term contracts, including by withdrawing or reducing those services or to vary the service provided at any time.
- 65 The Commission was concerned that this term created a significant imbalance between the parties rights and obligations under the contract because customers did not have a corresponding right to:
- 65.1 vary the terms of the contract; or
 - 65.2 in all possible circumstances, cancel a minimum term contract that has been varied to their detriment, without paying an early termination charge.
- 66 The contract did provide that the company must give the customer notice of the changes and that, if the change has a material detrimental effect on the customer, the customer may cancel without any termination charge or transfer fee.
- 67 However, the Commission remained concerned that this did not sufficiently cure the potential unfairness to customers. In particular, the Commission was concerned that:
- 67.1 The “material detriment” test applied by the company was inconsistent with the requirement in the Act that a term may be unfair where any detriment (however material) is caused.
 - 67.2 Although the customer suffers the detriment, it was the company who decides if the detriment is sufficiently material to allow the customer to terminate or transfer without penalty.
 - 67.3 Customers have only one month to cancel following a change that causes material detriment. The Commission considered it entirely possible that customers may not understand the true detrimental effects of a change until after one month has passed. Those customers would then be required to pay a termination fee to exit a fixed or minimum term contract.
- 68 This type of term was present in many of the contracts reviewed. The Commission asked each of the companies who relied on this type of term to explain why these clauses were necessary to protect their legitimate business interests.
- 69 Each of the companies provided an explanation as to why they needed the ability to vary the terms of their contracts. Justifications included that the term was necessary to take account of advances in technology, changes to the law and regulatory requirements.

- 70 The Commission accepted that there may be legitimate reasons to allow the unilateral variation of the terms of a contract, including variation of the service being provided. The Commission acknowledges that unilateral variation clauses can be legitimate. For example, we acknowledge that it is not always practical for large business to agree all variations with their customers – particularly where those variations relate to relatively minor matters.
- 71 However, the Commission remained concerned with the terms relied up by the traders because
- 71.1 many of the clauses were drafted too broadly, in that they allowed the companies to vary the contracts in circumstances where there was no legitimate reason to do so; and
- 71.2 customers who suffered detriment as a result of a legitimate variation may still be required to pay a termination charge to exit a fixed or minimum term contract.
- 72 In response to the Commission’s concerns, the companies have all agreed to make amendments to their standard form consumer contracts to make the variation clauses more balanced. In particular, the contracts should now be clearer that customers on fixed or minimum term contracts can exit without penalty where a contract variation causes detriment.
- 73 These proposed changes have addressed the Commission’s concerns.

Terms that make the customer responsible for unauthorised charges

- 74 The Commission considers that a term that imposes on the consumer a risk that the trader is better able to control has the potential to be unfair. The business should not make the customer its insurer.
- 75 Some of the telecommunications companies relied on clauses that made customers liable for all charges incurred on their account, including charges that arose from unauthorised use of the customer’s account (including by hacking or other fraudulent access to the account).
- 76 For example, one of the companies required customers to agree to pay for the services “no matter who uses them”. Customers were told that they are responsible for the charges for “anyone else’s use of your telephone or your internet”.
- 77 The Commission was concerned that the clause imposed an obligation on customers to pay for unauthorised use of the service, including where the customer has not been careless or negligent in allowing the unauthorised party to use the service.
- 78 The Commission considered that these terms potentially cause a significant imbalance in the parties’ rights and obligations under the contract. Under these types of clauses, the company assumes no risk for any unauthorised use of the customer’s account; instead it sought to pass that risk of unauthorised use onto the customer, regardless of whether the customer had any ability to control or restrict the unauthorised use.
- 79 Each of the companies who relied on this type of clause initially claimed that the clause was balanced and that it was appropriate for the customer to bear the risk of loss arising from unauthorised use of the service.
- 80 However, following discussions with the Commission, each of the terms has now been amended, or will be amended, to ensure that customers can notify the company where they have been charged for unauthorised use of their services. The companies can then assess each case on its merits to determine where liability for unauthorised use ought to lie.
- 81 These amendments have addressed the Commission’s concerns

Terms that allow the trader to avoid liability for consequential loss

- 82 Section 46M(l) provides that terms that limit or have the effect of limiting one party's right to sue the other may be unfair contract terms. Both the Fair Trading Act⁹ and the Consumer Guarantees Act¹⁰ recognise that customers are entitled to recover compensation for consequential loss arising from a breach of those Acts.
- 83 A number of the contracts the Commission reviewed contained clauses that had the potential effect of limiting the customer's right to recover consequential losses caused by the business.
- 84 For example, one of the companies sought to exclude liability for consequential loss, or for any indirect or consequential loss, or for any loss of profits, revenue, goodwill or business.
- 85 The Commission was concerned that this type of clause creates a significant imbalance in the parties' rights and obligations under the contract. The business purports to avoid potential liability that it would otherwise have under two important pieces of consumer protection legislation, the Fair Trading Act and the Consumer Guarantees Act. On the other hand, the customer appears to lose the significant right to seek that compensation.
- 86 Each of the companies acknowledged that they were not intending to exclude liability under consumer protection legislation, and have or will amend their contracts to ensure that customer's rights under those acts are maintained.
- 87 As with the limitation of liability clauses discussed above, the Commission's observation was that these clauses appear to be similar to the boilerplate clauses often used in commercial contracts to protect the interests of one of the parties.
- 88 The Commission expects that, as the UCT provisions are better understood, businesses and their advisers will become more cautious in their use of these types of commercial boilerplate clauses in standard form consumer contracts.

Conclusion

- 89 The telecommunications companies have now addressed all of the Commission's concerns by either:
 - 89.1 amending, or agreeing to amend, their standard form consumer contracts to make them;
 - 89.2 providing information to the Commission that shows that the term is necessary to protect the legitimate business interests of the company
- 90 As a result, the Commission has closed its investigation and has issued compliance advice letters to each of the telecommunications companies. Those compliance advice letters remind the companies of their obligations under the law and caution them to be careful to ensure that their standard form consumer contracts remain compliant with the law.
- 91 This is a positive outcome for New Zealand consumers. Most New Zealand families have contracted to acquire telecommunications services from one or more of the companies. In total there are more than five million telecommunications accounts in New Zealand. The majority of those are likely to be standard form consumer contracts. Those contracts have now been, or soon will be, amended to make them fairer and more consistent with the UCT provisions.

9. Fair Trading Act 1986, section 43.

10. Consumer Guarantees Act 1993, section 18(4).

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