



16 March 2026

Consumer Policy Unit
The Treasury
Langton Crescent, Parkes ACT 2600

Submitted online via <https://consult.treasury.gov.au/c2026-743952>

Dear Treasury,

Review of the Amended Unfair Contract Terms Protections

Thank you for the opportunity to provide feedback to Treasury's review of the amended unfair contract terms (**UCT**).

The Telecommunications Industry Ombudsman (**TIO**) helps people, small businesses and not-for-profit organisations (**consumers**) resolve disputes about phone and internet services. The TIO operates as an alternative to the courts or tribunals, providing a free, independent and accessible dispute resolution service that complies with the Australian Government's Benchmarks for Industry-Based Customer Dispute Resolution.

As the independent external dispute resolution scheme for the telco industry, our submission provides insights into potentially UCTs we see in the complaints that we receive.

The introduction of the amended UCT protections in the *Treasury Laws Amendment (More Competition, Better Prices) Act 2022 (the amending Act)* are important for strengthening protections against UCT for consumers and small businesses. However, in the telco industry, we continue to receive complaints about telcos' use of unfair contract terms.

Question 1: How effective have the new remedies and enforcement provisions been in discouraging the use of UCT?

We continue to receive complaints where consumers are impacted by potentially unfair contract terms. Examples of what we consider to be UCT terms in telco contracts include:

- Early contract termination fees comprised of the monthly cost under the contract multiplied by the remaining months of the fixed term period of the contract, or an amount that is close to the full remaining liability under the contract.
- Onerous termination clauses which are not reasonably necessary to protect the interests of telco (for example, the requirement to provide the telco with 30 days' notice before terminating a contract or the requirement to terminate a contract using one specific cancellation method).

We have seen telcos rely on these types of terms since before the amended protections came into effect on 9 November 2023.

Case study: Childcare centre charged early termination fee after cancelling their service

A childcare centre signed up with Branch Business Tel for a phone and phone equipment bundle. However, ever since signing up to the service, the service never worked as promised. After several technicians attempted to fix the service without success, the childcare centre asked Branch Business Tel to cancel their service.

Branch Business Tel agreed to cancel the service but sent the childcare centre an invoice for nearly \$8,000. This amount was calculated by multiplying the minimum monthly service charges with the remaining months left on the contract.

The childcare centre disputed the amount, saying it was never discussed with them. Branch Business Tel pointed out that their standard form contract contained a clause dictating the calculation of early termination fees.

As Branch Business Tel insisted on relying on this contract term, the childcare centre made a complaint to the TIO, where it is currently undergoing case management.

**Names of all parties have been changed.*

Small businesses may not always make a complaint to our office directly about UCT because many of them are not aware of what is a UCT and may not read the terms of their standard form contract, given telco contracts are rarely negotiable by a small business. They may not fully understand the implication of a contract term until it adversely affects them.

Question 10: Do the amended provisions give sufficient clarity on whether a contract is a 'standard form contract'

We find the amended provisions and additional guidance to be very helpful in determining what is a standard form contract while handling complaints and conducting systemic investigations. However, we continue to see some telcos dispute that the contracts they offer are standard form contracts and therefore attract UCT protections. We see this scenario most commonly in business to small business contracts.

For example, bundled service and equipment contracts are common telco contracts entered into by small businesses. Both large and small telco providers offer these types of telco services. Some small telcos focus exclusively on providing these types of services to other small businesses. We have received complaints from small businesses who reported that when they attempted to terminate their contract before the end of the fixed term period (often due to a fault with the service), their telco charged them an early termination fee that totalled the full remaining charges payable under the fixed term contract period. These types of bundled service and equipment contracts often have fixed terms of three to five years, which can result in termination fees of thousands of dollars.

It is the TIO's position that these "100 percent early termination charges" are an unfair contract term because they meet the definition of "unfair" under the ACL and under the list of examples of terms in the ACL which may be considered unfair. The TIO consider these terms have the effect of:

- penalising one party (the customer) for terminating the contract, and
- permitting one party (the telco) but not the other (the customer) the right to terminate the contract.

We acknowledge that some telco resellers may be subject to wholesale costs they cannot avoid which contributes to the calculation of the early termination fees they charge.

Telcos, particularly smaller telcos who exclusively offer telco services to other small businesses, have disputed these UCT protections apply to their contracts because they say their services are not offered under standard form contracts (in addition to disputing that the terms are unfair).

The primary reason given is that the small business customer had the opportunity to negotiate the contract and change the terms of the contract before entering into it. However, in effect, the small business is only able to negotiate minor or insubstantial changes by choosing from a list of pre-determined options (e.g. contract term, range of services included in the contract). We have seen these contracts effectively used repeatedly by the telco for all their customers.

Despite the additional clarity on what constitutes a standard form contract introduced in the amending Act, some telcos continue to rely on the exemption for contracts where the parties have had an effective opportunity to negotiate the terms of the contract, without consideration to the other factors contained in the amending Act.

Yours sincerely,

Cynthia Gebert

Telecommunications Industry Ombudsman