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The Manager
Unfair Contract Terms Consultation Paper
Small Business, Competition and Consumer Policy Division
The Treasury
Langton Cres.
PARKES ACT 2600

29 July 2014

Unfair contract terms (UCT) legislation

This submission is made on behalf of a client which has entered into extensive collective bargaining arrangements with primary producer suppliers

My client notes the proposals set out in the UCT Discussion Paper and has no comments on those in general. That is on the assumption that UCT legislation will be introduced.

However my client does have one concern and that stems from the fact that it has over many years entered into collective bargaining arrangements with a view to ensure fairness in contractual arrangements. . These arrangements have all been authorised by the ACCC.

An issue in relation to any UCT legislation and whether or not a contract is a standard form contract is whether or not there has been negotiations in relation to the contractual arrangements. There is a presumption in the proposals is that there is a presumption that a contract is a standard form contract unless the party proposing the contract can show otherwise.

In relation to contracts where there is a collective bargaining regime it is suggested that there be a presumption that there has been negotiation unless the parties

alleging unfair contract terms can show otherwise. This will strengthen the collective bargaining regimes and not put an unfair onus on those companies that have agreed to a collective bargaining regime.

It may be this provision should only apply where the collective bargaining has been authorised by or notified to the ACCC but there are other collective bargaining regimes that are not approved by the ACCC.

Yours truly,

A handwritten signature in black ink, appearing to read "Hank Spier". The signature is written in a cursive style with a large, stylized initial 'H'.

Hank Spier
Principal