



# Australian Automotive Dealer Association Ltd.

ACN: 167 598 085

The Sir Jack Brabham Automotive Centre of Excellence

8/2728 Logan Road, Eight Mile Plains, Brisbane Queensland 4113

12 May 2015

Consumer Policy Framework Unit  
Small Business Competition and Consumer Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [AustralianConsumerLaw@treasury.gov.au](mailto:AustralianConsumerLaw@treasury.gov.au)

Dear Manager

## AUSTRALIAN AUTOMOTIVE DEALER ASSOCIATION LTD (AADA) EXPOSURE DRAFT LEGISLATION – EXTENDING UNFAIR CONTRACT TERM (UCT) PROTECTIONS TO SMALL BUSINESS

AADA welcomes the release of exposure draft legislation and explanatory materials for an extension of unfair contract term protections currently available to consumers to low-value contracts involving small businesses. You have asked for comments on the draft legislation following our submission of 1 August 2014 in response to the Treasury consultation paper.

We note the extension of unfair contract term protections to cover small businesses will allow unfair contract terms to be declared void and understand the proposed legislative protection can apply to franchise agreements. The protection is to apply to an unfair contract term in a “small business contract”.

A contract is a small business contract if, at the time it is entered into, at least one party is a small business, and the upfront price payable under the contract does not exceed either, \$100,000, or \$250,000 if its duration is more than 12 months. A business is taken to be a small business if it employs fewer than 20 persons, excluding casual employees not employed on a regular or systematic basis.

While AADA supports the extension of UCT protections to small businesses our original submission put forward the concept of relative size of the parties - an Australian motor vehicle dealer compared to a global vehicle manufacturer – and made reference to the UCT protections provided to NSW motor vehicle dealers under the *Motor Vehicle Dealers and Repairers Act 2013* (NSW). We ask that the matters raised by us be considered in any further review of extension of UCT protections.

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AADA suggests that a review of the legislation be carried out no later than two years from its commencement to determine if further amendments or extensions are required.

We thank you for the opportunity to provide further comment and if you require additional information or clarification of any matters please contact Policy Director, Michael Deed telephone 07 3237 8711, email [mdeed@aada.asn.au](mailto:mdeed@aada.asn.au) or me on telephone 03 9576 9944 email [ptessier@aada.asn.au](mailto:ptessier@aada.asn.au).

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Patrick Tessier', is written over the 'Yours faithfully' text and extends downwards.

Patrick Tessier  
Chief Executive Officer