

Introduction

My background in writing this submission is as an ordinary consumer dealing with a multi-million dollar travel company presenting a standard contract in a take or leave it form for packaged holidays.

Personal Experience

The contract was issued as an online document link it did not generate a hard copy and included undisclosed suppliers. Effectively what is purchased at the time of the payment is a generic brochure with no disclosure of suppliers-airlines, accommodation, land tour operators. In the last 18 months I have assisted hundreds of people taking their request for a refund for services not received to NSW Fair Trading and NCAT with varying results. It is continuously updated and in response to COVID 19 issues has been made harsher for consumers.

Most cases in NCAT have been awarded refunds but in my case I was stranded overseas and had to pay my own way home. In trying to work out where our money was the company refused to provide any information. The Tribunal found that I was bound by the terms and conditions supplied in the itinerary to me 14 days prior to departure. Even in the itinerary there is no identification of the land tour supplier and supposedly my money is with this company. The final document was issued outside the possible cancellation period so even if we wanted to cancel because we were not happy with some arrangements our only outcome was to lose our money. As it turned out we would have been better off to have taken that option and lost all our money, instead of losing \$7599 we lost \$11200 -an expensive 4 days. I submit that this is the impost of an unfair standard contract. Having spent four days in a city in a state of emergency, we returned to a complex web of denied responsibility by all parties. As a result of this 'standard contract' we have no right to find out the terms and conditions nor the monies held on our behalf.

Despite the ruling against my case another consumer on the identical itinerary followed my path and took their claim to NCAT and won. Others who departed prior to me at the same Smart Traveller alert Level 3 Unsafe for Tourism were awarded refunds. If the contract is a standard fixed offer how are these inconsistent outcomes possible? If the Force Majeure applies why only to my case and not my travelling companion. Why does it not cancel the right to a refund of those who relied on the advice of the travel company who should have known that our itinerary would never be completed. The travel company offer the link before customers as its standard contract. The contract is written in such a way as to deny consumers a right to a refund. This is not a fair or just outcome.

Individuals are up against a well-resourced company with high end legal firms and their contracts are written in such a way to deny any consumer a refund. Legal threats have been issued to activists trying to get a refund.

BILL 2021: UNFAIR CONTRACT TERMS REFORMS

EXPOSURE DRAFT Consumer Submission

This type of contract should require the company to hold the money in trust and for the suppliers to be identified. Customers should be given the full terms and conditions in simple language given that travel after housing or motor vehicles is one of the biggest expenditure items consumers purchase without the same level of consumer protection afforded to other goods and services.

This reform is important because the losses should not all be left on the consumer when the suppliers' details and terms and conditions have been deliberately withheld. You cannot negotiate on the suppliers chosen by the travel company. It is written to the consumers disadvantage and all problems are outsourced to the unknown and undisclosed suppliers who maintain ongoing relationships with the travel companies.

Submission: Edilia Ford