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Driving business success for consulting firms in the built and natural environment

25 August 2022

Market Conduct Division
Markets Group
The Treasury
Langton Cres
Parkes ACT 2600

By email to: morecompetition@treasury.gov.au

Dear Deputy Secretary,

Exposure draft legislation – unfair contract term protections

Consult Australia would like to thank you for the opportunity to comment on the exposure draft legislation on unfair contract term protections. It is noted that the exposure draft legislation would amend the *Competition and Consumer Act 2010* (CCA) and the Australian Consumer Law (ACL) by increasing penalties for corporations and individuals engaging in anti-competitive conduct. Consult Australia supports these changes.

Consult Australia is the industry association representing consulting businesses in design, advisory and engineering, an industry comprised of over 58,600 businesses across Australia. This includes some of Australia's top 500 companies and many small businesses (97%). Our members provide solutions for individual consumers through to major companies in the private sector and across all tiers of government. Our industry directly employs over 285,000 people in architectural, engineering, and technical services and many more in advisory and business support. It is also a job creator for the Australian economy, the services we provide unlock many more jobs across the construction industry and the broader community.

Our previous submissions to the Treasury highlighted that protections against unfair contract terms helps mitigate the power imbalance that often exists between individual consumers/small businesses and sophisticated parties. Consult Australia believes that de-risking the market starts with fair and balanced contractual terms, and therefore we support the Treasury's consultation on the exposure draft legislation.

Additionally, Consult Australia is a strong advocate for the ACL. Most of our membership comprises of small businesses that require greater protection when contracting with other businesses with significant market power. We look forward to engaging with the new federal government on further progress to protect small businesses from unfair contract terms, namely by extending the operation of protections to apply when businesses contract with government as a client. For more detail, please refer to our [Model Client Policy](#) which sets out how government clients can act fairly when engaging with the market.

If you would like to discuss further, please contact me directly at kristy@consultaaustralia.com.au or on 0405 195 830.

Yours sincerely,

A handwritten signature in black ink that reads "K. Eulenstein".

Kristy Eulenstein
Acting Chief Executive and
Head of Policy & Government Relations