

MEDIA STATEMENT

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Ombudsman welcomes ACCC court action against Fuji Xerox

The Australian Small Business and Family Enterprise Ombudsman Kate Carnell has welcomed the ACCC's legal proceedings against printing company Fuji Xerox Australia over allegations of Unfair Contract Terms impacting small business customers.

The ACCC has initiated Federal Court proceedings, alleging that nine types of Fuji's standard form small business contracts contain 173 unfair contract terms.

The ACCC alleges the unfair terms include automatic renewal terms, excessive exit fees and unilateral prices increases in relation to contracts between Fuji and its small business customers for the supply of printing goods and services and technical assistance since at least October 2018.

"My office has received a number of complaints from small businesses customers of Fuji Xerox and other companies in the printing industry more broadly," Ms Carnell says.

"The ACCC is currently not able to determine if a clause amounts to an unfair contract term.

"Instead, the regulator needs to seek a determination from the court.

"My office continues to recommend enhanced capabilities of regulators to determine if terms are unfair and for significant penalties and infringement notices to apply to breaches.

"We maintain that unfair contract terms need to be illegal and the penalties should be large enough to act as an effective deterrent."

"By making unfair contract terms illegal, the Australian Competition and Consumer Commission (ACCC) would be able to penalise big businesses.

"Small businesses has been waiting for changes to level the playing field for too long."

Background: To date, ASBFEO has recommended:

- Unfair Contract Terms be made illegal
- Significant penalties and infringement notices to apply to breaches
- Enforcement capabilities of regulators enhanced to determine if terms are unfair
- Legislation extended to cover all contracts valued up to \$5 million
- Definition of a small business be changed to those with less than \$10 million turnover

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