



# QUEENSLAND FARMERS' FEDERATION

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Manager  
Unfair Contract Terms Review  
Consumer and Corporations Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Via email: [consumerlaw@treasury.gov.au](mailto:consumerlaw@treasury.gov.au)

Dear Sir/Madam

## Re: Review of Unfair Contract Term Protections for Small Business

The Queensland Farmers' Federation (QFF) is the united voice of intensive agriculture in Queensland. It is a federation that represents the interests of peak state and national agriculture industry organisations, which in turn collectively represent more than 13,000 primary producers across the state. QFF engages in a broad range of economic, social, environmental and regional issues of strategic importance to the productivity, sustainability and growth of the agricultural sector. QFF's mission is to secure a strong and sustainable future for Queensland farmers by representing the common interests of our member organisations:

- CANEGROWERS
- Cotton Australia
- Growcom
- Nursery & Garden Industry Queensland (NGIQ)
- Queensland Chicken Growers Association (QCGA)
- Queensland Dairyfarmers' Organisation (QDO)
- Australian Cane Farmers Association (ACFA)
- Flower Association
- Pork Queensland Inc.
- Queensland United Egg Producers (QUEP)
- Bundaberg Regional Irrigators Group (BRIG)
- Burdekin River Irrigation Area Irrigators Ltd (BRIA)
- Central Downs Irrigators Ltd (CDIL)
- Pioneer Valley Water Cooperative Ltd (PV Water)
- Queensland Chicken Meat Council (QCMC).

QFF welcomes the opportunity to provide comment on the Treasury's Review of Unfair Contract Term Protections for Small Business. QFF provides this submission without prejudice to any additional submission provided by our members or individual farmers.

*The united voice of intensive agriculture*



QFF acknowledges the current review of extended unfair contract terms (UCT) protections for small business and their effectiveness in promoting fairness during contractual dealings with regard to standard form contracts. Like individual consumers, many small businesses lack the time, resources, legal or technical expertise and bargaining power to negotiate changes to terms specified in standard form contracts.

QFF understands that the purpose of these protections, introduced into the *Trade Practices Act 1974* (now the Australian Consumer Law (ACL)) and the *Australian Securities and Investments Commission Act 2001* (the ASIC Act), were intended to reduce small business detriment while increasing small business certainty and confidence.

QFF welcomed the amendments to the *Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Act 2015* which took effect in November 2016 but remains concerned that the protections do not go far enough. For example, while potentially unfair provisions can be challenged in court, they can still be included in contracts by parties with the stronger bargaining power. Where a court finds the contract term to be unfair and void, neither the parties to the contract nor the ACCC can seek civil pecuniary penalties and the ACCC cannot issue infringement notices for contract terms that are likely to be unfair.

In some industries, power imbalances between negotiating parties means getting a 'fair price' for agricultural products at the farm gate is becoming increasingly challenging due to UCT. While the extended protections have added an extra layer of confidence, the narrow definition fails to catch many examples of UTC and further concerns surround their enforcement. QFF encourages Treasury to consider the increased calls across agriculture for industry codes of conduct to overcome UCT and unconscionable conduct.

QFF is aware of various issues within the agriculture sector, for example, the dairy industry where UCT in milk supply contracts allow retrospective changes in farmgate milk prices but farmers have no avenue to prosecute as the upfront price exceeds the threshold and so the unfair contract term protections do not apply.

QFF industry organisation members CANEGROWERS and Growcom have also made submissions to this consultation process. We note their concerns and support their recommendations. Representing the cane and horticulture industries in Queensland respectively, they are best placed to advise government why these protections need to be strengthened in those industries.

Yours sincerely

Travis Tobin  
Chief Executive Officer