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## **Protecting consumers from unfair terms in contracts**

In a consultation opening today the Law Commission and the Scottish Law Commission are seeking views on proposals to protect consumers from unfair terms hidden in small print.

Consumers enter into multiple standard form contracts each year, as a routine part of daily life. Examples are utilities, mobile phones, financial services and gyms.

Fierce competition, fuelled by developments such as price-comparison websites, can drive some traders to claim their products or services are cheaper than other suppliers' while hiding the true cost of a contract in the small print. What at first appears to be a good price can quickly become an expensive burden when additional charges and hidden conditions start to mount up. Consumers can be surprised by unexpected charges or find themselves tied into lengthy contracts that no longer serve their purpose. And traders who are open and honest about their pricing can lose out to the competition.

Under the Unfair Terms in Consumer Contracts Regulations 1999 all terms in consumer contracts may be challenged for fairness unless they are specifically exempt. The Commissions are proposing that terms relating to the price or to the main subject matter of the contract (the goods or services being purchased), should be exempt from challenge only if they are transparent and prominent in the original contract.

David Hertzell, the Law Commissioner leading on the project for England and Wales, says: "We know that the majority of consumers do not read contracts thoroughly before they sign them. They tend to focus on what appears to be the cost, expecting traders to make their money from the ticket price and not from charges that emerge later in the small print.

We believe that it should be made clear to consumers what they are committing themselves to before they sign a contract. If they are taking out a loan, for example, they should know up front exactly what it is going to cost them. If they are signing up for a mobile phone or gym membership, it should be clear from the start what the service will cost and how long the contract will run for."

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Professor Hector MacQueen, Scottish Law Commissioner, says: “We are proposing a new approach to unfair terms which would assist consumers and traders alike. First, it would protect consumers from being caught out by unpleasant surprises such as unexpected charges. Secondly, by requiring terms relating to price or the main subject matter to be in plain, intelligible language, legible and readily available to the consumer, and presented in such a way that the average consumer would be aware of them, it would help to prevent honest traders from losing out to their more unscrupulous counterparts.

We first looked at unfair terms in contracts in 2005 and made recommendations for change that were accepted in principle by the Government of the time. This consultation is an opportunity for us to make sure that our original recommendations for the reform of consumer contracts are still workable and relevant, and tackle the uncertainty that has arisen over the exemption for the main subject matter and price.”

The consultation is open until 25 October 2012. For more information and to contribute, visit:

[http://lawcommission.justice.gov.uk/consultations/unfair\\_consumer\\_contracts.htm](http://lawcommission.justice.gov.uk/consultations/unfair_consumer_contracts.htm) or [www.scotlawcom.gov.uk](http://www.scotlawcom.gov.uk)

#### **Notes for Editors**

1. For more details on this project, visit [www.lawcom.gov.uk](http://www.lawcom.gov.uk) or [www.scotlawcom.gov.uk](http://www.scotlawcom.gov.uk)
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