

Media Release

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Fairer contract terms for public transport users in major cities

A review by the Commerce Commission has resulted in some major public transport providers making changes to the standard terms of use for their re-usable pre-paid travel cards.

Following complaints from consumers, the Commission reviewed the terms of use for Auckland Transport's AT HOP Card for compliance with the unfair contract term provisions in the Fair Trading Act.

"Our review identified a number of issues in the terms of use which we considered to be potentially unfair to consumers. Examples included terms limiting the validity period of unused cards, allowing variation of the terms of use for the card without notice, limiting the right to obtain a refund or transfer of unused credit for non-registered cards, and explanations of the consequences of not tagging off," Commissioner Anna Rawlings said.

"Auckland Transport worked with the Commission to either explain its business rationale for some clauses or make changes to their contracts to make them fairer for consumers. It amended more than 20 of its terms and conditions, including extending the validity period of unused AT HOP cards from 2 to 6 years and limiting the blocking of cards in cases where passengers repeatedly fail to tag off. Since the changes were implemented, we have noticed a significant drop in the number of complaints we are receiving about the cards."

Ms Rawlings said the Commission is also pleased to see that at the end of 2017, Auckland Transport decided to automatically reverse payment of expired online top-ups to the credit or debit card used for the payment. Previously top-ups made online expired if they were not activated within 60 days and passengers had to contact Auckland Transport to reactivate the top-up. This was an issue the Commission received numerous complaints about.

Following its discussions with Auckland Transport, the Commission also reviewed the terms of use for the Snapper Services Card used in Wellington and Environment Canterbury's Metrocard, and provided advice about terms which could potentially be unfair.

As a result Snapper changed some of its clauses, including providing two weeks' notice prior to any changes to the terms of use of the card and agreeing to replace non-functioning cards for free when damage to the card is not the passenger's fault.

Environment Canterbury has also indicated that it is updating Metrocard's terms and conditions to limit situations where a Metrocard can be cancelled or confiscated without notice and allowing any credit balance to be transferred to a replacement card, before the expiry of a registered card.

"The providers of these pre-paid travel cards were all receptive to the Commission's correspondence and to reconsidering aspects of their terms of use. With hundreds of thousands of consumers using these pre-paid travel cards in our largest cities, these changes will have a broad impact resulting in a more balanced contractual relationship between transport card providers and public transport users," said Ms Rawlings.

Background

The Fair Trading Act prohibits unfair contract terms in standard form consumer contracts. A term is unfair if it creates a significant imbalance of rights or obligations between businesses and consumers, is not reasonably necessary to protect the legitimate business interests of the company and would cause detriment to consumers if it was applied, relied on or enforced by the company. Only the Commerce Commission can ask a court to declare that a term is unfair. If a court decides a term is unfair, a business cannot enforce it. If a business continues to use a term that has been declared unfair by a court, it is liable for prosecution by the Commission.

The Commission has conducted reviews into unfair contract terms in the telecommunications, energy retail and gym sectors. The reports can be found on our [website](#).

If consumers wish to report a potentially unfair contract term, they should contact the Commission on 0800 943 600 or fill out a [complaint form](#).

Traders and consumers can read more information about unfair contract terms in our [guidelines](#) and [consumer fact sheet](#).

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