



## DECEMBER 2016 CLIENT NEWSLETTER

Welcome...to The Enterprise Sanctuary's December 2016 newsletter. Geez, is it that time again?! Time sure does fly when you're an advocate to savvy business minded clients. Today, we talk all things small business, including: unfair contract terms, how small business can approach doing business in China and top cyber security tips for business.

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Unfair contract terms  
dished out to small  
business

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How small business  
should approach  
business in China

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Cyber security tips for  
small business

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# UNFAIR CONTRACT TERMS

The Australian Consumer Law (“the Law”) has historically been protecting individuals from unfair terms in standard form contracts.

From 12 November 2016, the Law will also protect small businesses from similar unfair terms in standard form contracts.

A standard form contract is one that has been prepared by one party to the contract and where the other party has little or no opportunity to negotiate the terms. Contracts such as mobile phone plan contracts comes to mind.

The Law will apply to standard form contracts entered into or renewed on or after 12 November 2016, where:

- it is for the supply of goods or services or the sale or grant of an interest in land
- at least one of the parties is a small business (employs less than 20 people, including casual employees employed on a regular and systematic basis)
- the upfront price payable under the contract is no more than \$300 000 or \$1 million if the contract is for more than 12 months.

If a contract is varied on or after 12 November 2016, the law applies to the varied terms.

Unfair, including:

- terms that enable one party (but not another) to avoid or limit their obligations under the contract
- terms that enable one party (but not another) to terminate the contract
- terms that penalise one party (but not another) for breaching or terminating the contract
- terms that enable one party (but not another) to vary the terms of the contract.

Ultimately, only a court or tribunal can decide that a term is unfair. If the court or tribunal finds the terms are ‘unfair’, the terms will be void, that is, not binding on the parties.

**Please contact us at The Enterprise Sanctuary if you would like to talk about this topic in more detail.**

# DOING BUSINESS IN ZHONGGUO (CHINA)

Do you want to have a presence in China? It's a pretty big market! 1.357 billion peeps!

Here are some tips on succeeding in doing just that:

## 1. Speak the language

Self-explanatory. Not every country speaks English. All parties need to ensure that what's being said / agreed upon is understood by all. Hire a translator if you don't have staff on hand who speak Mandarin.

## 2. Embrace WeChat

WeChat is a digital / social communication platform used in China by all including business. We don't have anything similar in Australia. It's not just stickers and chatting. You can add bank or credit card connect, make instore payments, transfer money, split bills, hail cabs, read the news, do showrooming, send Bitcoin, share realtime location, make donations, configure your new Audi.

For work purposes, companies and business communication, a special version of WeChat called Enterprise We Chat is available. The app is meant to help employees separate work from private life. The program lets companies and their employees keep track of annual leave days and expenses that need to be reimbursed, employees can ask for time off or even clock in to show they are at work.

WeChat has a billion created accounts, 864 million active users with 70 million of these users outside of China.

## 3. Host your website in China and in Mandarin

China firewall, or 'great firewall' restricts access to most websites and there is no guarantee your site will operate in China if hosted elsewhere. Don't assume the way your Australian website works will work in China, with Facebook and Google and most other major websites banned in China.

## 4. Meet face to face

Building trust is as important as terms and conditions of a contract.

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# CYBER SECURITY TIPS FOR BUSINESS

- Keep software patches up to date and use supported versions of software.
- Develop a backup strategy for your critical data.
- Change the default passwords across all systems to something new.
- Install security software that includes a firewall, anti-virus and anti-spyware.
- Create non-administrator level accounts.
- Recognise and follow safe online practices. For example, be cautious of opening attachments or clicking on weblinks sent via email.
- Secure any remote access services.
- Protect critical information. For example, control physical access to hard drives, servers etc.
- Automatically log information relating to network activities and computer events.
- Assign a person in the office to have responsibility for information security.

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Important: Clients should not act solely on the basis of the material contained in Client newsletter. Items herein are general comments only and do not constitute or convey advice. Also changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Client newsletter is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and not be made available to any person without our prior approval.