

## **Online Shopping and Consumers - A review of New Zealand and Australian Website Methods of Incorporation of Terms.**

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### ***Abstract***

*The review of 50 websites discussed in this paper aims to give a picture of the practical reality, in respect of terms and conditions, faced by consumers who shop online. Whether terms are successfully incorporated into contracts requires a consideration of the issues of notice and assent. The common methods of incorporating terms into online shopping contracts are known as click wrap and browse wrap. The general principles of incorporation and how they apply to click wrap and browse wrap are discussed with a view to applying those principles to the review results. Analysis of the review results shows that 60% of websites which use browse wrap may not in fact be validly incorporating terms. The paper argues that online traders who have not validly incorporated terms may be engaging in misleading and deceptive conduct by leading consumers to believe that their terms form part of the purchase contract. The paper also highlights the importance of unfair terms legislation for consumers who are bound by disadvantageous terms.*