**Citation:**

Christopher R. Drahozal, *'Unfair' Arbitration Clauses*, 2001 U. ILL. L. REV. 695 (2001).

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<http://ssrn.com/abstract=250167>

**Key words:**

arbitration, consumer arbitration, mandatory arbitration, dispute resolution, franchising

**Abstract:**

The article reexamines the most common academic criticisms of "mandatory" arbitration of consumer disputes. First, it presents the results of an empirical study of "unfair" arbitration clauses, based on a sample of dispute resolution clauses in franchise agreements. The study finds that while some provisions identified by arbitration critics as unfair are common in the sample, others (such as clauses providing for biased arbitrators) are very rare. Second, it describes plausible circumstances under which both parties to pre-dispute arbitration clauses -- even clauses containing "unfair" provisions -- will be made better off by arbitration. Third, it argues that business reputation and arbitration institutions may constrain corporate opportunism in the use of pre-dispute arbitration agreements. Accordingly, increased government regulation of arbitration may be unnecessary, or at least more limited than some have proposed.