Contents

3

xi

.

.

Table of Cases

1. Introduction

2.	Directive 93/13 and EC Consumer Law and Policy	3
	A brief outline of Directive 93/13	3
	The EC involvement in consumer policy and the roots of Directive 93/13	4
	The rationale of the directive: the internal market argument	8
	The consumer protection argument	21
	The future of Directive 93/13	22
3.	Unfair Terms Regulation: A Comparative Study	23
	Overview	24
	The rationale of unfair terms control in Italy and England	34
	Implementation of Directive 93/13 in England and in Italy	40

4.	Unfair Terms Control in England and Italy	45
	Formal controls	45
	Substantive controls	57
	Different methods of adjudication	65
5.	Subjective Scope of Application	69
	The consumer in EC law	69
	National traditions	75
	Areas of conflict between the domestic and the European definitions	83
	The business party	91
6.	Application to Public Services	95
	The national traditions	97
	A 'European' approach to public services in Directive 93/13	103
7.	Objective Scope of Application	115
	Individually negotiated terms	116
	'Core' exclusions	124
	Contracts relating to land	132

x Contents

8. Formal and Substantive Controls

Formal controls Substantive controls Different methods of adjudication

9. Conclusion: A European Tradition?

Convergence and divergence in the interpretation of Directive 93/13 165

165

Appendix I Directive 93/13	1
Appendix II National Legislation	1
England	1
France	2
Germany	2
Italy	2