



Submission to the WA Government, Economics and Industry Standing Committee  
 Re: Franchising Bill 2010.  
 I am a member of the WA franchising community.

The introduction of State-based legislation on franchising is over kill and I strongly oppose the Franchising Bill 2010.

Regulation is and should remain a Federal concern and the current system is already too cumbersome and costly to enforce without further complicating matters.

I am a Franchisee as well as a GM with over 60 stores operating and our legal costs and those of the Franchisees are already running into the many thousands to comply and with a Disclosure statement now 160 pages thick the time has come to review the current Federal system not introduce another level of regulation which will only cost Franchisees money and complicate a system that nobody understands now.

The real angst both Franchisees and Franchisors suffer from is rampant greed amongst Landlords who have very little Federal or State legislation requiring them to act in "Good Faith"

If you care to ask Franchisees their biggest concern it is the lack of security and the onerous conditions in the current leases and the opportunistic method managing agents use.

THIS IS THE REAL AREA YOU SHOULD BE LOOKING AT NOT PLAYING WITH AN ALREADY OVER REGULATED AND PONDEROUS LEGISLATION THAT REQUIRES TRIMMING TO BE MORE EFFECTIVE BOTH FOR Franchisees and Franchisors.

I fail to see why we need these proposed new laws. This is the third time the issue has been considered by the WA Government (first Labor, then Liberal) in the past three years. We have just had two major Federal inquiries on this matter that specifically considered - and acted on -- the recommendations of the WA inquiry and the SA inquiry. What has changed since then to justify this latest move?

I see no evidence of major sector-wide issues in franchising in WA. However if there are problems, they should be fixed in the context of the existing framework - at a Federal level in the Franchising Code or by ACCC action.

I also oppose the introduction of any new statutory duty of good faith, let alone a State based duty. Good faith is already required by common law. A new definition implies different meaning. How much time and money will be wasted while we have legal argument over what the new definition means? Imagine how disruptive that will be if WA does this, SA does the same, and perhaps some other State as well - each with potentially their own version of what constitutes good faith.

We already have a common law requirement to act in good faith; we already have a national Franchising Code; and we have TPA prohibitions on misleading and deceptive conduct and unconscionable conduct. That is enough. To go down the proposed path will simply create a platform for argument -- and that is not constructive for franchisees or franchisors.

I'm disappointed the Bill is even before the Parliament. I don't know of any consultation which occurred with the sector and I doubt that any serious consultation could have been conducted in WA which would have prompted the initiatives suggested in this Bill. It should not proceed

## Terry Sherlock

General Manager

8A O'Connor Way  
 Wangara WA 6065

T 08 9309 2200  
 F 08 9309 2199



This e-mail (and any attachment) is intended only for the addressee and may contain confidential information. If you are not the intended recipient you must not use, copy, print or distribute this e-mail. If you receive this e-mail in error please contact the sender and destroy the original.