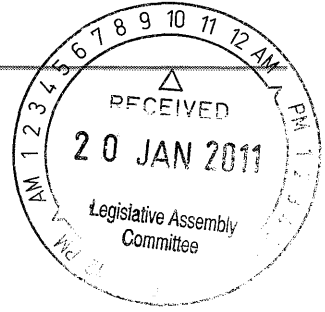


Bryden, Kristy

From: Mandy Hilton
Sent: Thursday, 20 January 2011 1:18 PM
To: Committee, Economics & Industry Standing
Subject: Submission to the WA and SA Governments regarding Franchising
Attachments: Economics and Industry Committee 20-01-11.pdf
Attention: Economics and Industry Committee



Attached please find submission opposing State based regulation of the Franchising sector, from Michael Renwick, Managing Director of Hotondo Homes.

Kind Regards,

Mandy Hilton
Personal Assistant

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20 January 2011

For the attention of:

Economics and Industry Committee - Legislative Assembly laeisc@parliament.wa.gov.au

Submission to the WA and SA Governments regarding Franchising

As a Franchisor in the residential home building industry, Hotondo Homes and its 95 franchisees encounter costly interstate legislated difference constantly. The building, licensing and home warranty regulations, for example, vary widely between states and local councils.

I am actively involved in the Australian franchise sector, and strongly oppose the introduction of State based legislation on franchising.

I agree with the detailed reasoning provided by the Franchise Council of Australia. The franchise sector is already comprehensively regulated at a Federal level by the Franchising Code of Conduct and the Trade Practices Act, and overseen by the ACCC. We have just had two major Federal inquiries on this matter that specifically considered the recommendations of the WA and SA inquiries, so there can be no possible justification for introducing a new State law that contradicts the conclusions of these inquiries.

Any new legislation at State level will add compliance costs, and is a totally unnecessary duplication. I have seen no evidence of material problems in the franchise sector. However if there are problems, they should be fixed at a Federal level in the Franchising Code or by ACCC action. I oppose State based regulation of this area.

I also strongly oppose the introduction of any new statutory duty of good faith, let alone a State based duty. We already have the Franchising Code, prohibitions on misleading and deceptive conduct and unconscionable conduct and a common law duty to act in good faith that will apply to most franchise agreements. This is more than adequate. Any new duty will create uncertainty, cost and be a disincentive to business in Western and South Australia.

Surely, you do not want to create yet another long term precedent that has tormented businesses, franchises and the like, since States had different rail gauges.

Yours faithfully
HOTONDO BUILDING PTY LTD

MICHAEL K RENWICK
MANAGING DIRECTOR