



RE: Parliamentary Inquiry Franchising

The following is a brief submission to the WA Inquiry into Franchising.

Touch Up Guys began as a family business in 1991 and has seen major milestones come into play including the legislation of Franchising into the Trade Practices Act as well as its many reviews and updates. We have Franchisees in all states of Australia and New Zealand within our team of 130+ operators.

During this time we have also taking the opportunity to create a new Franchise Agreement, thus having to closely focus on Franchising law for long periods while in development. More recently we have expanded our Franchise into the United States and are in the process of launching our recruitment program after once again the long and careful development of Franchise documentation including State by State registration.

Given my perspectives of Franchising in Australia, New Zealand and now the USA, it is my strongest opinion that State based legislation, particularly in Australia will be a tragic mistake.

I based this on 3 key points:

1. The level of compliance required at a national level is already strict and costly. For those of us, which is the mast majority, who operate in multiple states the additional costs associated with compliance at a national and state based (potentially 6 more plus territories) will be huge negative on my bottom line with the potential to have to put a full-time person into a compliance role not to mention legal fees to apply and then renew. In economic times where margins are as tight as ever, this could have the potential to either end our company's Franchising in WA or at least no longer offer new Franchisees and only maintain our current team.

2. What makes one state different from another? Understanding what is so vastly different about WA from Qld, NSW or Victoria is mind-boggling. The USA has an excuse due to the age of the country and the history that has brought segregation of law. However, with Australia not being old enough to draw our cultures and laws vastly apart, why would the consideration of a distinction need to be made? The national Code of Conduct has all of the provisions required to give a fair framework for honest and hardworking companies to grow and also to positively impact on those doing the wrong thing. When you add other components of Federal law which cover items such as "good faith", the only distinction between WA and other states seems to be the location of interests of a minority not the majority.

3. A Default Renewal or Extension - this is a fallacy. When two people enter into a contract there is a Term and clear parameters around the rights to renew and continue the relationship or end it. Going into a contract of this nature would come with the advice from both sides that if the other party is not happy in the relationship then a parting of the ways at Renewal time or the end of the Term will be likely. Having been on the receiving end of Franchisees who decide the business is no longer for them and they decide not to Renew - do I have a right to force them to do so if I am happy and they are not - the reality is NO. Therefore, what gives a Franchisee the right to FORCE me to renew if the relationship is not working. A position that would bring me pure joy for another 5 or so years - I don't think so.

I am definitely no expert in law nor do I support the ability for one man to change the legal framework in WA for his own means despite all the negativity it will bring to so many, however we have been in business for 20 years this year and have no litigation in that time. I believe we have a very good grasp of the Franchisor / Franchisee relationship and firmly believe the introduction of State based legislation is a mistake that will truly impact negatively on the entire Franchising sector.

Thank-you,

Glen Hawken
Chief Executive Officer