



23rd January 2011

Mr Timothy Hughes (Principal Research Officer)
Economics and Industry Standing Committee
Level 1
11 Harvest Terrace
West Perth WA 6005

Submission to the Economics and Industry Committee in relation to the Inquiry into the Franchising Bill 2010

Content of submission

Dear Committee Members,

As the winner of the Multi-Unit Franchisee of the Year Award for 2010 & having been a franchisee for the past 10 years, I am strongly opposed to the Franchising Bill 2010.

I believe this Bill will have negative direct consequences for the franchising sector and for my business in particular.

- The Bill will end up costing me more in terms of the legal requirements that will I have to deal with, and the value of my business could also be hit. Here are some of the reasons why this Bill is unnecessary:

1. Renewal is not a problem: 95% of franchisees renew for a second term; 99% of those who want renewal, get it. We don't need new laws, with big fines, to fix a non-existent problem.
2. Wrong motivation: The Bill's effect coincides with the commercial interests of one very large franchise business owner who is trying to get a new contract for his 50 fast food stores, which he has owned and operated highly profitably for the past 25-30 years.
3. No demonstrated need: There is no clear substantiation of the need for this Bill. The claims made about "rogue franchisors" are not backed up. No rogues are named and no pattern of 'rogue' behaviour is identified.
4. Overlap with existing law: The requirement to "act in good faith" is already required under the Trade Practices Act 1974. Creating a new, vague definition will simply cause costly confusion and conflict.
5. Labor and Liberal Governments have rejected the idea: Labor (2008) and Liberal (2009) Governments decided against making the changes suggested in the Franchising Bill 2010. The pressure to make changes has continued because the commercial dispute referred to in point 2 has not been resolved.
6. State based franchising legislation is not wanted by WA systems: A number of major WA-based systems have said they will consider moving their headquarters interstate if the Bill is enacted. Eg: Snap, Red Rooster, Chicken Treat, Chooks Fresh & Tasty.
7. Jobs likely to be lost: As a result of point 6, hundreds of WA jobs are at risk.
8. Franchise values will fall: The value of franchisees businesses, of which there are some 8,000 in WA, will decrease due to the uncertainty and instability within the franchise sector.



The Bill will create confusion. We currently have one set of rules for franchising; we don't want another set. It is difficult to keep up to date with legal requirements as it is now. To introduce State-based rules to an industry that is being well regulated at a Federal level will only make things worse.

In my view, this Bill will provide a new platform for argument between franchisors and franchisees. I do not think this will be constructive. Arguments are expensive and time consuming. They are a distraction from doing business.

But my biggest concern is that at the end of the day, I may have a business that is worth less when I decide to sell it.

Can you tell me certainly that if you introduce this Bill that the value of my business will be enhanced? Surely that is the ultimate test. If this Bill is good for franchising, then the value of my business should increase as a result of it.

Unfortunately, I believe the reverse is true. I believe this Bill will increase uncertainty. Threats of big fines that could apply to franchisors and franchisees make people wary – franchisors, franchisees and the potential new franchisees.

If franchisors are wary, they will either take action inside the system to give themselves more comfort – and who will bear the brunt of that? – or they will pass on costs for increased argument. Either way, franchisees may well find themselves worse off.

If franchisees are wary, maybe they will try to take action against franchisors in their own interests – to get a commercial edge. If they do that and the system has to pay, what effect does that have on the other members of the system, the other franchisees? I can't see how it can be positive.

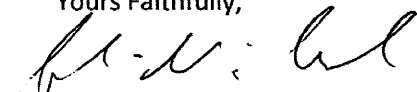
And if potential new franchisees are wary, what effect is that going to have on their willingness to invest? If a potential buyer for my business is wary, are they going to pay top dollar? I doubt it.

I would rather see Government effort and money put into making it easier for small businesses to make money. Rules and regulations don't increase profitability. Too many rules is a drag. A drag on time and money. Rules which are unclear are a recipe for higher costs in my business, not higher profits.

If you want to improve things for franchisees – and for small business owners generally – cut red tape and get rid of payroll tax. And do something about stopping landlords and banks from taking me to the cleaners. My rent has increased 3 fold since I opened my franchise in Garden City in 2000. And, I have a rent review coming up in June 2011.



Yours Faithfully,


Fadi Mikhael