



Clark Rubber Pool and Spa Shop
ACN 090 023 073

254 Canterbury Road
Bayswater VIC 3153

Telephone: (08) 8727 9999
Facsimile: (08) 8729 3266

www.clarkrubber.com.au



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laeisc@parliament.wa.gov.au.

Dear Sir

Submission to the Western Australian Government on changes to franchising regulation

I am writing on behalf of Clark Rubber Pool & Spa Shop Pty Ltd. We are strongly opposed to the introduction of State based legislation on franchising.

I agree with the detailed reasoning on the proposed new franchising laws 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 South Australian and Western Australian 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 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 Australia.

Yours faithfully

**GARY NYE
CHIEF OPERATING OFFICER
CLARK RUBBER POOL & SPA SHOP PTY LTD**