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To: Western Australian Government

From: Sara Pantaleo
 CEO

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INTRODUCTION

La Porchetta is the largest Australian-owned franchised restaurant group in the Asia-Pacific region with over 80 in the group. Our national growth strategy will see us significantly increase that number in Australia over the next five years.

We are now one of the largest franchised businesses in Australia and we would like to convey our concern about the proposed changes to state based legislation in Western Australia.

Our concerns are outlined below.

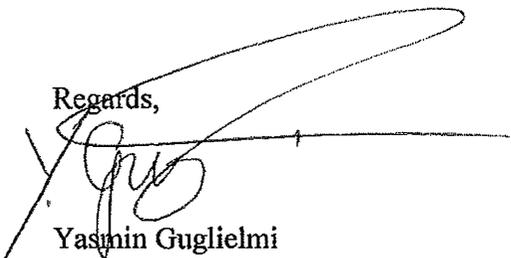
OUR CONCERNS

- We believe that we already have world-class legislation in place and that the proposed changes will lead to inefficiencies and significantly increase compliance costs for franchisors and franchisees.
- State-based legislation is unnecessary and inappropriate, ie rogues are not roaming unchecked, disputes are at respectable 1%, and most of the recommendations of the WA and SA inquiries (2008) have been implemented by the Federal Government and additional enhancements made through the 1 July Code changes and the 1 January ACCC powers.
- We believe proposed legislation will do more harm than good -for franchisors and franchisees in WA and elsewhere because it will undermine confidence, increase risk and retard growth therefore negatively affecting the WA economies and national GNP.
- There has been no public support of the Bill by any state-based franchisors, franchisees or suppliers. Hundreds of franchisors, franchisees and suppliers have signed a petition and sent letters of protest against the Bill.
- We believe that contract renewal is not a problem, with 95% of franchisees renewing for a second term and 99% of those wanting renewal, getting it.
- We don't need new laws, with big fines, to fix a non-existent problem.
- A FCA survey of franchise brand owners found 95% were against state-based legislation and 90% believed it would lead to a drop in franchise investment. Some state-based systems would consider moving their headquarters interstate if the Bill is enacted.

- We believe the proposed bill puts at risk jobs in the franchising sector
- The value of franchisee businesses will decrease due to the uncertainty and instability within the franchise sector.
- Financing costs will rise because lenders will re-price to take account of the added risk created by uncertainty and the possibility of opportunistic legal action or heavy fines. This means the cost of financing will rise, whether it is for purchase of a new business or funding a capital expense in an existing business.
- The number of disputes will rise as parties test the interpretation of the new laws.
- Many franchisors based interstate or overseas will reconsider their plans to expand their operations to WA.
- Complaints to the ACCC have remained steady in recent years at less than 1% of franchisees. Griffith University statistics show disputes within franchise systems are at the same 1% level consistently over the past decade.
- The Federal Government adopted most of the suggestions of the WA and SA inquiries in its package of changes to the Franchising Code and the TPA taking effect from 1 July 2010 and 1 January 2011. These changes need time to take effect and for their impact to be measured before precipitous changes are made.
- The Federal Government has said there should be a pause on further Code changes while the latest initiatives have had time to take effect. It described the latest changes as “sweeping” and the most significant implemented since the creation of the Franchising Code of Conduct.
- With Opposition support, the Federal Government is pushing for national harmonisation of State laws – not the creation of new state laws in industries which are already successfully nationally regulated. Small Business Minister Nick Sherry has said he will do what he can to stop state-based franchising legislation.
- Franchising provides a safety net for many aspiring business owners. Under this Bill, many business concept owners will choose a licensing model, depriving many potential franchisees of their chance to start their own businesses with the support of franchisor and franchisee colleagues.

We support the FCA submission to your Government and would be pleased to appear before an inquiry or hearing.

Regards,



Yasmin Guglielmi
On behalf of Sara Pantaleo