



18 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**

Please find enclosed the submission of Muzz Buzz Franchising Pty Ltd to the Economics and Industry Committee's Inquiry into the Franchising Bill 2010.

Yours sincerely

Steven Pynt
Chief Executive Officer
Muzz Buzz Franchising Pty Ltd.



EXECUTIVE SUMMARY

Muzz Buzz Franchising Pty Ltd ("Muzz Buzz") is one of the most successful retail franchise businesses in Western Australia and we **strongly oppose the Franchising Bill 2010**.

Muzz Buzz pioneered the development of drive-thru coffee in Australia, and has grown from a single store operation in Perth in 2004, to operating 40 franchisee owned and operated stores in Queensland, Victoria, South Australia and Western Australia, with another 10 in the process of being established within the next 6 months and a target of over 300 stores within the next 5 years.

Muzz Buzz is currently developing opportunities to expand its franchise business internationally and to develop a truly global brand.

If introduced, the Franchising Bill 2010 will have serious negative effects on our ability to operate our franchise business effectively, and greatly increase the risks and costs of operating as a franchisor in Western Australia.

If the Franchising Bill 2010 is introduced in Western Australia, Muzz Buzz will immediately consider;

1. Moving our Corporate Headquarters out of Western Australia;
2. Cease developing new Muzz Buzz franchises in Western Australia;
3. Cease developing our Western Australian based supply chain relationships; and
4. Cease developing our brand in Western Australia.

Muzz Buzz does not want to take such drastic action, nor does it wish to put at risk the hundreds of jobs it has directly created within the Western Australian economy and the many thousands of jobs in ancillary businesses and industries that it supports throughout Western Australia, however it will seriously consider doing so in the event the Franchising Bill 2010 is enacted.

Muzz Buzz is just one a many franchising businesses operating in Western Australia that is contemplating such a withdrawal from Western Australia, and the likely impact of such a collective withdrawal would be devastating to the Western Australian economy, to the reputation of the State as a good place to do business and to the political fortunes of the present Western Australian Government.

We strongly urge the Western Australian Government **NOT** to support this unnecessary, unfair and corrupt Bill and to reject utterly the imposition of new and unnecessary restrictions and regulations on the activities of all Western Australian franchisees and franchisors.

THE IMPACT OF THIS BILL ON MUZZ BUZZ

The impact of the Franchising Bill 2010 on Muzz Buzz, if enacted into law, would be immediate and entirely negative.



Firstly, Muzz Buzz would be required to immediately conduct a compliance audit of every existing franchise agreement. We would be required to audit all previous franchise agreements to determine if they are compliant within the retrospective nature of the proposed legislation.

This process alone will take several months to complete and cost Muzz Buzz thousands of dollars in legal fees; money and time Muzz Buzz would rather spend creating new business opportunities for potential franchisees.

In the event the Franchising Bill 2010 is enacted, potential Muzz Buzz franchisees in Western Australia will need to consider the increased perception of risk and uncertainty involved in entering into a franchising agreement. This increased perception of risk and uncertainty will drive some potential franchisees away from the idea of owning and operating a franchise business. This will make the task of attracting potential franchisees to our business more difficult and expensive. Existing franchisees will also suffer as each store's growth depends to an extent on the continued expansion of the brand through the establishment of new stores. As well as impacting on profitability, it will become increasingly difficult for existing franchisees to sell their stores.

Another less tangible, but more serious consequence of the Franchising Bill 2010 will be to reduce the perceived market value of the Muzz Buzz brand, and to reduce the value of Muzz Buzz shareholder equity, by creating uncertainty in the minds of potential investors over the ability of the Company to effectively manage its business. Muzz Buzz Franchising Pty Ltd is a privately owned company with the majority of shareholders being Perth based.

The perception of increased risks and costs, as well as exposure to potential litigation need not be real to have the same effect as if it were real.

As a business operating in several Australian State jurisdictions, Muzz Buzz welcomes efforts by the Federal and various State Governments to harmonise and make uniform laws governing franchise businesses. Such efforts have the effect of reducing compliance costs, promoting certainty and generating greater interest in franchising. This in turn leads to greater job creation, investment in new businesses and wealth creation.

The effect of the WA Franchising Bill 2010 will be to create a serious disharmony between our WA franchise operations and those franchises operating in other States. This in turn will lead to added administrative complexity and additional compliance costs and risk of litigation.

As we have already indicated, Muzz Buzz is one of many WA franchise system operators who will seriously consider moving its corporate offices out of Western Australia if this Bill is passed by the Western Australian Parliament.

The effect of Muzz Buzz moving its corporate offices out of Western Australia will be immediate.

We will immediately take Western Australia jobs and tax revenues and export them to other States.

We will not take such action quietly. We will participate and help fund a coordinated national media campaign, through the Franchising Council of Australia, to embarrass and punish the Western Australian Government for allowing the Bill to be enacted.

Our campaign against the Franchising Bill 2010 will be felt at the ballot box at the next State Election.



THIS BILL IS UNNECESSARY AND UNFAIR

Muzz Buzz believes that the Franchising Bill 2010 is unnecessary and that the proposer of the Bill, Mr Peter Abetz MLA, has failed to make a case for why this Bill is necessary. Indeed, Mr Abetz's reasons for proposing this Bill are as suspicious as the Bill itself.

Mr Abetz claims that the Bill is necessary to protect franchisees from "rogue elements" within the franchising industry, but he fails to name these "rogues" or provide any evidence to substantiate his claims of "rogue elements". In proposing this Bill, Mr Abetz has smeared the reputation of an entire industry without cause and without any evidence. Mr Abetz claims that his proposed Bill will have "no change", except to these so-called unidentified "rogue elements". However, as we have already stated, the impact of the Franchising Bill 2010 will cause immediate changes to our business.

Is Mr Abetz accusing Muzz Buzz of being a "rogue element"?

Mr Abetz's son David together with his wife owns and operates two very successful Muzz Buzz franchises in Perth. Whereas Mr David Abetz has day to day knowledge and experience of owning and operating a franchise business, Mr Peter Abetz MLA has no such knowledge and absolutely no experience as either a franchisee or a franchisor. Where is Mr Abetz getting his information and what is he basing his accusation on? It's certainly not from first-hand knowledge or personal experience.

If Mr Abetz has evidence of "rogue elements" within the franchising industry, he should refer that evidence to the ACCC, where such evidence can be properly investigated and where offenders can be charged and prosecuted under existing legislation? Is Mr Abetz saying the ACCC is incapable of enforcing the current laws?

Muzz Buzz believes the proposed Franchising Bill 2010 is unnecessary because there is already a workable and effective system of laws and self-regulatory Codes of Practice governing the operation of franchise businesses throughout Australia. These laws and Codes of Practice protect the rights of franchisees and franchisors in all States and have sufficient force to enable both franchisees and franchisors to seek legal redress and to have the effect of dealing with so-called "rogue elements".

The present system of laws and self-regulatory Codes of Practice have recently been upgraded and changed, and these changes came into effect on 1 July 2010. These changes should be given time to work before any further changes are considered.

Our suspicion, and the suspicion of the Western Australian Branch of the Franchising Council of Australia, is that the Franchising Bill 2010 is being sponsored by Mr Abetz in order to confer an unfair benefit on one very wealthy franchise business owner, who has been unsuccessfully engaged in a long-running legal action against a national franchising company to get a new contract for his 50 fast food stores.

The suspicion is that this Bill is a means of enabling one wealthy person to unfairly achieve his commercial goals, at the expense of the vast majority of the Western Australian franchising industry.

It is a corrupt, unnecessary and dishonest Bill and we do not support it, or any Government that allows it to become Law.