

The Lucky Charm

Where every day's your lucky day!

Unit 3, 691 Marshall Road

Malaga WA 6090

Ph: 08 9248 5811

E: mike.kentros@theluckycharm.com.au



24 January 2011

Dear Sir/Madam,

I am writing to express my strong opposition to the Franchising Bill 2010 (EM 162) introduced by Mr Peter Abetz, MLA.

This bill will have overwhelmingly negative consequences e.g.: conflict will increase as will compliance costs and investment will decrease.

Statements by major WA businesses show the impact could be so negative as to drive them to relocate their head offices outside the State.

Franchising is a national endeavour it is regulated nationally and including the individual states can only mean more confusion and less productivity.

The sponsor of this Bill says it can be introduced without increasing compliance costs - how can that be when every agreement will have to be reviewed in light of it. Mr Abetz says the Bill will apply to all existing agreements; therefore all existing agreements will have to be reviewed. That is an immediate and real expense.

In my business I estimate the cost of the review alone to be several thousand dollars. And on my reading of the Franchising Bill 2010, I am not assured I will be any more confident of being compliant having undertaken the review.

The Bill has so many terms of vague meaning, I am not confident I can soundly address each one. I am not even sure my legal representative will be able to give me certain answers.

Yet I must undertake the review and have a bias for addressing any potential compliance issues, otherwise an opportunist complainant might try to use inaction against me.

This legal uncertainty is, in my opinion, the very point which exposes the underlying weakness of the Bill. The only thing which is certain is that the Bill will create uncertainty and confusion.

Mr Abetz says there will be 'no change' under his Bill for any except the "rogues" in the sector. Who are these people? Surely if this is the case they should be named. Instead these comments drag down the reputation of the entire sector.

It is likely that, as a result of the bill:

- WA based franchisors will reconsider their growth plans. Some may even contemplate moving their national offices interstate, resulting in significant job losses.
- Interstate and international franchise brands will avoid expansion to or within the WA market.
- Franchisees will have the value of their business significantly decreased due to the decrease in demand for franchise business and the uncertainty caused by the proposed laws.

Franchising is a \$10 billion sector in Western Australia, is responsible for the creation of approximately 75,000 jobs in WA and provides a business ownership opportunity for more than 8,000 franchisees.

Is it Mr Abetz undertaking that this Bill will improve this situation? If not, then why introduce it?

Mr Abetz says potential franchisees will be flocking to WA to participate in this more positive regulatory environment. History shows increased regulation, the threat of heavy fines and introduction of untested business conduct definitions does not lead to increased investment.

In my opinion, the sector is performing well. I can say with pride that in my own business morale is high. We are doing well, despite very difficult economic circumstances.

After its inquiry in 2008, the WA (Labor) Government concluded that the sector was in good health and that any necessary adjustments could, and should, be handled at the Federal level via the Franchising Code of Conduct. The Government was right then; just as it was when the incoming Liberal Government decided against caving to pressure from vested interests to introduce a franchising Bill in 2009.

The franchise sector in general does NOT want this Bill -- in WA or any other state.

The Franchise sector in South Australia has made the same challenge in South Australia and there is no response from the backbencher raising a franchising Bill there, either.

Members of the committee, I urge you to act in the interests of the WA small business economy and reject this Bill in the interests of all concerned.

Yours faithfully



Michael Kentros
Managing Director
The Lucky Charm Pty Ltd