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12th January, 2011

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

Dear Mr Hughes

Submission to Inquiry into the Franchising Bill 2010

I am a management consultant to the Franchising industry in Western Australia. I have been involved in franchising in Western Australia since 1985 in varying roles including franchisor, franchisee and consultant to the industry. I am currently the Franchise Council of Australia Women in Franchising National Chairperson, having been involved with that special interest group since its inception in 2006. I was the winner of the WA Regional Franchise Council of Australia "Woman in Franchising Award" in 2006, 2007 and 2008. I take a keen interest in the franchising industry and how it affects my clients and my livelihood.

I object to the Franchising Bill 2010 and believe there is no need for it to proceed in any form, amended or otherwise.

My comments on the Bill are:

The Bill states that it is an Act to regulate the conduct of people who are about to enter or who are parties to franchise agreements and for related matters. The Franchising Code of Conduct and the Trade Practices Act are the federal reference points and the ACCC is the effective regulator in this area. There is no need to have state based legislation. If this Bill proceeds then at any point of time a party to a franchise agreement (whether franchisor or franchisee) could end up being investigated by both the ACCC and the Commissioner. We have no need for overlapping. The

changes made to the Franchising Code of Conduct allow the ACCC new powers effective this month.

Any party to a franchise in WA could, if this Bill goes ahead, be falsely reported to the Commissioner. It would then be up to the accused party to prove his innocence. There is no obligation on the accuser to prove any guilt. This could lead to witch hunts. Franchising is a risk like any other business, but using the Franchisor as a scapegoat for the problems often caused by the Franchisee is not the solution.

I believe the parties that originally highlighted their problems as franchisees to Mr Abetz are the same parties that put submissions forward to the WA Franchising Enquiry which was held in 2008. That WA Franchising Enquiry reported that Franchising overall was in a healthy condition and was accepted by Government.

I recently found out about a Franchisee couple who declared themselves bankrupt just before Christmas. When they applied to open a franchised business in 2007, they deliberately and falsely reported their financial situation to the Franchisor. The Franchisor did not find out their level of debt until the bankruptcy notice was issued last month. The Franchisee couple were seriously in debt right from the start and this meant all their cashflow after starting the franchised business went into repaying interest only – they had no working capital. This had a major impact on their attitude towards business and they did not implement the systems as recommended by the Franchisor. Who can the Franchisee couple blame but themselves? I am concerned that the Franchising Bill 2010 will enable parties such as this Franchisee couple to accuse their Franchisor of not looking after them which would tie the Franchisor up in defending himself to the point that he cannot look after his other Franchisees.

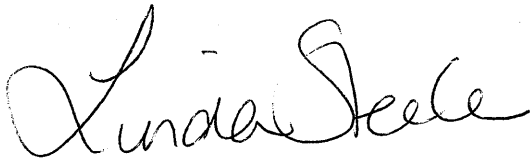
Which leads me to the point of retrospectivity. The Bill does not expressly say that it is not retrospective. This is very dangerous.

I also want to talk in support of Franchisees. Not all Franchisors are bad and not all Franchisees are bad. Most are very good and are trying to get along in life. Good Franchisees deserve support from their Franchisor – support they cannot receive if the Franchisor is defending himself continually. The Franchisor will not be able to research, develop and implement new programmes and systems that benefit his group if he is tied up defending weak claims with little evidence to back up those claims. Good Franchisees also deserve to be a part of an expanding group, which will not happen in WA if this Bill proceeds. My contacts in the Franchising Industry in Western Australia have stated their reluctance to enter into Franchise Agreements right now, just in case the Franchising Bill 2010 is implemented. This is affecting the economy of WA and it will affect my livelihood.

It is my opinion that education is the key to franchising and indeed all small business. The Small Business Development Corporation should be given a wider scope and certainly more funds to broadly promote the services they can offer incoming business owners and Franchisees. Franchisees need to do more due diligence before they enter into a franchise contract and certainly need ongoing professional development.

I hope you will give due consideration to my comments.

Yours sincerely

A handwritten signature in cursive script that reads "Linda Steele". The signature is written in black ink and is positioned below the "Yours sincerely" text.

Linda Steele
Proprietor