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By email:
laeisc@parliament.wa.gov.au

Dear Sir / Madam

SUBMISSION TO THE WESTERN AUSTRALIAN GOVERNMENT REGARDING FRANCHISING

McDonald's Australia Limited (**McDonald's**) is actively involved in the Australian franchise sector. As at today's date, we have 831 McDonald's restaurants in Australia with 606 of those restaurants being owned and operated by our franchisees – individual, local business men and women. The remainder of the restaurants are run by company staff.

We have read the Franchising Bill 2010 (Western Australia) and strongly oppose the introduction of State based legislation on franchising.

While we cannot comment on the circumstances surrounding the dispute between Competitive Foods and Yum! Brands, we agree with the detailed reasoning 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 SA and WA 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. We 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.

We 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

Catriona Noble
Managing Director / Chief Executive Officer