

## **Franchise reform**

This is our late submission which will be couched in simple laymen terms and may jump from topic to topic. However, we hope that you see what we are getting at.

Our statement: Franchisees have much fewer rights under Industrial and other laws than do their employees. There must be a level playing field between the franchisee and the franchisor.

What we would like to see reformed:

- The legislation, the code whatever, to be written in plain English.
- The Franchisor to be equally responsible as the Franchisee as to all matters under the code.
- Terms like 3<sup>rd</sup> line forcing to be explained fully as to what they mean and explain why and if franchisors can get around this clause by prior registering a product or service with the ACCC.
- Do not allow the franchisor to restrict the franchisee to solely approved merchandise, eg food and beverages providing that the franchisee informs the franchisor what is being sold outside the approved list. This is quite a draconian requirement.
- The disclosure document to be sent automatically annually to all franchisees unless they request otherwise.
- The penalties for non-supply of a) the annual marketing plan and b) the disclosure document as requested (as at the present time) to be detailed in the code. eg 10 penalty points etc with no exceptions for late supply.
- Unconscionable conduct to be defined fully in plain English.
- Dispute procedures to be made available to all franchisees in a franchise and dispute procedures costs to be zero by setting up a (refundable) bond when the franchise is being purchased.
- The availability of financial and staff personal information to be restricted to the franchisor, who must make a case and have an end point in requesting the information and the results or outcomes based on such information be returned to the franchisee.
- A Franchisor must undertake a Cost of Quality assessment before imposing so called quality control and quality assurance procedures on franchisees.
- The head lease to the premises to be offered to the franchisee at purchase (ie as part of the sale). By retaining the head lease the franchisor has a lot of power over the franchisee. It can also have severe implications if the franchisor becomes insolvent.
- The Franchise costs and marketing costs to be varied downwards in genuine cases of business hardship (ie not incompetence or fraud etc).

- The government to produce documents and FAQ's and such like that pertain to the actual running period of the franchise not just at the buying phase.
- Refuse to permit the franchisor from publishing league, position or other tables that show the franchisee's store as being either good, bad or mediocre.
- To be no unannounced visits by the franchisor to the franchisee's premises.
- Refuse to permit the franchisor from awarding points to a store based on subjective assessments.
- Review mystery shopper visits and the franchisee have the right to question the mystery shopper.
- All so called education seminars and conferences to be voluntary and have a pre-published agenda.
- Training costs and venues need clarification at present a franchisor has absolute discretion on where and how much and how often training needs to take place. This should be made mutually acceptable.
- Insolvency of the franchisee or negative cash flow periods also need to be addressed with concessions being made by the franchisor.
- The franchisor to disclose all payments (on a regular basis) made to 3<sup>rd</sup> parties particularly those termed "administration fees", "rebates", etc., when received for a service or goods supplied by said 3<sup>rd</sup> party.
- The franchisor must only initiate practices to be used within the store that have been improved by WHS to protect the health and safety of workers and customers. At present, it is the sole responsibility of the franchisee to protect the workplace and we have had practices thrust upon us by the Franchisor which were subsequently found to be unsafe.
- "Good Faith" must be given a plain English meaning.
- We see the need to appoint a franchise ombudsman so that franchisees or franchisors can contact such a person for a ruling on a particular dispute or matter.

These are the major points we would like to see changed and we do realise that many of them may not fall within the purview of the reform.

Thank you for letting us submit a late review.

Peter Hayes & Trudi Martin  
Franchisees.