

Franchising Code Review Secretariat  
Business Conditions Branch  
Department of Industry, Innovation, Science,  
Research and Tertiary Education  
GPO Box 9839  
CANBERRA ACT 2601

13 February 2013

Dear Sirs,

Thank you for the opportunity to meet with Mr Wein on 6 February 2013.

We would like to confirm the information we provided to him then.

Under the Franchising Code of Conduct we have the role to appoint mediators to help resolve disputes between franchisors and franchisees.

As an illustration of the volume of our work, between 1 October and 31 December 2012 we received 120 dispute enquiries and made 21 mediator appointments. These figures are Australia wide.

The service enjoys a mediation settlement rate of up to 81% and a satisfaction rate with the mediation process of 80%.

In respect of dispute enquiries concerning disclosure, 2 of the above enquiries related to disclosure issues. This is consistent with other periods in that we have not observed a significant incidence of disputes concerning disclosure issues.

In respect of good faith, it is my view that if good faith is attached to any of the Code provisions then the meaning of what is required should be defined in respect of that provision in order to avoid uncertainty and recourse to the courts for interpretation.

As regards end of franchise agreement issues, our experience is that recourse to mediation often occurs at a late stage. The different Small Business Commissioners around Australia play a useful role in advising and assisting with problems at an early stage and in this respect are complementary to our role although we are providing early assistance too where possible.

Concerning the dispute resolution processes under the Code, we believe those processes are operating effectively and have no suggestion for any further changes.

We have no comment on the question of whether penalties should be introduced for breach of the Code.

We very much appreciated the opportunity to discuss the operation of the Code with Mr Wein, especially the dispute resolution provisions and we found that helpful to our continued work.

We look forward to receiving the result of the Review.

Yours sincerely,

A handwritten signature in black ink that reads "David Newton". The signature is written in a cursive, slightly slanted style.

David Newton  
Franchising Mediation Adviser