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| **Name** | Anonymous |
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| **1. What are the critical pieces of information that should be contained in a summary document?** |
| Network averages across rent, store build, franchise fees, security deposits. Key performance indicator percentages sourced from network data, across wage to sales, food wastage, occupancy cost and COGS percentages. |
| **2. If a national franchise register is established, what information should it contain? What would be the benefits and costs of a national franchise register?** |
| Information relating to FCA membership, FranData ranking and date of issue.Benefits would be negligible as these documents are commercially sensitive and could not be released to the public. The cost could be huge if you are going to audit every document filed for compliance.  |
| **3. There are a number of existing educational resources on franchising. What additional education options for prospective franchisees should be made available? If there was an online educational resource which brought together the available franchising education options, what would its costs and benefits be?** |
| Current resources are adequate. |
| **Problem 1.1: Disclosure can be hard to comprehend, critical information may be hidden in detail and some information is not provided in the disclosure document.** |
| Option 1.1.3: Simplified disclosure requirements. Require that a simplified disclosure document, which provides all materially relevant information needed to assess the franchise business, is provided to prospective franchisees |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| 'Less is more' is the better approach here. This will encourage more franchisees to read it. The time and effort franchisors would need to go to to collect ex-franchisee personal contact information, will not result in any increase in franchisees contacting them.  |
| **Problem 1.2: The reliability of information provided to prospective franchisees may be difficult to assess** |
| Option 1.2.1: Status quo (no changes) |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| The verification of financial statements, especially regarding franchisee sales, relies on the integrity of the data submitted by the franchise network. Representation by the franchisor using this data may lead to legal issues should it be found that the data was not correct if used by the incoming franchisee when assessing potential performance. |
| **Problem 1.3: Information gaps – a potential franchisee might be unaware of which types of information are materially relevant to inform their decision to enter an agreement.** |
| Option 1.3.3: Mandate all prospective franchisees receive legal and financial advice before entering into a franchising agreement |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| With an 'opt out' option for renewing and multiple store owner franchisees. |
| **4. What are the practical implications (costs and benefits) for prospective franchisees and franchisors of increasing cooling off or disclosure periods?** |
| This will complicate the lease commencement date as this needs to be established well before a cooling off period would commence. Rental payment would need to be paid by the franchisee whilst the store was not open. |
| **5. How easy is it for franchisors to provide reasonable estimates of leasing costs before they are finalised?** |
| Pending the interpretation of "reasonable estimates", the range would remain broad as final confirmation will not occur until the franchisee is secured due to the landlord requiring 100% commitment on agreed terms.  |
| **6. How often are leasing arrangements finalised after the cooling off period expires? What are the implications of having the cooling off period commence after a lease is finalised?** |
| Very often. This is impractical as the franchisor can be left with a committed lease and no franchisee.  |
| **Problem 2.1: Cooling off rights may expire before franchisees and franchisors have adequate time to appropriately reflect on their business arrangements after entering the agreement** |
| Option 2.1.1: Status quo, with clarification of the operation of existing cooling off requirements in the code |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| 14 days in enough to seek advice from the 3 independent advisers as franchisees should be warned prior to the release of documentation. |
| **Problem 2.2: Cooling off rights may expire before lease arrangements are finalised** |
| Option 2.2.4: Improve education and awareness around leasing and franchising |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| Franchisees need to be aware that the lease negotiation can take many months. They should also be aware that a franchisor will not sign a lease unless their franchisee is 100% secured under franchise documentation. |
| **Problem 2.3: Cooling off rights in transfers, extensions and renewals can be unclear, including with respect to franchisee to franchisee sales** |
| Option 2.3.1: Status quo (no changes) |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| Due diligence is far easier due to the available history of the transfer, extension or renewal. |
| **7. What would ‘meaningful information’ look like in terms of marketing fund disclosure?** |
| An audit of the expenses included in all marketing campaigns. |
| **8. How does the benefit of increased frequency of reporting of marketing funds compare to the costs of increased administration?** |
| It is disproportional against the franchisor. |
| **Problem 3.1 Marketing funds are not always transparent** |
| Option 3.1.1: Status quo (no changes) |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| The option to conduct an audit is fair. |
| **9. What information should franchisors disclose in relation to supplier rebates? Are there any barriers to providing this?** |
| That they receive them and name the suppliers. |
| **10. If franchisors are required to ensure franchisees get a return on their significant capital expenditure, how might this be done in practice?** |
| Ensure ROI is not an area franchisors should be placed in as there can be no guarantees on how a franchisee may perform. |
| **11. If franchisees are given a right to review capital expenditure business cases (which must be presented to franchisees by the franchisor under clause 30(2)(e) of the Franchising Code for expenditure that the franchisor considers is necessary for capital investment), how would this right be exercised?** |
| This is more relevant at the store refit stage which is generally enforced and controlled by the landlord in shopping centres. |
| **Problem 4.1 Supplier rebates can lead to conflicts of interest** |
| Option 4.1.1: Status quo (no change) |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| Rebates are generally highly sensitive commercial arrangements made between supplier and franchisor. release of this information may breach the agreement. |
| **Problem 4.2 Conflicts of interest in the context of capital expenditure** |
| Option 4.2.1: Status quo (no change) |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| The current document provides enough detail. |
| **Problem 4.3 Unilateral variations can lead to conflicts of interest and exploitation** |
| Option 4.3.1: Status quo (no change) |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| The operations manual and franchise agreement will continue to evolve as the franchise evolves. |
| **12. A number of stakeholders have told the Taskforce that the cost of arbitration can be comparable to going through the court system, and that conciliation may be a preferable alternative alongside mediation. In what circumstances could conciliation be an effective alternative dispute resolution process?** |
| Stick with mediation as this is the most cost effective. |
| **13. Would you consider including arbitration to resolve disputes in your franchising agreement, if a clear voluntary option were provided?** |
| What can't be solved at franchisor level needs to go to mediation as outlined in the code. |
| **Problem 5.1: Some disputes are not being resolved in a fair, timely and cost effective manner.** |
| Option 5.1.2: Expand options for dispute resolution, and streamline mediation procedures and services1. Merge OFMA and ASBFEO
 |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| There is confusion as to which office people should go to for advice. |
| **14. Under what circumstances should franchisees be allowed a no-fault exit from the franchise system?** |
| Should the franchisor be declared bankrupt or convicted of a serious crime. |
| **15. If goodwill was required to be fully clarified in the franchise agreement, how might this be done in practice? What would be the costs and benefits of this approach?** |
| It is far too difficult a term to place a monetary figure definition on.  |
| **Problem 6.1 Reasonable exit arrangements may not be, or may not be perceived to be, available or accessible for some franchisees** |
| Option 6.1.1: Status quo (no change) |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| Current clauses under enough. |
| **Problem 6.2 Excessive restraint of trade clauses may inhibit lawful pursuit of subsequent business interests** |
| Option 6.2.1: Status quo (no change) |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| The sliding scale used in most agreements seems to be accepted within the legal system. |
| **Problem 6.3 There are different expectations around the treatment of goodwill in franchise arrangements** |
| Option 6.3.1: Status quo (no change) |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| Current definition is sufficient. |
| **16. What are the implications of amending the Oil Code of Conduct to increase the number of common provisions between the Oil and Franchising Codes? What would be the costs and benefits of this approach?** |
| I am not in this industry so unaware of any possible implications, but wary of adding new clauses to accommodate this merger. |
| **17. What are the implications of repealing the Oil Code of Conduct and adding specific fuel retailing provisions to the Franchising Code?** |
| As above. |
| **Problem 7.1: Some franchisors experience additional regulatory burden from having to comply with both the Franchising Code and the Oil Code** |
| Option 7.1.1: Status quo (no change) |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| Nothing to add here. |
| **Problem 7.2: Compliance with the Franchising Code, Oil Code and where relevant the Competition and Consumer Act and the Australian Consumer Law, remains imperfect** |
| Option 7.2.2: Application and enhancement of civil penalties to all breaches of the Franchising and Oil Codes |
| **Please give an explanation of your choice(s). This includes the reasons an option may not be suitable. What are the costs, benefits and risks of your choice(s), and what other options could be considered?** |
| Punish the minority of franchisors & franchisees who are non-compliant. |
| **Are there any other comments you would like to make?** |
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