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| **Name** | John Wood |
| **State** | New South Wales |
| **Stakeholder Type:** | Former Franchisee |
| **Industry Type:** | Boat Hire |
| **1. What are the critical pieces of information that should be contained in a summary document?** | |
| Exactly what will be delivered by the franchisor with measurable targets/commitments  A simple profitability commitment - this can be a rage or window - if this isn’t met then the franchisee gets their money back. | |
| **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?** | |
| It can be an online thing so the costs will be minimal  Crucially it must contain reviews of franchisors | |
| **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?** | |
| I think there is already plenty of education there - what we need is enforcement. | |
| **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 1.1.2: Changes to the Franchising Code to increase disclosure   1. Increased and formal financial disclosure | |
| **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 made to stand by their wild claims about revenue and profit | |
| **Problem 1.2: The reliability of information provided to prospective franchisees may be difficult to assess** | |
| Option 1.2.2: Requiring franchisors to verify financial statements and introducing a national franchise register   1. National franchise register | |
| **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 register will allow us to see which franchisors should be avoided but also which should be targeted by the government | |
| **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 1.3.1: 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?** | |
| This is not the issue - more franchisor accountability is required | |
| **4. What are the practical implications (costs and benefits) for prospective franchisees and franchisors of increasing cooling off or disclosure periods?** | |
| Allowing franchisees to get their money back for up to 12 months will encourage franchisors to focus more on the real performance of their business model. | |
| **5. How easy is it for franchisors to provide reasonable estimates of leasing costs before they are finalised?** | |
| No view | |
| **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?** | |
| Na | |
| **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 2.1.2: Extend cooling off to 14 days and modify the circumstances which trigger the commencement of the cooling off period | |
| **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?** | |
| Extend to 12 months | |
| **Problem 2.2: Cooling off rights may expire before lease arrangements are finalised** | |
| Option 2.2.1: 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?** | |
| No view | |
| **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?** | |
| No view | |
| **7. What would ‘meaningful information’ look like in terms of marketing fund disclosure?** | |
| Every transaction including the receiving party | |
| **8. How does the benefit of increased frequency of reporting of marketing funds compare to the costs of increased administration?** | |
| With today’s technology it is just the press of a button in something like xero | |
| **Problem 3.1 Marketing funds are not always transparent** | |
| Option 3.1.2: Address inconsistency in the Franchising Code on the treatment of marketing funds and increase reporting standards   1. Introduce civil pecuniary penalties for a breach of clause 31 | |
| **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?** | |
| More teeth and more enforcement / self regulation has not worked | |
| **9. What information should franchisors disclose in relation to supplier rebates? Are there any barriers to providing this?** | |
| No view | |
| **10. If franchisors are required to ensure franchisees get a return on their significant capital expenditure, how might this be done in practice?** | |
| Make a commitment to revenue, costs and margin at the time of the franchise sale and then stand by it contractually. | |
| **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?** | |
| No view | |
| **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?** | |
| No view | |
| **Problem 4.2 Conflicts of interest in the context of capital expenditure** | |
| Option 4.2.2: Modify the Code to define significant capital expenditure and provide rights for franchisees to recoup the value of significant capital expenditure | |
| **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?** | |
| Tighter definition and the ability to recoup would be a good first step | |
| **Problem 4.3 Unilateral variations can lead to conflicts of interest and exploitation** | |
| Option 4.3.2: Banning or limiting the circumstances in which franchisors can unilaterally vary franchise agreements | |
| **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?** | |
| Clearly unilateral changes to an agreement are plain nonsense these days. | |
| **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?** | |
| Only when both parties are genuine in their desire to reach agreement. | |
| **13. Would you consider including arbitration to resolve disputes in your franchising agreement, if a clear voluntary option were provided?** | |
| Sure - more options are good but the current system needs more teeth as franchisors are abusing it | |
| **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 services   1. Strengthen third party involvement in dispute resolution including pathways for binding dispute resolution | |
| **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?** | |
| ‘Binding’ is key - franchisors are not compelled to do more than show up right now. | |
| **14. Under what circumstances should franchisees be allowed a no-fault exit from the franchise system?** | |
| If the franchisor (or their business model) does not live up to the agreed commitments of revenue/cost/profit. That is what we are buying.. | |
| **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?** | |
| No view | |
| **Problem 6.1 Reasonable exit arrangements may not be, or may not be perceived to be, available or accessible for some franchisees** | |
| Option 6.1.2: Limit termination in circumstances where the franchisee seeks mediation, and/or breaches have occurred for fraud or public health and safety reasons, and introduce statutory termination rights into the Franchising Code   1. Provide statutory termination rights to 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?** | |
| We are buying a revenue And profit stream - if the franchisor oversells that and it does not materialize we must be able to get out and get back our investments | |
| **Problem 6.2 Excessive restraint of trade clauses may inhibit lawful pursuit of subsequent business interests** | |
| Option 6.2.2: Amend franchising agreement requirements and clarify wording of Clause 23 of the Franchising 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?** | |
| ROT applicability depends on why we are leaving - If it is down to franchisor failures then there should be no ROT at all! | |
| **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?** | |
| No view | |
| **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?** | |
| No view | |
| **17. What are the implications of repealing the Oil Code of Conduct and adding specific fuel retailing provisions to the Franchising Code?** | |
| No view | |
| **Problem 7.1: Some franchisors experience additional regulatory burden from having to comply with both the Franchising Code and the Oil Code** | |
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| **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?** | |
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| **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** | |
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| **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?** | |
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| **Are there any other comments you would like to make?** | |
| See Our submission to then parliamentary enquiry for details | |