

Tuesday, January 25, 2011

State-based franchising Legislation: no benefit, all risk

The Franchise Council of Australia (FCA) has called on the Western Australian Parliament to abandon unnecessary and potentially damaging franchising legislation that would duplicate national regulation and cost the WA economy.

The FCA made the representations, on behalf of the industry, in its submission to a Parliamentary Inquiry into a Private Members' Bill introduced to State Parliament late last year.

FCA Executive Director, Steve Wright said that while he welcomed the opportunity to represent the strong views of the industry to the Economics and Industry Standing Committee, the need for state-based legislation had already been canvassed and rejected by five inquiries since 2007/08.

"There is simply no need for this legislation."

"Regulation of the franchise industry is already covered by a National Code of Conduct that was strengthened just six months ago, the Trade Practices Act and the Australian Competition and Consumer Commission," Mr Wright said.

"Both franchisors and franchisees are telling us they don't need or want this legislation. With increased compliance costs, a disincentive to investment in WA and duplication of the national regime, this approach is all risk with no benefit."

In its submission, the FCA has called for:

1. The abandonment of state-based legislation and regulation, with the national regulatory approach to be retained;
2. A moratorium on further regulatory changes until 2012/13, at which time the impact of the changes announced in mid 2010 could be reviewed;
3. An increased focus on education and dispute resolution, including funding for pre-entry franchisee education and early dispute intervention.

Mr Wright said the Council's members, which include franchisors, franchisees, service providers and suppliers, were concerned that there was no need for such highly interventionist legislation, given the very limited number of issues with contract renewal and the existing national legislative and regulatory frameworks in place.

"Research undertaken last year indicates that 95% of member respondents do not support State based legislation," he said.



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“And 90% said they would review their investment intentions in WA should State based legislation be passed...so it is hard to see how this can be good for the State.”

Mr Wright said most of the recommendations of the recent inquiries into franchising had been implemented by the Federal Government in its reform package announced mid last year.

“The WA Inquiry found franchising to be in good health overall and recommended that any changes be carried out under the Federal regime.”

“Its report said that state-based legislation had definite disadvantages; why we are contemplating it now is not clear; especially as there has been no major mishap in franchising since the WA Inquiry.”

“The Federal Government announced a major set of reforms that were implemented 1 July (Franchising Code of Conduct) and 1 January 2011 (ACCC powers). We should be allowing those changes time to take effect before jumping into regressive state-based laws.”

For background information on this issue, visit www.franchise.org.au.

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The Franchise Council of Australia is the peak industry body for the \$130 Billion Australian franchise sector representing franchisors, franchisees and suppliers/advisors. www.franchise.org.au