



Australian Government
Department of Industry, Science,
Energy and Resources

Supplementary Submission to the Senate Education and Employment References Committee Inquiry into General Motors Holden Operations in Australia

October 2020

Introduction

This submission provides supplementary information from the Department of Industry, Science, Energy and Resources (DISER) on matters that have progressed since our previous joint submission with the Department of Education, Skills and Employment in July 2020.

The intent of this submission is to provide an update on government work in the revised scope of their investigation of the regulation of the relationship between car manufacturers and car dealership models in Australia. For all other matters, we refer the Committee to our previous submission which covered many points of the updated terms of reference, including existing legislative and regulatory arrangements and current and proposed government policy.

Update on relevant work progressed by the Government

Government response to the 'Fairness in Franchising' Report

On August 20 2020, the [Australian Government announced its response](#) to the *Fairness in Franchising* report, which identified significant weakness in parts of the franchising sector that have been detrimental to many small business owners who run franchises.

This response aims to restore confidence in the franchising sector by introducing new measures to protect franchisees, improve the information available to franchisees, and lift franchisor standards of conduct.

These reforms will be achieved through a combination of regulatory and legislative changes, including:

- doubling the maximum fiscal penalty that applies for a breach of the Franchising Code
- implementing more accessible, enforceable and effective dispute resolution, including through the introduction of conciliation and voluntary binding arbitration
- improving access to information and resources for franchisees, including consulting with the sector to inform the development of a public register of franchisors, franchising website and a Key Disclosure Information Fact Sheet
- requiring franchisors to disclose more detailed information on supplier rebates, commissions and other payments
- strengthening the ability of franchisees to initiate their exit from franchise agreements early

- strengthening the rights of franchisees by obliging franchisors to discuss significant capital expenditure requirements before entering a franchise agreement, and
- prohibiting franchisors from unilaterally imposing significant capital expenditure on franchisees during the term of an agreement.

Government work to assist in the development of best practice principles for dealership agreements

In addition to the reforms the Government has and is progressing as set out in the previous advice to the Committee, it offered to facilitate with industry peak bodies the development of possible best-practice guidance principles on compensation and tenure, which could assist franchisees and franchisors when developing new automotive franchise agreements. This reflected particular interest in such best practice principles as expressed by dealer groups, to help guide the development of automotive dealer agreements.

An industry-driven approach, based on shared expectations developed using the expertise and experience of franchisees and franchisors, has potential to be more efficient and effective than uniform standards at a time where business models are responding to changing commercial pressures, and where the circumstances between and across brands and dealers can vary considerably.

At the time of this submission, the industry parties involved in this work have not settled agreed wording of best practice principles.

Class exemption to enable small businesses to collectively bargain

On 22 October 2020, the Australian Competition and Consumer Commission (ACCC) announced that a class exemption will commence in early 2021 to allow franchisees to collectively negotiate with their franchisors without first having to seek ACCC approval. It is expected that this development will be welcomed by many in the automotive industry as it can allow businesses to share the time and cost of negotiating contracts, and potentially give group members more input into contract terms and conditions.