

Submission to Parliamentary Committee on Franchising

Problems with the current Code

As founder and CEO of Australia's largest franchise chain, I would like to express my view that the current Franchising Code does almost nothing to protect Franchisees, allowing vulnerable people to be ripped off by unscrupulous operators. The whole system is no more than a feeding trough for lawyers.

The Disclosure Document is so densely legalistic that even lawyers and franchising executives have trouble understanding it.

The advice that prospects should get the contract checked over by a lawyer is worse than meaningless. Most lawyers have no experience with franchising documents and cannot give a sensible opinion. In one particular case, a lawyer advised a prospect not to sign the contract on the grounds that no-one should sign a franchise agreement, even though he agreed that our contracts were better than most.

Most crucially, when it comes to the contract, its contents have no relevance to the level of support and service given. We have some 350 Franchisors, ranging from some that are excellent to many that are competent to a few that are breached and even terminated for poor service to Franchisees (based on regular polling). All of them use exactly the same contracts and disclosure documents.

Further, even if a franchisor blatantly breaches the Code, the legal system is so cumbersome and expensive that people with few financial resources cannot take them on. Thus, even positive aspects of the Code, such as the requirement for two weeks' delay after contracts have been delivered, and providing a list of current Franchisees to the prospect, can be ignored. I have seen a Disclosure Document from a major Franchisor where the phone number of each current Franchisee was the office number. In another case, the Franchisor routinely fails to return deposits.

The Solution: a star rating for Franchisor

The solution, which I presented to the Enquiry many years ago when the Code was being set up, is that Franchising benefit from the same system as the star ratings on processed food. It is a system that we at Jim's Group have been using with success for the past twelve years.

Each Franchisor must submit every year a complete list of current Franchisees, with full contact details including Email and phone number, together with a fee of (say) \$20 per Franchisee. An independent party then surveys each Franchisee, electronically and then with phone contact if necessary, on the answers to a few simple questions. For example:

How quickly does your Franchisor get back to you: take the call or get straight back/within 24 hours/after/never?

How often does your Franchisor phone you to see how you are going: weekly/monthly/rarely/never?

How helpful is your Franchisor: very helpful/somewhat helpful/not helpful?

How many meetings have been held within reasonable distance of your home in the past three months?

How would you rate your income: good/satisfactory/poor?

Finally, those who were in the system one year but not the next would be asked:

Would you recommend a friend to buy the franchise: yes/not sure/no?

Provided the questions are kept simple, at least 90% of respondents can be reached at minimal cost.

The results would be published on a public website with an overall star rating, not only for the Franchisor as a whole but for each Master Franchisee (if any), together with a brief summary of any legal case decided against the Franchisor in the previous two years. Franchisors would be required by law to display their star rating on all promotional material, together with a link to the website.

The Benefits

Such a system would not only allow prospects to make better choices and thus eliminate shoddy operators, but provide a huge incentive for excellent support and service.

Franchising has much to offer ordinary Australians, but they deserve better protection and support than the current Code allows.