

**From:** [REDACTED]@bigpond.net.au  
**Sent:** Monday, 15 September 2008 11:14 AM  
**To:** Committee, Corporations (SEN)  
**Subject:** FW: Message from the Chairman: Parliamentary Inquiry - Your Voice

Hello,

I have just read an email (attached below) sent to me by the FCA (Franchise Council of Australia) suggesting all frnachisors should band together to fight any proposed changes or improvements to make things fairer for franchisees. That is very wrong from a franchisee prespective.

As a franchisee (not franchisor) I would like to lodge my full support for your investigation and reform work. We have a [REDACTED] franchise where everything covered in the dot points in the email from FCA as below we have experienced first hand across our franchise channel.

Earlier this year there 52 franchisees Australia wide when we entered into a dispute as a group with our franchisor [REDACTED]. Initially, there were 41 dispuetees and through a process of attrition and Franchisor picking off the financially weakened frnachisees first, the dispuete numbers reduced to 26 franchisees who carried on with the dispute through to Mediation which turned out to be a farcical joke as the franchisor refused to discuss options at mediation to resolve the grievances.

By way of background, there was a change of franchisor when [REDACTED] purchased the brand name and franchise channel from [REDACTED] which is when the above dispute broke out. During the dispute meetings were arranged with [REDACTED] representative including those from their legal who advised us they would not negotiate on our grievences and basically vowed to squash us with their corporate size and legal muscle. The words used were..."We are a major corportae with deep pockets with legal strength and will fight your claims unitl you run out of money. We will then seek damages for our legal costs and send you all broke"....

They showed disdain for the whole dispute process and the ACCC when advised we would take our claim to that forum.

Remaining franchisees who have not had to cave in due to financial burden and franchisor pressure have reduced from 26 but the determination to go to Legal action is there and is continuing towards that process.

The purpose of my message today is to point out that everything mentioned in the email below we have encountered first hand. Those include and not restricted to Predatory behaviour, Bullying, Negotiatiiion Imbalance, Collusion and Apathy. In regard to negotiation when approaching the end of our franchisee agreements there are actually penalties for terminating after the inital term of 5 years if you DO NOT take up the further 5 year option in the agreement....you are actually penalised for completeing an agreement if you do not renew....does not seem fair to us.

I hope this email is not too Late to totally anf fully endorse the work being done on the reforms to improve the imbalance forced upon many franchisees Australia wide.

KEEP UP THE GREAT WORK...IT IS VERY MUCH NEEDED...

Regards, Keith.

-----Original Message-----

**From:** Keith Blanchard [mailto: [REDACTED]]  
**Sent:** Monday, 15 September 2008 11:03 AM  
**To:** [REDACTED]@bigpond.net.au  
**Subject:** FW: Message from the Chairman: Parliamentary Inquiry - Your Voice

**Keith Blanchard**  
Principal  
Brisbane South East Bayside  
Ph: [REDACTED]  
Mobile: [REDACTED]  
Fax: [REDACTED]  
[REDACTED]



[REDACTED] Call [REDACTED] on [REDACTED] or go to [REDACTED]

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**From:** FCA Webmaster [mailto: [REDACTED]]  
**Sent:** Friday, 12 September 2008 1:19 PM  
**To:** Keith Blanchard  
**Subject:** Message from the Chairman: Parliamentary Inquiry - Your Voice

If you cannot read the information below please email [info@franchise.org.au](mailto:info@franchise.org.au).



From the FCA Chairman



## Parliamentary inquiry - your voice

The new Federal inquiry into franchising closes for submissions at 5pm tomorrow (Friday 12 Sep.)

I urge you to have your say (contact details below).

The situation has heated up in the past week with some inflammatory comments made by a number of MPs from WA and other parts of the country in support of proposed major changes to the Franchising Code of conduct.

The FCA has been addressing issues raised through the course of recent State-based inquiries in WA and SA, and has prepared a thorough formal submission to the new Federal inquiry (see [www.franchise.org.au](http://www.franchise.org.au)).

But I believe now is a time for a spread of voices from the sector to be heard by the inquiry, to balance some of the aggressive accusations and misleading rhetoric being aired in Parliament. We need to push back.

The biggest issue is the suggestion that franchisees are being ripped off at the end of term by not having mandated access to agreement renewal or a goodwill or other form of end-of-term payout. The suggested Code change to accommodate this is introduction of an unspecified 'good faith negotiations' clause - a move the FCA strongly believes would infer an immediate transfer of value for existing agreements, a major opportunity for legal argument and a consequent major disincentive for future investment. In short, an upheaval in franchising which would threaten to stop the strong growth of the past decade dead in its tracks, especially at a time of economic slowdown.

Accusations which have been raised in Parliament in the past week include:

- 'Predatory rogue franchisors, bullying and exploiting' - manipulation of the financially weaker and 'legally disadvantaged' franchisee.
- 'Churn collusion' - conspiracy between franchisors and banks to force franchisees out of business enabling low-price buy-back and resale. Deliberate pushing of franchisees into breach of agreement and 'denial of justice' by refusal to participate in



mediation.

- 'Negotiating imbalance' - meaning inability of franchisees to effectively negotiate - especially when agreements are approaching an end.
- 'Collusion and apathy re shopping centre lease costs' - shopping centre landlords and franchisors allegedly agreeing on lease terms regardless of impact on the franchisee tenant.

The FCA has addressed these claims in the WA and SA inquiries, but it appears likely they will be regurgitated in the Federal inquiry, to be led by Government MP Bernie Ripoll (Qld).

If you are as annoyed as I am at these continuing smears against franchising, I urge you to email or write to the committee handling the inquiry right away.

It doesn't have to be a formal submission. Your views are valid no matter what form or length.

Send them to the Committee Secretary, Parliamentary Joint Committee on Corporations and Financial Services, Department of the Senate, before 5pm tomorrow. A model of suggested words follows if you wish to use it as a prompt for your own comments.

Let's not let turkeys kill the goose that laid the golden eggs.

The contact is: Committee Secretary, Parliamentary Joint Committee on Corporations and Financial Services, Department of the Senate, PO Box 6100, Parliament House, Canberra ACT 2600.

Email: [corporations.joint@aph.gov.au](mailto:corporations.joint@aph.gov.au)

**JOB**

Model

I wish to reinforce the concerns of our representative body, The Franchise Council of Australia, regarding emotional and inaccurate statements that have been made in Federal Parliament and in State inquiries regarding conduct in the Australian franchising sector.

The FCA has made well-researched and considered submissions to the WA and SA inquiries on behalf of members. I trust the Corporations Committee will take these

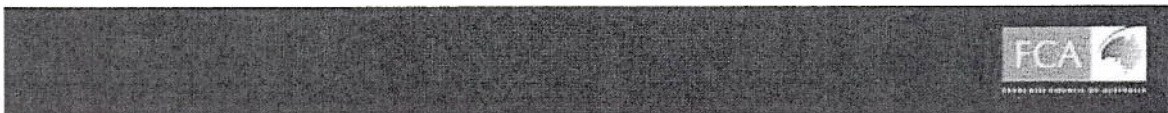
thorough submissions into account rather than rely on the emotive and inflammatory hearsay which has been presented in the House of Representatives recently.

In my experience in business and life, emotive attacks do not support thoughtful and positive solutions. The aggressive style of such attacks often masks a lack of substance. My view is that the real substance is the success of franchising. People in business and wanting to get into business are voting with their feet every day. Disputes occur, yes - they always will. But they are a very small percentage. Trying to change the rules in the ways suggested in Parliament recently will, in my view, only serve to undermine the whole sector - to the detriment of franchisors and franchisees.

Yours faithfully,

Kind regards,

John O'Brien  
FCA Chairman



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[REDACTED] Call [REDACTED] on [REDACTED] or go to [REDACTED]  
[REDACTED]

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